

**Late Start** The Constitutional Convention was scheduled to start on May 14, 1787, so when James Madison arrived in Philadelphia on May 3, he figured he was 11 days early. As it turned out, he was actually 22 days early.

That's because the convention could not begin until delegates from at least seven states were present. And as of the morning of Sunday, May 13—the day before the convention was to start—Madison was still the only one from out of state to show up in Philadelphia.

No one was especially concerned, though. In those days, meetings of this sort rarely started on time. Delegates had to come from afar, on horseback or by coach. In the best of weather, the roads were not very good. And the weather in spring of 1787 was anything but the best. In fact, residents of Pennsylvania said it was just about the worst they could remember. Heavy rains turned the roads to puddles and mud.

That Sunday, May 13, though, the weather was dry. In the afternoon the sun came out, as if to greet the arrival of the most famous American of all, George Washington. Philadelphians had eagerly awaited Washington's entry into their city. Now, church bells rang out, and crowds lined the streets to cheer the hero. Men who had served in the American Revolution came out in their old uniforms to greet their commander. The mere presence of Washington was enough to create a feeling of hope and optimism about the Constitutional Convention.

During the following days, other delegates arrived in Philadelphia. Madison put the time to good use. As his fellow delegates from Virginia arrived, he met with them. Together, they came up with a plan of government to

*The people of Philadelphia were excited and looked forward to seeing the delegates to the convention.*





# Some Major Decisions

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**Need for Secrecy** Right at the start the delegates made two important decisions. The first was to choose George Washington as chairman of the convention. That was an easy decision because Washington was everyone's first choice.

The second decision was to keep all discussions secret. That way, each person could express his ideas freely. He could even change his mind about a particular issue without having to face public disapproval. The delegates would not have to worry about newspapers or citizens looking over their shoulders and criticizing this or that proposal. Instead, the convention would present its final plan to the people and say, this is the result of our best efforts. Now it is for you, the people, to say yes or no.

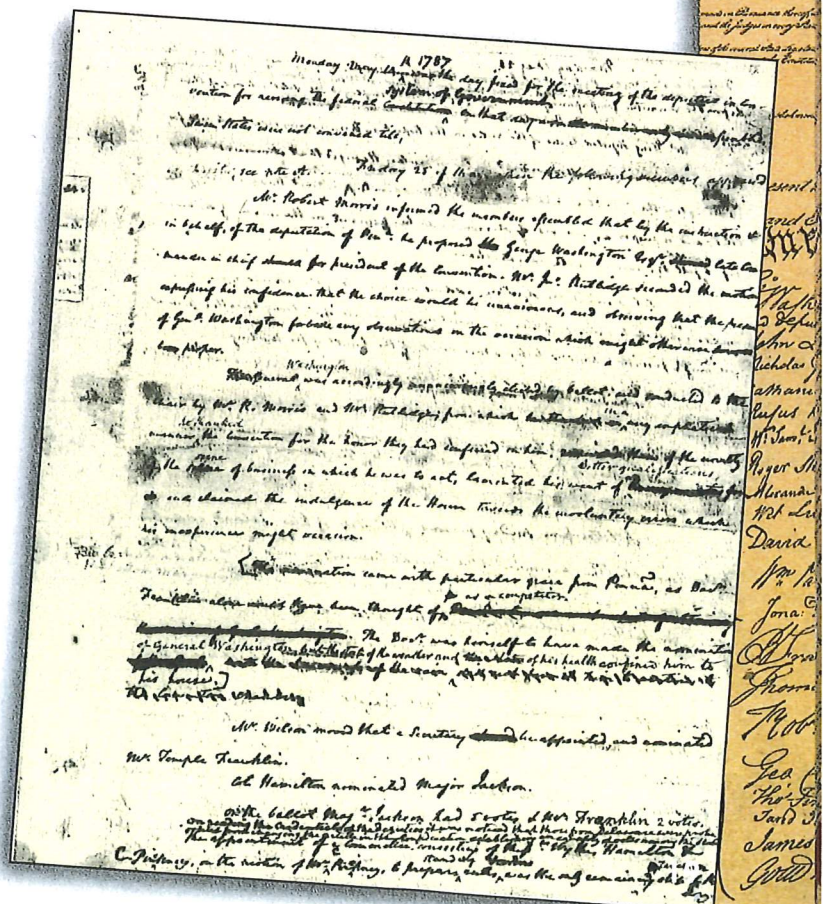
The decision for secrecy put a small burden on a few gossiping delegates. It put a big burden of a different kind on the whole convention. Secrecy meant not only closed doors but closed windows. The summer of 1787 was Philadelphia's hottest in nearly 40 years. With not a breath of fresh air entering the hot and sticky convention room, delegates sweltered in the miserable heat. With mosquitoes biting right through clothing, and big bluebottle flies buzzing around their heads, it was a wonder the uncomfortable delegates could concentrate on their work.

