

2 Conflict and Compromise

Section Focus

Key Terms Enlightenment ■ checks and balances ■ Virginia Plan ■ separation of powers ■ proportional representation ■ Great Compromise ■ impeachment ■ Electoral College ■ supremacy clause

Main Idea Through an intense process of debate and compromise, the Philadelphia delegates devised the mechanisms of a new form of government.

Objectives As you read, look for answers to these questions:

1. What was the basic structure of government adopted by the Constitutional Convention?
2. Why did states disagree so strongly about the make-up of the legislative branch?
3. Why is the Constitution a document of compromises?

Without James Madison, the United States as we know it might never have come about. Historians call Madison the “Father of the Constitution” because of the crucial role he played.

Madison was a short man who spoke so quietly that one had to be quite close to hear him. He lacked the commanding presence of George Washington. He had neither the wit of Benjamin Franklin nor the brilliant oratory of Patrick Henry. Yet by the use of reason and quiet leadership, he helped secure the blessings of liberty for future generations.

MADISON, MAN BEHIND THE SCENES

Madison, son of a Virginia planter, studied at the College of New Jersey (now Princeton). There he absorbed many ideas of the **Enlightenment**. The Enlightenment was a philosophical movement of the 1600s and 1700s in which thinkers emphasized reason as the key to understanding nature, economics, and politics. For eleven years Madison served as a member of his state’s legislature and in the Congress. Of all those who attended the Convention, he was the most informed and the best prepared.

In the year before the Convention, Madison made careful preparations. He read all that he could on political history and thought and on the history of confederacies, both old and new. In addition to John Locke, Madison read such Enlightenment thinkers as David Hume, Montesquieu, and Voltaire. Hume, a Scottish philosopher, stressed the use of common sense and experience

in finding truth. Montesquieu described the need for a government structure that balances one branch against another. Such a structure is called a system of **checks and balances**. Voltaire held that a wide range of opinions and beliefs promotes a spirit of liberty and toleration.

From his studies Madison concluded that past confederacies had failed because there was insufficient control over the member states. He recognized the task facing the Philadelphia Convention. It was to transform thirteen sovereign and independent states into one republic.

THE VIRGINIA PLAN: CONVENTION KICK-OFF

Madison’s ideas for reforming the national government were contained in a set of resolutions presented by Edmund Randolph of Virginia. These resolutions were known as the **Virginia Plan**. They would form the core of the Convention’s debates. The Virginia Plan proposed a national government with three branches: legislative, judicial, and executive. The legislative branch would have two houses. The people would elect one house directly. That house would then elect the second house. Representation in both houses would be based on state population.

Upon reviewing the Virginia Plan, the delegates realized that the issue had gone beyond merely amending the Articles of Confederation. Expanding its original goal, the Convention voted to establish a national government. That government would consist “of a supreme Legislature, Executive, and Judiciary.”

THE SYSTEM OF CHECKS AND BALANCES

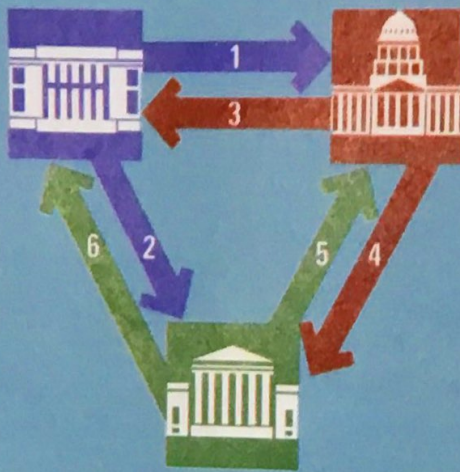
THE EXECUTIVE BRANCH (The President)

1 Checks on Congress

- Can veto acts of Congress
- Can call special sessions of Congress
- Can suggest legislation and send messages to Congress

2 Checks on Court

- Appoints Supreme Court justices and other federal judges
- Can grant reprieves and pardons



THE JUDICIAL BRANCH (The Supreme Court)

5 Checks on Congress

- Can declare acts of Congress unconstitutional

6 Checks on President

- Can declare executive acts unconstitutional
- Appointment for life makes judges free from executive control

