

CONSOURCE



The Constitutional Sources Project

CONSTITUTIONAL CONVENTION SIMULATION AMENDMENTS AND RATIFICATION

TIME AND GRADE LEVEL

One 45 or 50 minute class period 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 engage in two overarching questions: how would the proposed plan be placed into effect, and how might it be changed in the future? These issues place the proceedings of the Convention in context: without the assent of the people, the new plan would come to naught, and unless people believed they had workable ways to amend it, they would never grant their assent.

Specifically, students will address the nuts-and-bolts of amendment and ratification procedures. What body or bodies should propose amendments? What body or bodies should approve amendments? What body or bodies should be empowered to ratify or reject the proposed Constitution? What should be the threshold for ratification? What should be the threshold for adopting amendments?

LESSON OBJECTIVES

- *Students will be able to explain why the Constitutional Convention required approval from other bodies before the plan it devised could take effect.
- *Students will be able to explain why the framers decided not to require unanimous approval for either the proposed Constitution or proposed amendments.
- *Students will be able to recite the two ways in which the Constitution can be amended and explain why the framers opted for alternate methods.
- *Students will be able to recite the process for ratification in Article VII.

*Students will be able to elucidate the political and the philosophical reasoning behind the decision to refer ratification to state conventions rather than state legislatures.

OVERVIEW OF THE LESSON

Prefatory homework:

Handouts A, “**Amendments Background,**” and B, “**Ratification Background.**”

In class:

1. Homework review and introduction to amendments: 5-10 minutes
2. Deliberation on amendment options: 10 minutes
3. Homework review and introduction to ratification: 10 minutes
4. Deliberation on ratification options: 10 minutes
5. Voting on amendments and ratification: 5-10 minutes
6. Presentation of the historical decisions: 5-10 minutes

Summary Homework / Extended Activities

MATERIALS

Student Handouts

- A. Amendments Background
- B. Ratification Background
- C. Amendment Options
- D. State Instructions to Delegates
- E. Ratification Options
- F. Amendments and Ratification: Class Decisions
- G. Amendments: Historical Outcome
- H. Ratification: Historical Outcome
- I. Vocabulary List

Teacher Resources

- T-A. Amendments and Ratification: Answers
- T-B. Infrastructure for the Constitutional Convention Simulation
- T-C. Convention Timeline

Links

*Madison's *Notes of Debates* [June 5](#), [June 11](#), [August 30](#), [September 10](#).

PREFATORY HOMEWORK

Distribute Handouts A, “**Amendments Background**,” and B, “**Ratification Background**.” Ask students to answer the questions on those sheets.

CLASS ACTIVITIES: 45-50 MINUTES

1. HOMEWORK REVIEW AND INTRODUCTION TO AMENDMENTS: 5-10 minutes

First, posit an overarching question to get student buy-in:

Why did delegates deem it important to provide for amendments?

Responses:

From their experience with the Articles of Confederation, they knew they would not get it just right.

They suspected that changing circumstances would require some alterations.

They did not think the people would accept a Constitution that did not allow for some alterations.

Then go over student answers to the homework questions relating to amendments.

Discuss the difference between the Articles of Confederation and the Committee of Detail draft—in particular, note the move away from the requirement of unanimity.

Query: *Why was this so important?*

Response: Under the Confederation, unanimity had been nearly impossible to achieve.

For the Committee of Detail draft, the proposed two-step requirement will need some explanation. Note that the method there is incomplete. Two-thirds of state legislatures can call for a convention, but what happens then? Does the convention have the final say on an amendment? If so, does it require a simple majority? Note, too, that there is no requirement that the states ratify an amendment passed by the Convention.

2. DELIBERATION ON AMENDMENT OPTIONS: 10 minutes

Distribute Handout C, “**Amendment Options**.” Have students read it. Open the floor for questions, but put off debating the merits of any position until students meet in their D & D groups. Note that according to the Committee of Detail draft, Congress would have to call a separate convention each time a prospective amendment was introduced by 2/3 of the state legislatures. Note also that Hamilton (and others) expected state legislatures to pursue special interests, not necessarily the good of the nation.

Break into D & D groups to discuss amendment options. Instruct students to address all three questions at the bottom of the “Amendment Options” sheet.

Close D & D groups by asking students to enter their preferences for all three questions.

3. HOMEWORK REVIEW AND INTRODUCTION TO RATIFICATION: 10 minutes

Distribute Handout D, “**State Instructions to Delegates.**” If the class has participated in the “Reform or Revolution” lesson, students will already have this handout.

First, posit an overarching question to get student buy-in:

Why didn't the Convention simply place its new Constitution into effect?