If the meetings were so secret, how do we know what was said there? We owe that to several delegates who took notes, especially James Madison. Madison chose a seat at the very front, where he could plainly hear delegates from the right, left, and rear. "I was not

absent a single day," Madison wrote later, "Nor more than a . . . fraction of any hour in any day. . . ." Using his own system of abbreviation and symbols, he wrote down in a private journal nearly everything that went on in the secret meetings.

We know from Madison's notes that he himself addressed the convention no fewer than 161 times! Clearly, the quiet, soft-spoken

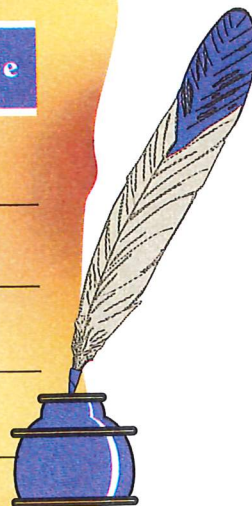
We know what happened at the Constitutional Convention from the notes kept by James Madison.





## Powers the Central Government Should Have

- Protect the people against enemies
- Protect the liberties of its citizens
- Control trade between the states
- Provide for the good of all the people



*These are a few ideas that all of the delegates supported.*

James Madison had a lot to say at these meetings, for no one had thought more about constitution-making than he.

With the decision about secrecy out of the way, the delegates turned to the business that had brought them to Philadelphia. That business was to decide the kind of central government the United States of America should have.

### The Virginia Plan

Edmund Randolph of Virginia asked to speak first. As governor of the state, Randolph headed the Virginia delegation. It would be his job to present the ideas that Madison and the others had been working on. These ideas came to be called the Virginia Plan.

The Virginia delegation, Randolph told the convention, would offer some proposals

shortly. But first, he said, it might be useful to talk generally about the things a central government should be able to do.

A central government, said Randolph, should provide for the common defense. That means it should be able to protect the American people against foreign enemies.

The delegates listened thoughtfully. No argument there.

It should protect the liberties of the American people, continued Randolph.

The delegates continued to listen. No argument there, either.

It should be able to make laws about trade among the states, so that the states would not be taxing each other's citizens.

Again, the delegates agreed, no argument about that.



It should provide for the general welfare of the people. That meant doing things for the good of the whole people and not just the people of one state or another.

Once more, no disagreement from anyone.

But, Randolph continued, under the Articles of Confederation, the central government was not able to do these things. To do them, a government would need the power to raise an army without having to beg the states to contribute soldiers. It would need the power to collect its own taxes, without having to beg the states for money. And it would need many more powers besides. Randolph then continued with a description of what the new government might look like. You'll be reading about that shortly.

By the end of that day, a few delegates were becoming uncomfortable. Yes, yes, they said, the Virginians are probably right. But where is Randolph's argument leading?

Randolph did not leave them to wonder long. The next day he spoke again. The Virginia delegation, he said, believed that the central government must be able to deal directly with the people, instead of depending on the kindness of the state governments. In certain areas it must have powers *higher* than

those of the states. In those areas, the central government must have *supreme* powers.

### A Strong Central Government?

But wait—wasn't the whole idea of the Articles of Confederation that the *states* had supreme power? Yes, it was. And now, here was Governor Randolph saying that we needed a national government that would be supreme over the states in some areas.