THE LEGISLATIVE BRANCH (Congress)

3 Checks on President

- Can impeach and remove the President
- Can override the President's veto by a two-thirds vote
- Controls appropriation of money
- Senate can refuse to confirm presidential appointments
- Senate can refuse to ratify treaties

4 Checks on Court

- Can impeach and remove federal judges
- Can refuse to confirm judicial appointments
- Establishes lower federal court
- Can propose constitutional amendments to overturn court decisions

CHART SKILLS

The system of checks and balances was designed to prevent any one branch of government from becoming all-powerful. **CRITICAL THINKING** Does the system work? What might be some of its flaws?

The purpose of three branches was **separation of powers**. The legislature had the power to make law. The executive had the power to carry out the law. The judiciary had the power to judge the law. As a result, each branch would be a check on the others. This principle of checks and balances would be embedded in the Constitution.

THE PEOPLE'S ROLE IN GOVERNMENT

The delegates had thus agreed that the national government should have three parts. They then spent most of the next six weeks debating the make-up and selection of the legislative branch. The bitterness and dissension of those weeks almost killed the Convention.

One issue facing the delegates was who would choose the legislative branch. Should one house of the national legislature be elected by the people, as proposed by the Virginia Plan? Absolutely not, said Roger Sherman, a leading political figure from Connecticut. The people were likely to be misled, he said, and should have as little to do

with government as possible. With Shays' Rebellion in mind, Elbridge Gerry, a delegate from Massachusetts, agreed. "The evils we experience flow from the excess of democracy," Gerry said.

George Mason, a Virginian and a champion of the people's liberties, jumped in on the other side of the debate. One house of Congress, Mason said, should be "the grand depository of the democratic principle of the Government. . . ." And James Madison asserted that for a government to be free, the people must elect one house of the legislature. The Convention finally voted that the people would directly elect the House of Representatives.

LARGE STATES VERSUS SMALL

The question of how many representatives each state should have led to a long fight between the large and small states. In 1787 the largest states supported the Virginia Plan because it proposed **proportional representation**—that is, representation based on population. The more people in a

state, therefore, the more weight the state would have in the Congress.

Delegates from the small states resisted the idea. They wanted to keep the same kind of power they had held under the Articles of Confederation. If there were proportional representation, the delegates calculated, a handful of large states would end up ruling the rest. William Paterson of New Jersey cried foul: “[I would] rather submit to a monarch, to a despot,” he warned, “than to such a fate.”

The small states then came back with a plan of their own. Presented by Paterson, it became known as the New Jersey Plan. Their idea was in fact a revision of the Articles of Confederation. The New Jersey Plan called for a one-house legislature in which each state had one vote. However, it did grant the national government the power to tax and regulate commerce.

In the debates that followed, Paterson pointed out that Congress had directed the Convention to revise the Articles of Confederation, not throw them out. Edmund Randolph thundered back that adopting the New Jersey Plan would only repeat “the imbecility of the existing confederacy.” Madison, more quiet and reasoned, joined those oppos-

ing the New Jersey Plan. He cited examples of the failures of ancient confederacies.

It looked as if the issue might destroy the Convention. Watching Washington leave the hall, a former French officer reported, “The look on his face reminded me of its expression during the terrible months we were in Valley Forge Camp.”

THE GREAT COMPROMISE

By now the hot, humid days of summer had come to Philadelphia. Many said it was the worst heat they could remember. The southern delegates wore lightweight suits, but the northerners sweated out the days in their customary wool clothing. Yet in the sultry weather, with tempers short and stubbornness tall, the delegates managed to find a solution. It came from the Connecticut delegation.

Roger Sherman, a skilled politician, offered what is known as the **Great Compromise** or the Connecticut Compromise. The Great Compromise called for the *people* to be represented in the lower house, the House of Representatives. The *states*, meanwhile, would be equally represented in the upper house, the Senate. In other words, population would determine how many represen-

This engraving from 1799 shows the back of Philadelphia's State House. The city's location on the Delaware River gave its merchants an outlet to the Atlantic Ocean and helped it prosper during the 1700s. **CULTURAL PLURALISM** Describe the different groups of people in the picture.



tatives the people of a state would elect to the lower house. In the upper house, however, each state would be equal. Each would have two senators and two votes.