Appropriate responses:

- a. According to the “social contract” theory of government, the people themselves must assent to any new arrangement.
- b. The people would not recognize the authority of the Convention to make these rules and would not obey them.
- c. Congress had not entitled the Convention to do that.
- d. The states had not entitled the Convention to do that.

To confirm this last response, ask students to consult Handout D, “State Instructions to Delegates.” If the class has already participated in the lesson “Reform or Revolution,” you can simply review what that lesson uncovered: state legislatures stipulated that the Convention must submit its proposals back to them for ratification. This can be done by positing the final question below, omitting prior questions.

If the class has not participated in “Reform or Revolution,” instruct students to find and read the instructions for their own state, focusing on the highlighted features. Then query the class:

In your instructions, after the “Convention in Philadelphia” has “devised and discussed” alterations or additions to the Articles, what is it empowered to do?

Response (from Virginia, Pennsylvania, New Hampshire, Delaware, Georgia, New York, Connecticut, Maryland): report its recommendations to Congress, which will submit them to the states for confirmation.

CONCLUDE: The state legislatures, when they appointed delegates to the Convention, expected that they would have the final say in ratifying or rejecting any “alterations or provisions,” just as they had with respect to the original Articles of Confederation. Most states said so directly, and all states likely expected as much. The framers knew this. They could not impose their new plan on the people or the states; nobody would abide by the plan unless it was approved by the states or by the people.

Now, review the homework questions relating to ratification. For the Committee of Detail draft, the proposed multiple-step requirement—involving Congress, state legislatures, and state conventions—will likely need some explanation. Discuss the difference between the Articles of Confederation and the Committee of Detail draft—in particular, note that the Committee of Detail draft left a “blank” for the number of states that must ratify.

Query: *Why might delegates not want to require unanimity, as the Articles of Confederation did?*

Responses:

- a. Under the Confederation, unanimity had been nearly impossible to achieve. Although the Articles had been passed by Congress in 1777, they did not take effect until the last state, Maryland, ratified them in 1781.
- b. Rhode Island was likely to refuse ratification, since it had not even sent delegates to the Convention. Other states might refuse as well, either because people objected to particular features or because the Convention had overstepped its instructions. For these reasons, delegates realized that requiring unanimous approval would be self-defeating.

KEY MESSAGE: There are two issues for our Convention to address. First, **what body (group or government) within each state** should determine whether or not to ratify? Second, **how many states** should be required for ratification? (Should this number be able to be modified as more states enter? Did the framers think of this at the time?)

Query the class on the first issue:

Why do you think the Committee of Detail suggested submitting ratification to special state conventions rather than state legislatures?

Political responses: The proposed Constitution shifted some powers, like levying imposts/tax or coining money, from state legislatures to the new federal government, so state legislators might understandably resent their loss of power and oppose the new plan. Philosophical response: According to the “social contract” theory of government, which all delegates agreed with, only the people, through direct representatives they select for that purpose, can enter into a contract with their government.

4. DELIBERATIONS ON RATIFICATION OPTIONS: 10 minutes

Distribute Handout E, “**Ratification Options.**” Instruct the class: There are two issues. First, which body within each state should decide whether to ratify, and second, how many states must ratify for the Constitution to take effect. Allow a couple of minutes for students to read the passages from the Convention.

Instruct: Now break into your D & D groups to discuss these. Consider them one at a time. After you discuss the matter, enter your decision at the bottom of each page.

CLASS MANAGEMENT: After a few minutes, remind the groups to move on to the second issue if they haven’t already done so.

5. VOTING ON AMENDMENTS AND RATIFICATION: 5-10 minutes

Distribute Handout F, “**Amendments and Ratification: Class Decisions.**”

Students convene briefly in their state delegations to determine their votes on three amendment issues and two ratification issues. No further discussion within state delegations.

The class meets as a whole and states cast their votes. As each vote is taken, students record the result on “Amendments and Ratification: Class Decisions.”

6. PRESENTATION OF HISTORICAL DECISIONS: 5-10 minutes

Distribute Handouts G, “**Amendments: Historical Decisions,**” and H, “**Ratification: Historical Decisions.**” How to process these is left to teacher discretion. Suggestion: students read silently each section of the Constitution printed there. Then ask students for oral summations of the historical decisions in their own words. This can also be done as a summary homework assignment

Overarching message to conclude this lesson: Both amendments and ratification relate to a critical matter: What was the relationship between the Convention and “the people”? Several delegates did not want the people to be actively involved in government. As Roger Sherman of Connecticut put it, “The people immediately should have as little to do as may be about the government.” But when settling on a plan, delegates needed to consider what they called “the genius of the people,” or what we call public opinion.