That last statement of Randolph's was met with a long silence. Remember, Congress had called this convention to revise the Articles of Confederation, not to throw them out. Now, in the very first week of the convention, the Virginia delegation was asking the convention to do just that.

When discussion finally began, it was long and sometimes heated. After a time the delegates put aside this difficult issue to discuss other parts of the Virginia Plan. But the issue had been raised, and it remained in the minds of all.

Edmund Randolph presented Virginia's plan for a change in the government.

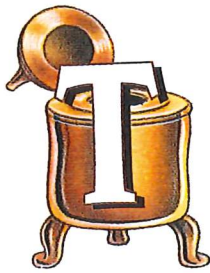


Finally, after two weeks, the delegates returned to the issue and made the big decision: No, we are not going to patch and stitch the Articles.

Yes, we are going to write a new constitution. We are going to create a new, stronger central government for the United States of America.



# 7 Checks, Balances, and Compromises



**The Federal System** Still, no one wanted the central government to have all the power and leave the states none. What the delegates created was something in between, where powers are divided between the central government and the states.

This is called a **federal** system. The aim of a federal system is to give each level of government—the national level and the state level—the jobs each can do best. Sound easy? It's not. Getting the right balance between the two is very hard to do. Just think about what was happening under the Articles of Confederation. The Articles let the states keep too much power and gave too little power to the central government. The result was a central government that didn't work well at all.

## vocabulary

**federal** describing a political organization in which power is shared between a central authority and a number of areas or states

As if finding one balance was not hard enough, this convention had to find two. The second was the balance that James Madison had been wrestling with for more than a year. Do you remember it? It was this: How do you create a central government with enough power to act but not so much power that it threatens the people's liberties? That question nagged at the delegates all through the convention. Many delegates were afraid of creating a too-strong central government. You can see what deep scars their experience with the king and Parliament had left on Americans.