The delegates approved the Great Compromise on July 16, 1787. Now they could get on to other matters—and other compromises.

COMPROMISE OVER SLAVERY

A fierce tug-of-war between the northern and southern states developed over how to count a state's population. The Virginia Plan had proposed that only free persons should be represented. But South Carolina's delegates wanted slaves counted too. This would increase the power of the southern states. The delegates ended up endorsing what is known as the Three-Fifths Compromise. Representation would be based on the number of free citizens and three-fifths of all "other persons."

The Three-Fifths Compromise would not be the only compromise over slavery. South Carolina feared that if Congress had power over commerce it would ban the importation of slaves. Every state but South Carolina, in fact, had done just that. George Mason, a slaveowner himself, argued that the government should have power to stop the growth of slavery. "Every master of slaves is born a petty tyrant," he said. "They bring the judgment of heaven upon a country."

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—George Mason

To other delegates, however, slavery looked like a dying institution not worth sacrificing for. "Let us not intermeddle," a Connecticut delegate said. "Slavery in time will not be a speck in our country." Always the compromiser, Roger Sherman said it was better to let the southern states import slaves than to lose their support for the Constitution. Another compromise was made: slaves could be imported until 1808. Runaway slaves would also have to be returned to their owners. The is-

sue of slavery, however, would not die. It would smolder until it burst into flame in the Civil War three-quarters of a century later.

DEBATE OVER THE EXECUTIVE

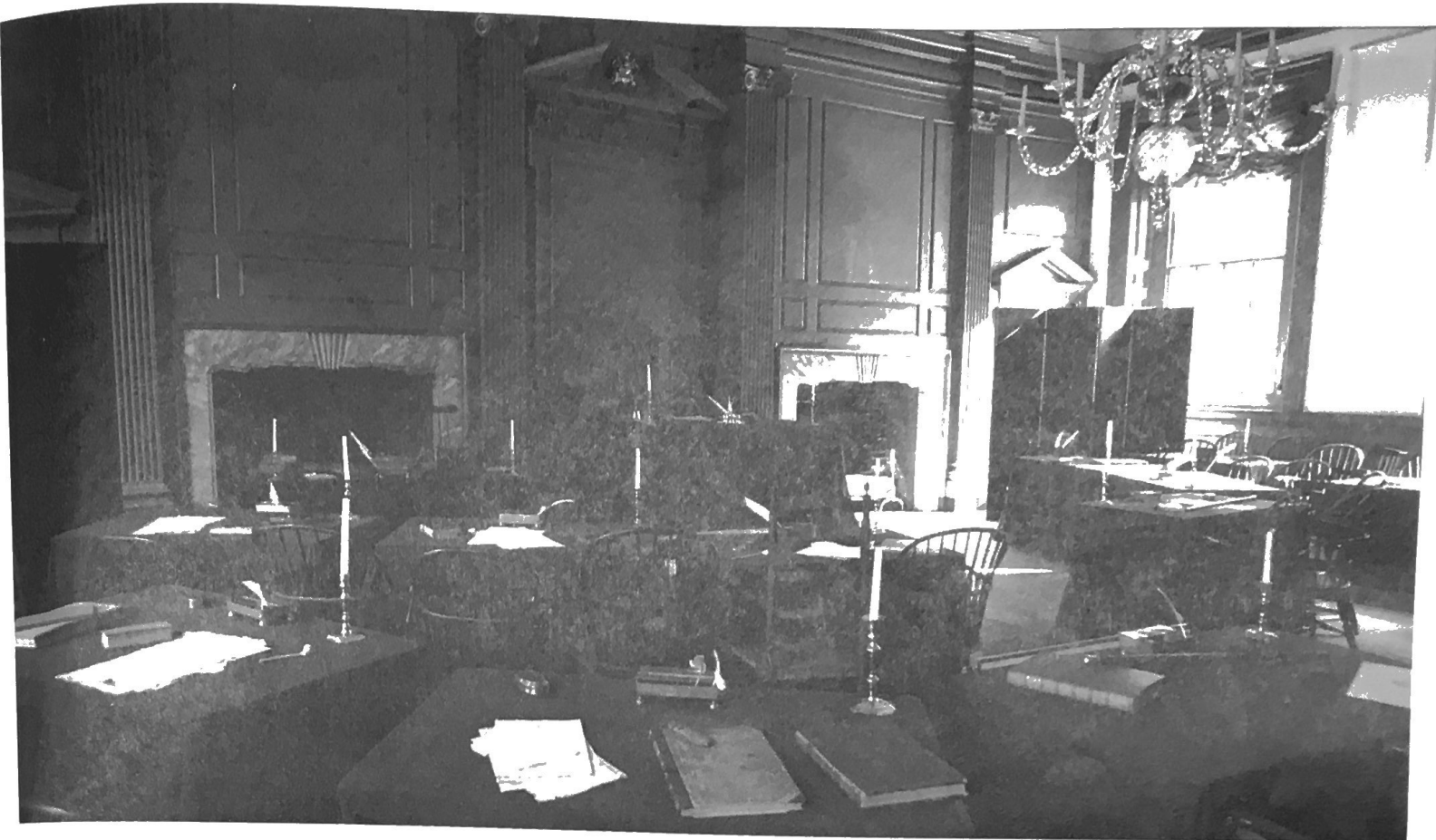
We take for granted that the chief executive of the United States is the President. Yet this was an idea that emerged from the Convention only after a heated debate. The Virginia Plan had called for an executive branch. It said nothing about who would hold executive powers. Would it be one person? Or would it be several, as in the Articles of Confederation?