In the end, the framers had to produce a plan they thought the people would approve. The people would insist on being included in the ratification process, and they also would insist on having an avenue by which they could amend or alter the new plan. This would be the *nation’s* Constitution, not the Convention’s.

SUMMARY HOMEWORK / EXTENDED ACTIVITIES

1. Explain the historical decisions in your own words, presenting what you believe was the decisive argument in each case.
2. If your own personal choice or the class’s decision differed from the historical outcome on any of the issues addressed, how might the course of history have been different if that alternate path had been taken?
3. Historically, no amendment has ever been initiated through the second method provided by Article V of the Constitution: two-thirds of state legislatures calling for a Constitutional convention. Why do you think this has not happened?

4. Today, with the nation so divided along partisan lines, do you think it is likely that three-quarters of the states (either state legislatures or state conventions) will ratify a new amendment? Can you think of an amendment likely to receive such widespread support, across party lines?

Handout A: Amendments Background

Articles of Confederation:

Article XIII. Every State shall abide by the determination of the United States in Congress assembled, on all questions which by this confederation are submitted to them. And the Articles of this Confederation shall be inviolably observed by every State, and **the Union shall be perpetual**; nor shall any alteration at any time hereafter be made in any of them; **unless such alteration be agreed to in a Congress of the United States, and be afterwards confirmed by the legislatures of every State.**

QUESTIONS:

According to the Articles of Confederation, what body (or bodies) must initiate an amendment?

What body (or bodies) must approve it?

What is the threshold for approval?

Committee of Detail:

Article XIX. On the application of the Legislatures of two thirds of the States in the Union, for an amendment of this Constitution, **the Legislature of the United States [Congress] shall call a convention for that purpose.**

QUESTIONS:

According to the Committee of Detail draft, what body (or bodies) must initiate an amendment?

What body (or bodies) must approve it?

What is the threshold for approval?

Handout B: Ratification Background

Articles of Confederation:

The Articles of Confederation did not specify how they were to be ratified, but on November 17, 1777, two days after Congress approved the Articles, it sent them to the state legislatures for their approval:

“Congress having agreed upon a plan of confederacy for securing the freedom, sovereignty, and independence of the United States, authentic copies are now transmitted **for the consideration of the respective legislatures....**

“Hardly is it to be expected that any plan, in the variety of provisions essential to our union, should exactly correspond with the maxims and political views of every particular State. Let it be remarked, that, after the most, careful enquiry and the fullest information, this is proposed as the best which could be adapted to the circumstances of all; and as that alone which affords any tolerable prospect of a general ratification. Permit us, then, **earnestly to recommend these articles to the immediate and dispassionate attention of the legislatures of the respective states.** Let them be candidly reviewed under a sense of the difficulty of combining in one general system the various sentiments and interests of a continent divided into so many sovereign and independent communities, under a conviction of **the absolute necessity of uniting all our councils and all our strength, to maintain and defend our common liberties...**

“We have reason to regret the time which has elapsed in preparing this plan for consideration: with additional solicitude we look forward to that which must be necessarily spent before it can be ratified. Every motive loudly calls upon us to hasten its conclusion... **This salutary measure can no longer be deferred it seems essential to our very existence as a free people, and without it we may soon be constrained to bid adieu to independence, to liberty and safety.**”

Because the Articles were an agreement among the thirteen states listed in the preamble, it could not take effect until all state legislatures had ratified it. Most did so promptly, but Maryland did not ratify until March 1, 1781. (It held back because it wanted the Articles of Confederation to give Congress command of western territory that Virginia claimed as its own. In the meantime, until all states had signed on, the United States was under interim management and operated *as if* the Articles were already in force.)

QUESTIONS:

By order of Congress, who had the authority to ratify the Articles of Confederation?

Did the decision have to be unanimous?

Committee of Detail:

Article XXI. The ratification of the Conventions of ____ States shall be sufficient for organizing this Constitution.

Article XXII. This Constitution shall be laid before the United States in Congress Assembled, for their approbation: and it is the opinion of this Convention, that it should be afterwards submitted to a Convention chosen, under the recommendation of its [state] legislature, in order to receive the ratification of such Convention.

QUESTIONS:

In Article XXI, what number would you place in the blank?

According to this draft, what steps were required to ratify the proposed Constitution?