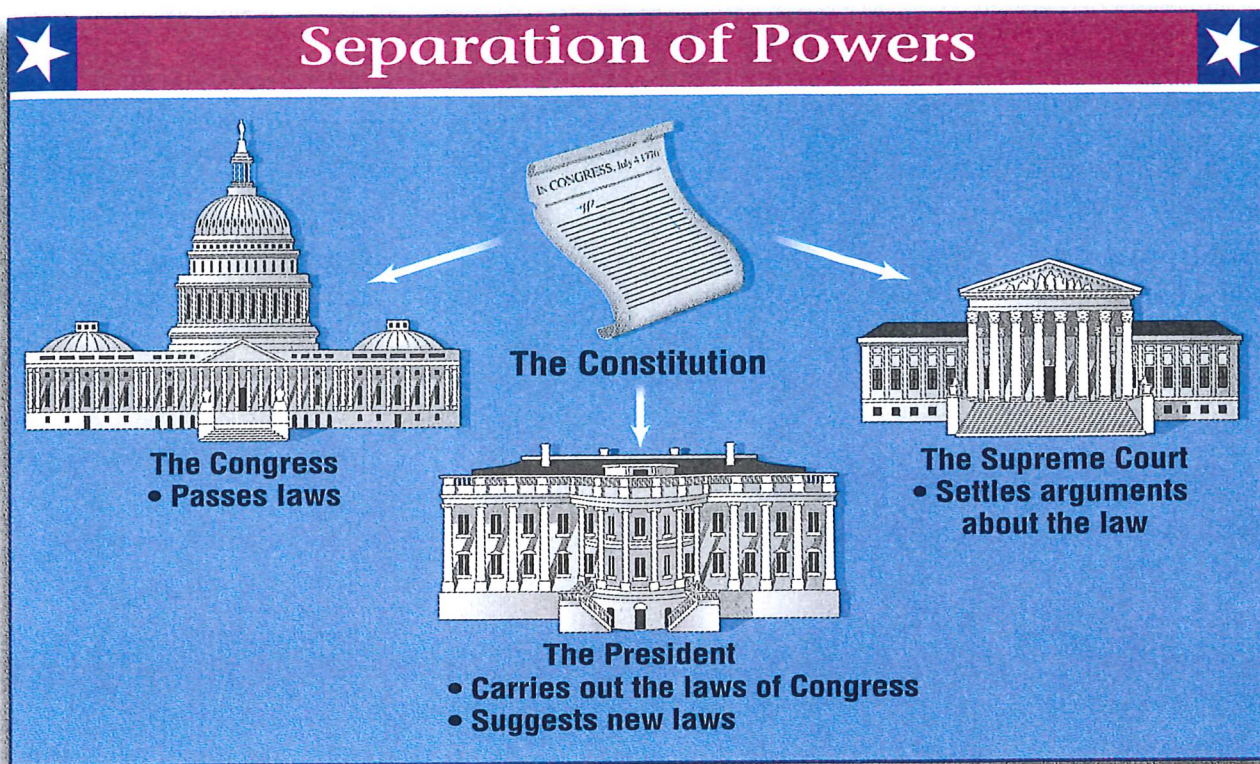
## Separation of Powers

The Virginia Plan offered an answer to that problem. It proposed to separate the new national government into three equal branches: legislative, executive, and judicial. Each branch would have its own separate duties and powers. This idea is known as the *separation of powers*.

The separation of powers is part of our Constitution today. Here is how power is separated among the three branches of government.

- The legislative branch is Congress. Congress makes the laws for the country.
- The executive branch is headed by the President of the United States. The President sees that the laws are carried out and is responsible for running the government. The President also deals with other countries and serves as commander in chief of the armed forces.
- The judicial branch, or judiciary (it comes from the same word as "judge"), is made up of the Supreme Court and other federal, or national, courts. These courts decide cases involving the Constitution and the laws that Congress passes.





*The new government would be divided into three branches equal in power.*

## Checks and Balances

Now, each of these branches has a lot of power. But none is completely free to do what it pleases. That's because each branch can check, which means "stop," the others. Each "checks and balances" the other two.

For example, Congress can pass any law it wants, but the President has the right to veto, or disapprove it. The President can make a treaty with another country, but the treaty only goes into effect if the Senate approves it. The President is commander in chief of the armed forces, but only Congress can declare war.

Do you see why this is called a system of checks and balances? Power is spread out and balanced among the three separate branches. Each branch can check, or stop, the other two. You can think of it as a door with three locks. Each of the three branches has the key

to one of them. For the government to use its power, all three have to use their keys to unlock the door.

## Compromises

For the first month, the Constitutional Convention made great progress. However, every delegate knew there were several issues certain to cause trouble. If those could not be solved, the whole convention would end in failure.

The first of these was the issue of representation in Congress. How many representatives—that is, how many votes—would each state have in Congress? Do you remember how the Articles of Confederation answered that question? The Articles said, "one state, one vote"—that is, each state had one vote, no matter how big the state or how many people lived in it. Of course, the big states didn't like that. So now the Virginia Plan



proposed that representation be based on population. In other words, the more people a state had, the more votes it would have.

It wasn't surprising that Virginia favored this plan. Virginia, after all, was the largest state. And it wasn't surprising that small states like Delaware and New Jersey wanted to keep the one state, one vote rule. They said the Virginia Plan would give the large states too many votes in Congress.

The argument between big states and small states grew more and more heated. Each side said that its own proposal was the only fair one. Each side said it would never agree to the other side's. For a time, it looked like this would be the rock on which the Constitutional Convention would crash.

Then Roger Sherman, a delegate from Connecticut, came forward with a solution. As all the delegates knew, the Virginia Plan actually proposed two separate "houses," or assemblies, in Congress. Why not base the membership of one of them on population? That one would be called the House of Representatives. In the other house, each state, whether big or small, would have an equal vote. That house would be called the Senate. That way, both the large states and the small ones would each get something.