As they started the debate on the executive branch, the delegates worked to find a path between those holding opposite fears. Looking forward, the younger delegates feared a weak national government and thus wanted a strong executive. Looking backward, the older delegates feared a despotic executive such as they had known under the British royal governors. Their greatest fear was that a single executive would become a monarch.

In the end, comforted by the assumption that Washington would be the nation's first President and would use his powers wisely, the delegates voted for a single executive. The solution was a typical one for the Convention. It gave the President strong powers but at the same time checked those powers. For instance, the President would have the power to veto laws of the Congress. Congress, however, could override the veto with a two-thirds vote.

The next issues focused on the President's selection and term of office. The delegates could not decide who should choose the President. Should it be Congress, the state legislatures, or outside electors? (Only a few favored having the people vote directly for President.) And for how long should the President serve? Also, what if a President were corrupt? Should Congress have the right of **impeachment**? (Impeachment is bringing an official to trial for misconduct in office.)

Unable to decide, the Convention turned the matter over to a committee. The delegates then voted to accept the committee's recommendations. Thus they reached three agreements. (1) The President would serve a four-year term without



The Declaration of Independence, the Articles of Confederation, and the Constitution were all signed in the Assembly Room of Philadelphia's Independence Hall. **CONSTITUTIONAL HERITAGE** What effect did the Constitution's supremacy clause have on state law?

limits on re-election. (2) The President would be chosen by the **Electoral College**, a body of electors. The number of electors would equal each state's representation in both houses of Congress. (3) The House of Representatives would have the right to impeach the President. The Senate would then conduct the trial.

THE JUDICIARY

The delegates spent much less time on the judicial branch than on the other branches of government. Without much debate, they voted to establish a Supreme Court as head of the judicial branch. Congress could set up whatever lower courts it thought necessary. The delegates also tried to shield judges from political pressure. Appointed by the President with the advice and consent of the Senate, judges could serve for life "during good behavior."

