

DOCUMENT-BASED ACTIVITIES ON WRITING THE CONSTITUTION

Using Primary Sources and the Internet



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Cover art courtesy of the National Archives and Records Administration
<http://www.nara.gov/exhall/charters/constitution/con1.jpg>

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Product Code: ZP191

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DOCUMENT-BASED ACTIVITIES ON THE CONSTITUTION

TEACHER INTRODUCTION

Description:

In this unit, students gain an appreciation for the conditions that led to the writing of the Constitution, the development of the document itself, and how that document evolved into one of the pillars of American democracy. Students will investigate the Articles of Confederation, the Constitutional Convention, the Bill of Rights, and other factors that had an impact on the Constitution.

Unit Objective:

Knowledge: students will

- analyze the development of government in the United States
- assess the impact of the development of the Constitution, in both a philosophical and a legal sense
- understand the short- and long-term effects of the Constitution on United States history and government

Skills: students will

- analyze, evaluate, and interpret primary source documents
- discuss and debate issues and ideas
- use evidence to draw conclusions

Prior Knowledge Required:

Students should have studied the American Revolution as well as the early nation period. They should also be familiar with the nation's social and economic conditions during the 1770s and 1780s.

Lesson Format:

Each lesson consists of two parts: a teacher's page and a student handout or worksheet. The teacher's page contains an overview, objectives, materials (including Web addresses), directions, discussion questions, and an extension activity. Each student handout contains an introduction, directions, Web addresses, and questions to be answered about the source.

Assessment:

Most questions in the student handouts are short-answer questions for which a suggested answer key can be found in the appendix. Other questions require anywhere from a couple of paragraphs to a page or more in response. In general, the lessons are flexible

enough that you should easily be able to pick and choose which questions you want students to answer, and how long their responses should be. It is recommended, however, that you evaluate student responses in conjunction with their involvement in class discussions. Suggested rubrics are included in the Appendix.

Additional sources:

The Appendix contains answer keys, primary source documents, an annotated list of Web sites on the development of the Constitution, rubrics, and supplementary materials available from <http://www.socialstudies.com>.

OVERVIEW: THE CREATION OF THE U.S. CONSTITUTION

After the end of the American Revolution, the newly independent United States aimed to create a government that did not simply replace one oppressive government (the British) with another. Yet, most distrusted the idea of a direct democratic government and favored a republic (a government in which the people elected representatives). Therefore, the new nation decided to create a *confederation*, or loose alliance of states as their new government. To that end, even before the end of the Revolution delegates from the 13 colonies began work on the Articles of Confederation. While the Articles provided the new nation with the limited government it desired, it did not provide for a national executive, or a national court system. Even worse, it became obvious that the new government could not effectively tax U.S. citizens nor could it enforce its own laws.

Matters came to a head in 1786 when a Massachusetts farmer, Daniel Shays, rebelled against the government. Shays's Rebellion failed, but it highlighted the serious problems that faced the government and plagued the Articles of Confederation. Something would have to be done to make the government function effectively—but what? Alexander Hamilton called a convention to meet in Annapolis, Maryland, to discuss the issue of interstate trade. While this convention was poorly attended, the delegates decided to meet again the next year, 1787, in Philadelphia, to discuss trade and other pressing issues.

Twelve states sent delegates to the Philadelphia convention. Many of the delegates were wealthy planters, merchants, and lawyers. The list of 55 delegates also read like a “who’s who” of the Independence movement, including George Washington (who would unanimously be elected president of the convention), Alexander Hamilton, and Benjamin Franklin. Other delegates who would become famous included James Madison (who, because of the extensive notes he took at the convention, would be called the “Father of the Constitution” and who would later write the Bill of Rights) and Roger Sherman, whose “Great Compromise” would settle the concerns of large and small states regarding legislative representation.

Delegates worked for weeks hammering out compromises and debating issues. When big states and small states clashed over representation in the national legislature, a compromise was worked out which gave large states more representation in the House of Representatives, but kept the number of delegates each state was entitled to have in the Senate at two. In order to ensure that voters would not make a poor choice for the new executive leader, the Electoral College was created to be a safeguard and to actually elect the president. Regarding the volatile issue of slavery, delegates decided not to interfere with the slave trade for 20 years, and also decided to only count three-fifths of “other persons” (slaves) when determining population for representation and taxation.