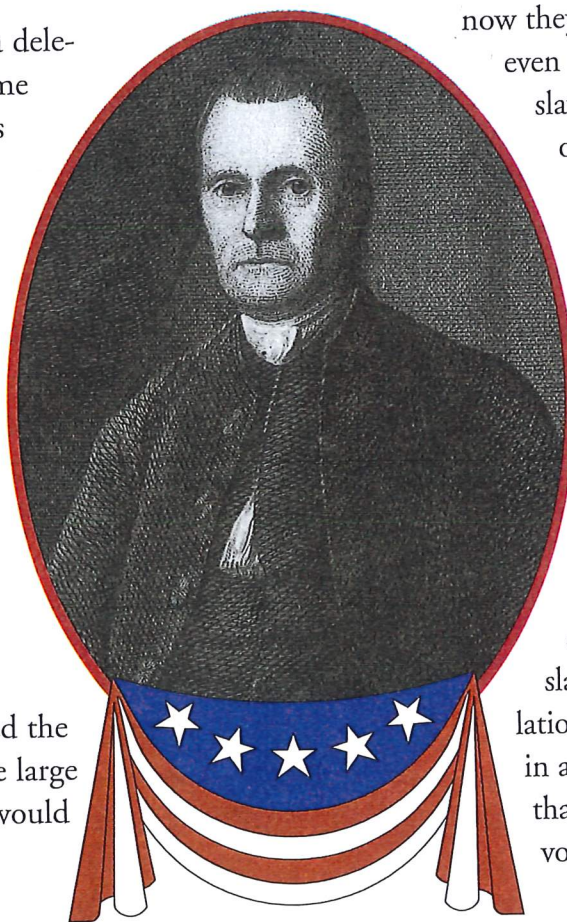
Sherman had proposed a **compromise**. In a compromise, each side gives up something it wants in order to reach an agreement. Delegates on both sides realized they would need a compromise to end the argument, and Roger Sherman's seemed like a reasonable one. Angry words flew back and forth for a few more weeks, but Sherman's idea was finally accepted. This came to be called the Great Compromise. So, the delegates had

managed to solve one tough issue. But now they faced another, maybe even tougher—the issue of slavery. It was not a question of getting rid of slavery. Northern states did want to get rid of it, but they knew several southern states would walk out of the convention if they tried. So they didn't try.

Instead, this was the question the convention tried to deal with: Should states be allowed to count slaves as part of their population? If slaves were included in a state's population, then that state would have more votes in Congress.