Handout C: Amendment Options

At the Constitutional Convention, debates over the amendment process were somewhat scattered, but consider these remarks:

Virginia Plan: “Resolved that provision ought to be made for the amendment of the Articles of Union whensoever it shall seem necessary, and that **the assent of the National Legislature ought *not* to be required thereto.**”

Debating the Committee of Detail draft: “**On the application of the Legislatures of two thirds of the States** in the Union, for an amendment of this Constitution, **the Legislature of the United States shall call a convention for that purpose.**”

Col. MASON (George Mason, VA, on [June 11](#)): It would be improper to require the consent of the National Legislature [Congress], because they may abuse their power, and refuse their consent on that very account.

Mr. Govr. MORRIS (Gouverneur Morris, PA, on [August 30](#)) suggested that the Legislature should be left at liberty to call a Convention, whenever they please.

Mr. HAMILTON (Alexander Hamilton, NY, on [September 10](#)): It had been wished by many and was much to have been desired that an easier mode for introducing amendments had been provided by the articles of Confederation. It was equally desirable now that an easy mode should be established for supplying defects which will probably appear in the new System. The mode proposed [2/3 of state legislatures initiate the amendment process] was not adequate. The State Legislatures will not apply for alterations but with a view to increase their own powers. The National Legislature [Congress] will be the first to perceive and will be most sensible to the necessity of amendments, and ought also to be empowered, whenever two thirds of each branch should concur to call a [national] Convention. There could be no danger in giving this power, as the people would finally decide in the case.

ISSUES AND OPTIONS:

1. What body or bodies do you think should formally propose an amendment?

Options: Congress, state legislatures, special state conventions elected by the people, national convention (delegates selected either by state legislatures or special elections).

2. What body or bodies do you think must approve it?

Options: Congress, state legislatures, special state conventions elected by the people, national convention (delegates selected either by state legislatures or special elections).

3. What do you think should be the threshold for approval? Unanimous or some fraction? If the latter, *what* fraction?

Amendment and Ratification Handout D: State Instructions to Delegates

Virginia: “Whereas the Commissioners who **assembled at Annapolis** on the fourteenth day of September last for the purpose of **devising and reporting the means of enabling Congress to provide effectually for the Commercial Interests of the United States** have represented the necessity of **extending the revision of the federal System to all it's defects** and have recommended that Deputies for that purpose be appointed by the several Legislatures to meet in Convention in the City of Philadelphia on the second day of May next, ... Be it therefore enacted by the General Assembly of the Commonwealth of Virginia that seven Commissioners be appointed by joint Ballot of both Houses of Assembly who or any three of them are hereby authorized as Deputies from this Commonwealth to meet such Deputies as may be appointed and authorized by other States to **assemble in Convention at Philadelphia** as above recommended and to join with them in **devising and discussing all such Alterations and farther Provisions as may be necessary to render the Federal Constitution adequate to the Exigencies of the Union and in reporting such an Act for that purpose to the United States in Congress as when agreed to by them and duly confirmed by the several States will effectually provide for the same.**”

New Jersey: “To the Honorable David Brearly, William Churchill Houston, William Patterson and John Neilson Esquires. Greeting. The Council and Assembly reposing especial trust and confidence in your integrity, prudence and ability, have at a joint meeting appointed you the said David Brearley, William Churchill Houston, William Patterson and John Neilson Esquires, or any three of you, Commissioners to meet such Commissioners, as have been or may be appointed by the other States in the Union, at the City of Philadelphia in the Commonwealth of Pennsylvania, on the second Monday in May next for **the purpose of taking into Consideration the state of the Union, as to trade and other important objects, and of devising such other Provisions as shall appear to be necessary to render the Constitution of the Federal Government adequate to the exigencies thereof.**”

Pennsylvania: “Whereas the General Assembly of this Commonwealth, ... weighing the **difficulties under which the Confederated States now labour**, are fully convinced of the necessity of **revising the federal Constitution** for the purpose of making such **Alterations and amendments** as the exigencies of our Public Affairs require, ... Be it enacted, and it is hereby enacted by the Representatives of the Freemen of the Commonwealth of Pensylva in General Assembly met, and by the Authority of the same, That Thomas Mifflin, Robert Morris, George Clymer, Jared Ingersoll, Thomas Fitzsimmons, James Wilson and Gouverneur Morris Esquires, are hereby appointed Deputies from this State to meet in the Convention of the Deputies of the respective States of North America to be held at the City of Philadelphia on the second day of the Month of May next; And the said Thomas Mifflin, Robert Morris, George Clymer, Jared Ingersoll, Thomas Fitzsimmons, James Wilson and Gouverneur Morris Esquires, or any four of them, are hereby constituted and appointed Deputies from this State, with Powers to meet such Deputies as may be appointed and authorized by the other States, to

assemble in the said Convention at the City aforesaid, and **to join with them in devising, deliberating on, and discussing, all such alterations and further Provisions, as may be necessary to render the federal Constitution fully adequate to the exigencies of the Union, and in reporting such Act or Acts for that purpose to the United States in Congress Assembled, as when agreed to by them and duly confirmed by the several States, will effectually provide for the same.**”