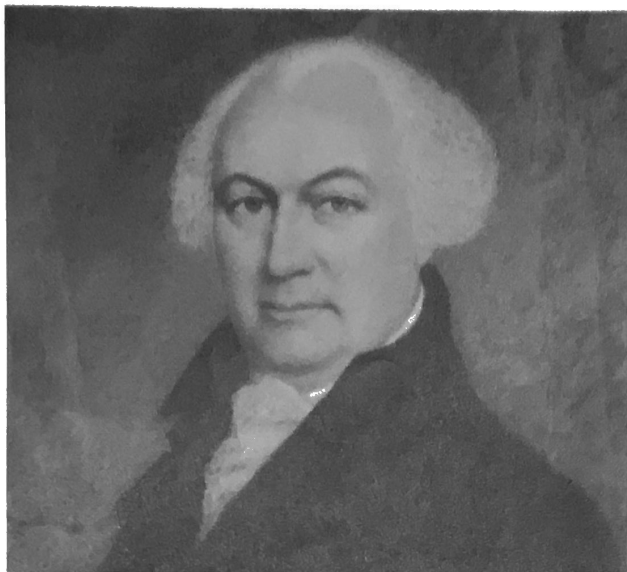
The delegates next debated how the national government might veto unconstitutional state laws. Though reluctant to give such power to any branch of government, the delegates knew they would need to keep the states in line. They found a way out of the difficulty in the **supremacy clause**.

This clause says that the laws and treaties of the United States must be upheld by the state courts. If a state law clashes with a law passed by Congress, the state law must yield.

NO BILL OF RIGHTS

The Convention was in its final days when George Mason proposed that the Constitution contain a bill of rights to spell out people's basic rights. The motion was soundly defeated. One reason was that many delegates felt that a bill of rights was not necessary. Nor did they believe one would be effective. "I have seen the bill of rights [of Virginia] violated in every instance where it has been exposed to a popular current," James Madison wrote. Checks and balances, Madison said, were a much more effective curb on government power.

In turning down the bill of rights, the delegates also avoided another wrangle over slavery. Charles Cotesworth Pinckney of South Carolina later said, "Such bills generally begin with declaring that all men are by nature born free. Now, we should make that declaration with very bad grace when a large part of our property consists in men who are actually born slaves."



BIOGRAPHY

GOVERNEUR MORRIS (1752–1816) became a lawyer at age 19. In 1776 he helped draft a constitution for New York State. When Morris was 28, he lost a leg in a carriage accident. Later, he overcame this handicap to shape the final draft of the Constitution as a delegate from Pennsylvania. An eloquent and persuasive speaker, Morris favored a powerful, centralized government controlled by the wealthy.

THE FINAL TOUCHES

The Constitution went through several drafts, but the person who styled it was Gouverneur Morris. Known for his wit and turn of phrase, Morris endowed the Preamble of the Constitution with its dignity and eloquence. The words of the Preamble are his.

We the people of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquillity, 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.

On September 17, 1787, the delegates met for the last time, to review and then sign the Constitution. Benjamin Franklin set the tone. “Mr. President,” he said, “I confess that there are several parts of this Constitution which I do not approve, but I am not sure I shall never approve them.” He

explained that, having lived long, he had come to doubt that his judgment was always right. Franklin said he supported the Constitution because he doubted another convention could make a better one:

For when you assemble a number of men to have the advantage of their joint wisdom, you inevitably assemble with those men, all their prejudices, their passions, their errors of opinion, their local interests, and their selfish views. . . . Thus I consent, Sir, to the Constitution because I expect no better, and because I am not sure that it is not the best.

Of the 42 delegates present, 39 signed the Constitution. It now was up to the people. The Convention had decided that special state conventions should decide whether or not to accept the new Constitution. Approval by nine of the thirteen states was needed for the Constitution to become “the supreme law of the land.”

★ Historical Documents

For the complete text of the Constitution of the United States, see pages 138–164 of this book.

SECTION REVIEW

- 1. KEY TERMS** Enlightenment, checks and balances, Virginia Plan, separation of powers, proportional representation, Great Compromise, impeachment, Electoral College, supremacy clause
- 2. PEOPLE** James Madison, Edmund Randolph, Roger Sherman, George Mason, William Paterson, Gouverneur Morris
- 3. COMPREHENSION** What was the contribution of James Madison to the Constitution?
- 4. COMPREHENSION** What issues did the Great Compromise resolve?
- 5. CRITICAL THINKING** How does the Constitution reflect the delegates’ belief that “men are not angels”?