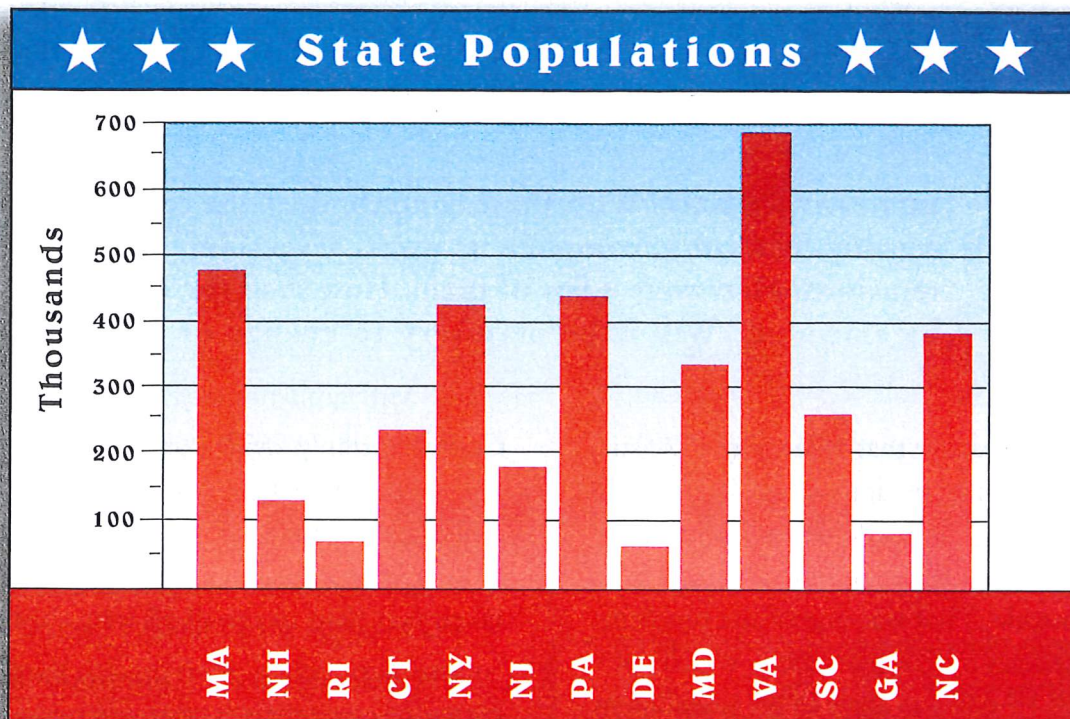
### vocabulary

**compromise** a settlement of differences between two or more sides reached by each side giving up some of what it wanted



Roger Sherman of Connecticut presented a plan that shared power between large and small states.





*The large differences in the number of people who lived in each state presented a problem to the delegates at the convention.*

(Remember, the bigger a state's population, the more representatives it sent to the House of Representatives.)

The northern states argued that slaves shouldn't be counted. After all, said these states, you southerners claim that the slaves are just property. How can you count property as part of your population? But southern states insisted that the slaves should be counted. Once again, a compromise saved the day. It was agreed that in figuring the number of representatives each state would have in the House of Representatives, five slaves would count as three persons. This came to be known as the Three-Fifths Compromise.

There was one more compromise between northern and southern states involving slavery. Northern states wanted to stop any more slaves from coming into the country. But Georgia and South Carolina threatened to walk out if the convention insisted on stopping the slave trade. In the end the two sides compromised. Slaves could be imported for another 20 years, but after that, Congress could prohibit bringing in any more. (Twenty years later, Congress did just that.)

Making these compromises on slavery was not a proud moment for the Constitutional Convention. Yet all the delegates knew that without them, there would be no new constitution and no new, stronger central government. And slavery would go right on.





**Questions Remain** With those compromises, the convention moved steadily forward to complete its work. Several important questions remained. Here were a few of them. How shall the new constitution be amended? Will it be necessary to change or add to the new constitution?

You'll remember that amending a constitution should not be done often, or easily. It certainly should be harder than passing an ordinary law. At the same time, it shouldn't be impossible. That was one of the problems of the Articles of Confederation, which required all 13 states to agree to an amendment. The Constitutional Convention's answer was to require two-thirds of each house of Congress and three-fourths of all the states to approve an amendment before it could become a part of the constitution.

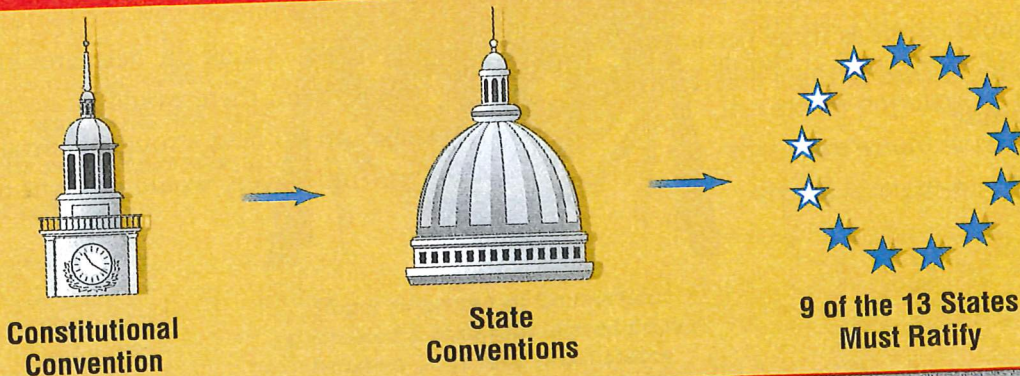
Two more questions had to do with ratifying the constitution. To *ratify* means to approve or accept. Everyone agreed that before the new constitution could go into effect, it had to be ratified by the states. But by how many states? And who would speak for each state? Here again, the Articles of

Confederation provided an example of what *not* to do. The Articles had let the state legislatures decide for each state and had required all 13 of them to give their approval. It had taken *four years* to get all 13 states to ratify!