North Carolina: “The State of North Carolina To the Honorable Alexander Martin Esquire, Greeting. Whereas our General Assembly, in their late session holden at Fayetteville, by adjournment, in the Month of January last, did by joint ballot of the Senate and House of Commons, elect Richard Caswell, Alexander Martin, William Richardson Davie, Richard Dobbs Spaight, and Willie Jones, Esquires, Deputies to attend a Convention of Delegates from the several United States of America, proposed to be held at the City of Philadelphia in May next **for the purpose of revising the Federal Constitution.** We do therefore by these Presents, nominate, Commissionate and appoint you the said Alexander Martin, one of the Deputies for and in our behalf to meet with our other Deputies at Philadelphia on the first day of May next and with them or any two of them to confer with such Deputies as may have been or shall be appointed by the other States, for the purpose aforesaid: *To hold*, exercise and enjoy the appointment aforesaid, with all Powers, Authorities and Emoluments to the same belonging or in any wise appertaining, You conforming, in every instance, to the Act of our said Assembly under which you are appointed.”

New Hampshire: “Resolved, that any two of the Delegates of this State to the Congress of the United States, be & hereby are appointed and authorized as Deputies from this State, to meet such Deputies as may be appointed & authorized by other States in the Union, to assemble in Convention at Philadelphia on the second day of May next, and to join with them in **devising & discussing all such alterations & further provisions as to render the federal Constitution adequate to the Exigencies of the Union & in reporting such an Act to the United States in Congress, as when agreed to by them, & duly confirmed by the several States, will effectually provide for the same.** ... John Langdon Speaker In Senate the same day read & concurred with this Amendment that the said Delegates shall proceed to join the Convention aforesaid, in case Congress shall signify to them, that **they approve of the Convention, as advantageous to the Union and not an infringement of the Powers granted to Congress by the Confederation.**”

Delaware: “Be it therefore enacted by the General Assembly of Delaware, that George Read, Gunning Bedford, John Dickinson, Robert Bassett and Jacob Broom, Esquires, are hereby appointed Deputies from this State to meet in the Convention of the Deputies of other States, to be held at the City of Philadelphia on the Second day of May next: And the said George Read, Gunning Bedford, John Dickinson, Richard Bassett and Jacob Broom, Esquires, or any three of them, are hereby constituted and appointed Deputies from this State, with Powers to meet such Deputies as may be appointed and authorized by the other States to assemble in the said Convention at the City aforesaid, and to join with them in **devising, deliberating on, and discussing, such Alterations and further Provisions as may be necessary to render the Federal Constitution adequate to the**

Exigencies of the Union; and in reporting such Act or Acts for that purpose to the United States in Congress Assembled, as when agreed to by them, and duly confirmed by the several States, may effectually provide for the same: So always and 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, finally ratified on the first day of March, in the Year One thousand seven hundred and eighty one, which declares that ‘In determining Questions in the United States in Congress Assembled each State shall have one Vote.’”

Georgia: “Be it Ordained by the Representatives of the Freemen of the State of Georgia in General Assembly met and by the Authority of the same, that William Few, Abraham Baldwin, William Pierce, George Walton William Houstoun and Nathaniel Pendleton Esquires, Be, and they are hereby appointed Commissioners, who, or any two or more of them are hereby authorized as Deputies from this State to meet such deputies as may be appointed and authorized by other States to assemble in *Convention at Philadelphia* and to join with them in **devising and discussing all such Alterations and farther Provisions as may be necessary to render the *Federal Constitution* adequate to the exigencies of the Union, and in reporting such an Act for that purpose to the United States in Congress Assembled as when agreed to by them, and duly confirmed by the several States, will effectually provide for the same.”**

New York: “Resolved that the Honorable Robert Yates, John Lansing Junior and Alexander Hamilton Esquires, be, and they are hereby declared duly nominated and appointed Delegates, on the part of this State, to meet such Delegates as may be appointed on the part of the other States respectively, on the second Monday in May next, at Philadelphia, *for the sole and express purpose of revising the Articles of Confederation, and reporting to Congress, and to the several Legislatures, such alterations and provisions therein, as shall, when agreed to in Congress, and confirmed by the several States, render the federal Constitution adequate to the exigencies of Government, and the preservation of the Union.*”