The delegates to the Constitutional Convention said: We can't let that happen again. This is also too important to let the state legislatures decide, as though the constitution were just another law. So this is what the convention decided: Each state would call a special ratifying convention. The people themselves would choose the members of these conventions. The ratifying conventions would have only one job: to decide whether to approve the new constitution. When nine of them approved, the new constitution would go into effect.

*Ratifying the constitution would not be a simple task.*

## Ratifying the Constitution





## Supreme Law of the Land

Here was another very important question for the delegates: What happens if part of a state's constitution disagrees with the constitution the convention was creating? Or if a state passes a law that disagrees with it? Is that OK? The delegates quickly saw that it certainly would *not* be OK. If that was to be allowed, each state could go its own way and ignore the new constitution altogether. You would not have a real nation at all.

The convention took care of that problem by including these words in the Constitution: "This Constitution, and the laws of the United States . . . shall be the supreme law of the land; . . . anything in the constitution or laws of any State to the contrary notwithstanding." In plain English, that means that whenever a state law or a state constitution says one thing, and the United States Constitution or Congress says another, then what the U.S. Constitution or the Congress says goes.

## More Questions

Another important question: Should the new constitution include a bill of rights? A bill of rights would list the rights of citizens that the new national government could not interfere with. This list would include such rights as freedom of speech, freedom of the press, freedom of religion, the right to trial by jury, and other rights you probably remember.

Some delegates thought the new constitution should list each of these rights. Most, though, felt that the state constitutions already guaranteed them, so there was no need to repeat them. In the end the delegates decided not to include a bill of rights. As you'll soon see, that turned out to be a mistake.

The convention had to settle a number of other questions also. Here are some of them, along with the answers the delegates decided on:

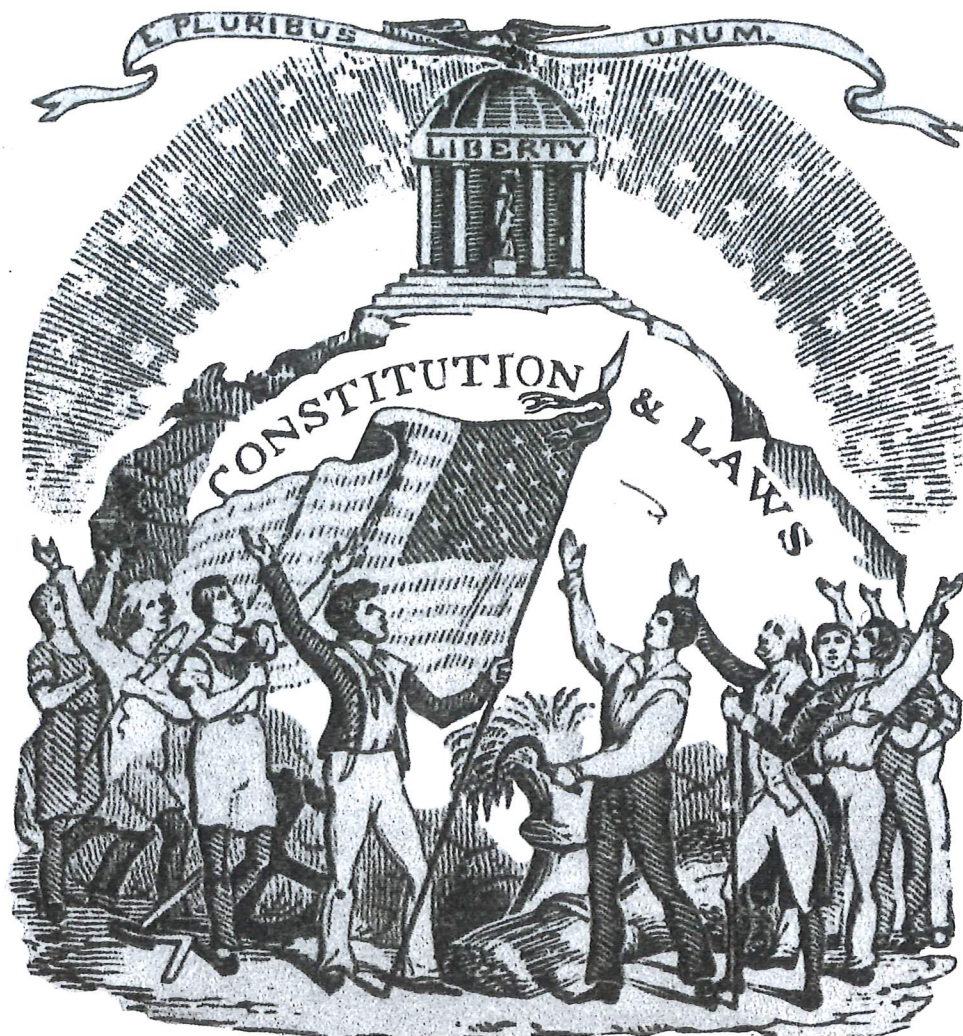
- What should the term of office be for a member of the House of Representatives?  
Answer: Two years
- What should the term of office be for a member of the Senate?  
Answer: Six years
- How many senators should each state have?  
Answer: Two.
- How many presidents should there be?  
Yes, that's right—how many presidents at one time? For a while, the delegates considered dividing the powers of the president among three people. They feared giving all that power (again!) to just one person.  
Answer: One president, with a term of four years

One reason the delegates finally decided to have a single President was that all of them knew who the first one would be. It was a person they knew they could trust, a person who would not abuse his power. He was the same man they had trusted to lead their armies in war and to be president of this convention. You know who he was.

## Success at Last!

The Constitutional Convention was now nearing the end of its work. A committee was appointed to put all the things it had agreed on into language that would be right for a constitution. On September 12 the delegates assembled to hear one of the committee members read the proposed constitution aloud. "We, the People of the United States,"





The creator of this cartoon felt the new constitution would guarantee liberty and law and create one nation out of many states.

he began. What words those were! Not "We the States." Not "We the People of the states of New York and Pennsylvania and Georgia." No. "We, the People of the United States."

We, the People of the United States, in order to form a more perfect union [to have a better government than we had under the Articles of Confederation], establish justice, insure domestic tranquility [to keep peace within the country], provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our

posterity, do ordain and establish this Constitution for the United States of America.

As they listened, the delegates could not help but marvel at what they had achieved during those four months in Philadelphia.

It was, George Washington later said, "little short of a miracle."

**vocabulary**  
**posterity**  
generations to come



The Federalists, however, had an answer, just as they had in Massachusetts. Vote for the Constitution now, they told the Anti-Federalists, and we will work with you to add a bill of rights to the Constitution.

No, said the Anti-Federalists. First, call a new constitutional convention and add a bill of rights. *Then* we'll vote. Amend first, said the Anti-Federalists. Amend later, said the Federalists.

On the day of the vote, Madison promised that once the Constitution took effect, he personally would lead the fight to amend it with a bill of rights. That seemed to do the trick. By a narrow margin, Virginia voted yes.

### The Bill of Rights

Madison was true to his word. As soon as a newly elected Congress met under the new Constitution, he proposed a number of amendments to protect the rights of the people. Congress voted to accept them (Do you remember that amending the Constitution requires a two-thirds majority in each house of Congress?) and sent them to the states for their approval. In 1791, ten of these amendments were ratified by the states and added

to the Constitution. These first ten amendments are known as the Bill of Rights.

The Bill of Rights says to the national government: These are the basic rights of the people, and you cannot take them away. (Remember those "unalienable rights" that Thomas Jefferson wrote about?) One of those amendments says that Congress may not make any law that interferes with your freedom of speech or freedom of religion. It can't take away the press's freedom to print what it wishes, even if the press is criticizing the government. It can't prevent people from assembling peaceably or from asking the government to do something about their complaints.

Another of those first ten amendments protects you against the government illegally entering and searching your house. (Sound familiar? It should. Many of these are the same "rights of Englishmen" over which a war was fought.) Four other amendments make sure that people accused of a crime get a fair trial.

Taken together, those first ten amendments to the Constitution are the most important protector of our liberties that we have.

Rise it  
will.

The foundation  
good—it may yet  
be SAVED.

The Constitution went into effect even though two states still had not ratified it.