South Carolina: “By Virtue of the Power and Authority in me vested by the Legislature of this State in their Act passed the eighth day of March last I do hereby Commission You the said John Rutledge as one of the Deputies appointed from this State to meet such Deputies or Commissioners as may be appointed and authorized by other of the United States to assemble in Convention at the City of Philadelphia in the Month of May next, or as soon thereafter as may be, and to join with such Deputies or Commissioners (they being duly authorized and empowered) in **devising and discussing all such Alterations, Clauses, Articles and Provisions, as may be thought necessary to render the *Federal Constitution* entirely adequate to the actual Situation and future good Government of the confederated States, and that you together with the said Deputies or Commissioners or a Majority of them who shall be present (provided the State be not represented by less than two) do join in reporting such an Act, to the United States in Congress Assembled as when approved and agreed to by them, and duly ratified and confirmed by the several States will effectually provide for the Exigencies of the Union.**”

Massachusetts: “Whereas Congress did on the twenty first day of February Ao Di 1787, Resolve ‘that in the opinion of Congress it is expedient that on the second Monday in May next a Convention of Delegates who shall have been appointed by the several States to be held at Philadelphia **for the sole and express purpose of revising the Articles of Confederation and reporting to Congress and the several Legislatures, such alterations and provisions therein as shall when agreed to in Congress, and confirmed by the States render the federal Constitution adequate to the exigencies of government and the preservation of the Union.**’ And Whereas the General Court have constituted and appointed you their Delegates to attend and represent this Commonwealth in the said proposed Convention; and have by a Resolution of theirs of the tenth of March last, requested me to Commission you for that purpose. Now therefore Know Ye, that in pursuance of the resolutions aforesaid, I do by these presents, commission you the said Francis Dana, Elbridge Gerry Nathaniel Gorham, Rufus King & Caleb Strong Esquires or any three of you to meet such Delegates as may be appointed by the other or any of the other States in the Union to meet in Convention at Philadelphia at the time and for the purposes aforesaid.”

Connecticut: “Be it enacted by the Governor, Council and Representatives in General Court Assembled and by the Authority of the same. That the Honorable William Samuel Johnson, Roger Sherman, and Oliver Ellsworth Esquires, be and they hereby are appointed Delegates to attend the said Convention, and are requested to proceed to the City of Philadelphia for that purpose without delay; And the said Delegates, and in case of sickness or accident, such one or more of them as shall actually attend the said Convention, is and are hereby authorized and empowered to Represent this State therein, and **to confer with such Delegates appointed by the several States**, for the purposes mentioned in the said Act of Congress that may be present and duly empowered to act in said Convention, and **to discuss upon such Alterations and Provisions agreeable to the general principles of Republican Government as they shall think proper to render the federal Constitution adequate to the exigencies of Government and, the preservation of the Union; And they are further directed, pursuant to the said Act of Congress to report such alterations and provisions as may be agreed to by a majority of the United States represented in Convention to the Congress of the United States, and to the General Assembly of this State.**”

Maryland: “Be it enacted by the General Assembly of Maryland, That the Honorable James McHenry, Daniel of Saint Thomas Jenifer, Daniel Carroll, John Francis Mercer and Luther Martin Esquires, be appointed and authorised on behalf of this State, to meet such Deputies as may be appointed and authorised by any other of the United States to assemble in Convention at Philadelphia **for the purpose of revising the Fœderal System, and to join with them in considering such Alterations and further Provisions as may be necessary to render the Fœderal Constitution adequate to the Exigencies of the Union and in reporting such an Act for that purpose to the United States in Congress Assembled as when agreed to by them, and duly confirmed by the several States will effectually provide for the same**, and the said Deputies or such of them as shall attend the said Convention shall have full Power to represent this State

for the Purposes aforesaid, and the said Deputies are **hereby directed to report the Proceedings of the said Convention, and any Act agreed to therein, to the next session of the General Assembly of this State.**

Handout E: Ratification Options

A. RATIFICATION BY CONGRESS, BY STATE LEGISLATURES, OR BY STATE CONVENTIONS WITH DELEGATES ELECTED BY THE PEOPLE?

Debate on June 5:

Mr. SHERMAN [Roger Sherman, CT] thought ... **a popular ratification unnecessary, the articles of Confederation providing for changes and alterations with the assent of Congress and ratification of State Legislatures.**

Mr. MADISON [James Madison, VA] thought ... the articles of Confederation themselves were defective in this respect, resting in many of the States on the Legislative sanction only... **It indispensable that the new Constitution should be ratified ... by the supreme authority of the people themselves.**

Mr. GERRY [Elbridge Gerry, MA]. Observed that in the Eastern States [New England] the Confederation had been sanctioned by the people themselves. **He seemed afraid of referring the new system to them. The people in that quarter have at this time the wildest ideas of Government in the world.** They were for abolishing the Senate in Massachusetts and giving all the other powers of Govt. to the other branch of the Legislature.

Mr. KING [Rufus King, MA] A [state] Convention being a single house, the adoption may more easily be carried through it than through the [state] Legislatures where there are several branches. **The Legislatures also being to lose power, will be most likely to raise objections.**

Mr. WILSON [James Wilson, PA] is of opinion, **that the people by a convention are the only power that can ratify the proposed system of the new government.**

STUDENT CHOICE: What body or bodies do you think must approve the proposed Constitution?

Options: Congress, state legislatures, special state conventions elected by the people, national convention (delegates selected either by state legislatures or special elections).

B. HOW MANY STATES SHOULD BE REQUIRED FOR RATIFICATION?

Debate on August 30:

Mr. SHERMAN observed that the States being now confederated by articles which require unanimity in changes, he thought the ratification in this case of **ten States at least** ought to be made necessary.

Mr. RANDOLPH [Edmund Randolph, VA] was for filling the blank with “**Nine**” that being a respectable majority of the whole.

Mr. WILSON mentioned “**eight**” as preferable.

Mr. BUTLER [Pierce Butler, SC] was in favor of “**nine**.” He revolted at the idea, that one or two States should restrain the rest from consulting their safety.

Mr. CARROL [Daniel Carroll, MD] moved to fill the blank with “**the thirteen**,” **unanimity** being necessary to dissolve the existing confederacy which had been **unanimously** established.

Debate on September 10:

Mr. HAMILTON. The plan should be **sent to Congress** in order that the same **if approved by them**, may be communicated to the State Legislatures, to the end that they may refer it to **State Conventions; each Legislature declaring that if the Convention of the State should think the plan ought to take effect among nine ratifying States, the same should take effect accordingly.**

Mr. GERRY urged the indecency and pernicious tendency of dissolving in so slight a manner, the solemn obligations of the articles of confederation. **If nine out of thirteen can dissolve the compact, Six out of nine will be just as able to dissolve the new one hereafter.**

STUDENT CHOICE: What do you think should be the threshold for approval? Unanimous or a specific number of states? If the latter, how many states?

Handout F: Amendments and Ratification: Class Decisions

AMENDMENTS

What body or bodies should formally propose an amendment?

Options: Congress, state legislatures, special state conventions elected by the people, national convention (delegates selected either by state legislatures or special elections).

What body or bodies must approve it?

Options: Congress, state legislatures, special state conventions elected by the people, national convention (delegates selected either by state legislatures or special elections).

What should be the threshold for approval? Unanimous or some fraction? If the latter, *what* fraction?

RATIFICATION

What body or bodies must approve the proposed Constitution?

Options: Congress, state legislatures, special state conventions elected by the people, national convention (delegates selected either by state legislatures or special elections).

What should be the threshold for approval? Unanimous or a specific number of states? If the latter, how many states?

Should states give an up or down vote on the existing plan, with amendments offered later according to the rules of this present Constitution? Or should states be given time to propose amendments, and then send delegates to a second national Convention to consider these?

Handout G. Amendments: Historical Outcome

United States Constitution, Article V: “The Congress, whenever **two thirds of both Houses** shall deem it necessary, shall **propose Amendments to this Constitution**, or, on the **Application of the Legislatures of two thirds of the several States**, shall call a **Convention for proposing Amendments**, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, **when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress...**”

There are two methods to propose amendments: by two-thirds of both the Senate and House of Representatives, or by two-thirds of the state legislatures calling a national convention. Fearing that either Congress or state legislatures might resist change, the framers allowed *either* group to initiate the process.

The framers also allowed for alternative methods of approval. If Congress feared that state legislatures might resist needed changes, it could appeal to the people through state conventions.

Although the framers wanted to prevent any governmental group from clinging to its power, they also wanted to create a high hurdle for altering the Constitution. Unanimity had been unworkable, but they increased the super-majority threshold for ratification of amendments from the customary two-thirds (67%) to three-quarters (75%).

Handout H. Ratification: Historical Outcome

United States Constitution, Article VII: “The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.”

The framers sent their proposed Constitution to state conventions rather than state legislatures for two reasons. Politically, state legislatures stood to lose some power by the new rules and would be more likely to turn them down. Philosophically, the framers thought the Constitution would have greater force if the people elected representatives for the sole purpose of validating the government they would live under.

Again, although unanimity was not realistic, the framers thought such a momentous agreement should have a super majority. There was no particular logic to choosing 9 (69% of 13) instead of 8 (62%) or 10 (77%). Possibly, when they surveyed the political map, they thought that was an achievable goal.

Amendments and Ratification Handout I. Vocabulary List

1. **Approbation:** approval or praise
2. **Confederacy:** a league or alliance, especially of confederate states.
3. **Exigencies:** an urgent need or demand.
4. **Indispensable:** absolutely necessary.
5. **Maxim:** a brief expression of a general truth, principle, or rule of conduct.
6. **Partisan:** a strong supporter of a person, group, party, or cause.
7. **Perpetual:** never ending or changing.
8. **Ratification:** to confirm by expressing consent, approval, or formal sanction.

T-A. Amendments and Ratification: Answers

AMENDMENTS

Articles of Confederation:

Article XIII. Every State shall abide by the determination of the United States in Congress assembled, on all questions which by this confederation are submitted to them. And the Articles of this Confederation shall be inviolably observed by every State, and **the Union shall be perpetual**; nor shall any alteration at any time hereafter be made in any of them; **unless such alteration be agreed to in a Congress of the United States, and be afterwards confirmed by the legislatures of every State.**

QUESTIONS:

According to the Articles of Confederation, what body (or bodies) must initiate an amendment? **Congress**

What body (or bodies) must approve it? **State legislatures**

What is the threshold for approval? **Must be unanimous**

Committee of Detail:

Article XIX. On the application of the Legislatures of two thirds of the States in the Union, for an amendment of this Constitution, **the Legislature of the United States [Congress] shall call a convention for that purpose.**

QUESTIONS:

According to the Committee of Detail draft, what body (or bodies) must initiate an amendment? **Two-thirds of the state legislatures**

What body (or bodies) must approve it? **A convention called by Congress**

What is the threshold for approval? **Not stipulated. Presumably, that convention would determine the threshold.**

RATIFICATION

Articles of Confederation:

The Articles of Confederation did not specify how they were to be ratified, but on November 17, 1777, two days after Congress approved the Articles, it sent them to the state legislatures for their approval:

“Congress having agreed upon a plan of confederacy for securing the freedom, sovereignty, and independence of the United States, authentic copies are now transmitted **for the consideration of the respective legislatures....**

“Hardly is it to be expected that any plan, in the variety of provisions essential to our union, should exactly correspond with the maxims and political views of every particular State. Let it be remarked, that, after the most, careful enquiry and the fullest information, this is proposed as the best which could be adapted to the circumstances of all; and as that alone which affords any tolerable prospect of a general ratification. Permit us, then, **earnestly to recommend these articles to the immediate and dispassionate attention of the legislatures of the respective states.** Let them be candidly reviewed under a sense of the difficulty of combining in one general system the various sentiments and interests of a continent divided into so many sovereign and independent communities, under a conviction of **the absolute necessity of uniting all our councils and all our strength, to maintain and defend our common liberties...**

“We have reason to regret the time which has elapsed in preparing this plan for consideration: with additional solicitude we look forward to that which must be necessarily spent before it can be ratified. Every motive loudly calls upon us to hasten its conclusion... **This salutary measure can no longer be deferred it seems essential to our very existence as a free people, and without it we may soon be constrained to bid adieu to independence, to liberty and safety.**”

Because the Articles were an agreement among the thirteen states listed in the preamble, it could not take effect until all state legislatures had ratified it. Most did so promptly, but Maryland did not ratify until March 1, 1781. (It held back because it wanted the Articles of Confederation to give Congress command of western territory that Virginia claimed as its own. In the meantime, until all states had signed on, the United States was under interim management and operated *as if* the Articles were already in force.)

QUESTIONS:

By order of Congress, who had the authority to ratify the Articles of Confederation? **State legislatures**

Did the decision have to be unanimous? **Yes**

Committee of Detail:

Article XXI. The ratification of the Conventions of ____ States shall be sufficient for organizing this Constitution.

Article XXII. This Constitution shall be **laid before the United States in Congress Assembled, for their approbation**: and it is the opinion of this Convention, that **it should be afterwards submitted to a Convention chosen, under the recommendation of its [state] legislature, in order to receive the ratification of such Convention.**

QUESTIONS:

In Article XXI, what number would you place in the blank? Student choice. Answers will vary.

According to this draft, what steps were required to ratify the proposed Constitution? First, it needed the “approbation,” or consent, of Congress. Then it had to be sent to state legislatures, which would call for special conventions to consider ratification.

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 stile 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.