Two hallmark features of the delegates’ work included the ideas of federalism and separation of powers. The concept of federalism allowed the states to maintain some sovereignty, or independence, by giving them power to control certain areas such as commerce within that state, education, and other rules as well. Separation of powers

created three individual branches of government: the legislative branch would make the law, the executive branch would carry out the law, and the judicial branch would interpret the law. In order to ensure that no branch would become too powerful, a system of checks and balances was also included. For example, the executive branch could veto, or forbid, acts passed by the legislative branch. The judicial branch could declare an act of Congress unconstitutional through the power of judicial review. The legislative branch could impeach a president it considered guilty of treason, or “high crimes and misdemeanors.” In order to make sure it was a “living document,” the framers also allowed for a procedure to amend, or change, the Constitution. Amending the Constitution is a difficult process, requiring “extraordinary” majorities on both the federal and state level to make changes. In the more than two centuries since the Constitution was written, only 27 amendments have been approved, the most recent in 1992.

Finally, their work completed, the delegates submitted the Constitution to the states for ratification. Immediately, those in favor of the Constitution, who called themselves *Federalists*, began to lobby for the document, while those who were opposed, or *Antifederalists*, lobbied against it. Leading Federalists included Hamilton, Madison, Washington, and John Jay, while leading Antifederalists included Patrick Henry and Richard Henry Lee. In order to gain support for their positions, both sides wrote extensive essays that appeared in various newspapers. Madison, Hamilton, and Jay wrote a series of 85 essays that became known as the *Federalist Papers*. Richard Henry Lee promoted the Antifederalist view in a series of essays titled *Letters from the Federal Farmer*. One of the main arguments of the Antifederalists was that the finished Constitution did not include a bill of rights (also known as a “listing”), since they feared abuses by a strong federal government. Eventually, the Federalists gave into the demands of the Antifederalists and agreed to add a Bill of Rights if the states ratified the Constitution.

One by one, the states voted on the question to ratify. Nine states were necessary to ratify the Constitution, but eleven of the thirteen voted to ratify on the first ballot. North Carolina and Rhode Island voted against ratification on the first ballot, but voted to ratify on subsequent ballots.

The Bill of Rights promised by the Federalists became the responsibility of James Madison. He culled through the amendments suggested by state ratification conventions, and created a list for Congress to consider. Congress eventually submitted 12 amendments to the states for ratification, and by December 1791, three-fourths of the states had ratified ten of the Amendments. However, it would take subsequent amendments and Supreme Court decisions to guarantee political and social equality to many groups, including African Americans, women, and Native Americans.

The Articles of Confederation Teacher Page

Overview:

The Articles of Confederation was created with the intention that each state would retain sovereignty while adhering to a loose alliance of equal partners. However, it soon became obvious that this alliance could not effectively solve problems or protect the nation from harm. In this lesson, students will examine the Articles of Confederation and analyze its strengths and weaknesses.

Objectives:

Students will:

- analyze the Articles of Confederation and examine its components
- make conclusions about the document's effectiveness in regard to governing the new nation
- speculate whether the Articles were too weak to be retained, or if they could have been altered to meet the concerns and issues facing the nation

Web sites used in this Lesson:

The text of the Articles can be found at <http://www.yale.edu/lawweb/avalon/artconf.htm>, which is part of Yale University's Avalon Project of major historical documents. (Teachers should note that students can navigate through the various parts of the Articles by clicking on the number of the desired article at the top of the page.)

The entire Avalon Project web site is located at <http://www.yale.edu/lawweb/avalon/major.htm>

Strategies:

Introduce the lesson with a brief discussion regarding the end of the Revolutionary War, and how the colonists wanted to avoid replacing a strong central government based in London with an equally strong government based at home. You may also wish to conduct a basic discussion of confederations, including the Confederate States of America during the Civil War, or the United Nations.

After the discussion, distribute the worksheets and ask the students to review the various parts of the Confederation.

Student responses to each question may vary, but should average three to five sentences.

Wrap-Up:

After students have completed the worksheets, have a discussion focused on the following issues:

1. What parts/planks of the Articles seemed best to reflect the colonists' desire to avoid a strong central government?
2. In the students' view, what points/parts of the Articles would be most important to retain in a rewritten Constitution?

Extension Activity:

Have students review the period of history in which the Articles served as the basis for United States government. Ask students to write a position paper about the effectiveness of the Articles. Suggest to students that they may want to look specifically at instances such as Shays's Rebellion as well as the Land Ordinance of 1785 and Northwest Ordinance of 1787 as examples of problems and legislation that occurred during the period that the Articles were in force.

The Articles of Confederation Student Worksheet

Introduction:

After the Revolutionary War, the new nation looked for a way to effectively govern itself while avoiding what they saw as an unfair and harsh system like the one they had endured under King George III of Great Britain. They thought they had found a solution with the Articles of Confederation, which the colonists wrote as the first constitution of the United States. Drafting of the Articles had begun even before the end of the American Revolution, and the view that a weak central government would be best for an independent nation became a common theme throughout the document.

Directions:

The Articles of Confederation

Go to <http://www.yale.edu/lawweb/avalon/artconf.htm> and answer the following questions.

1. Which states supported the Articles of Confederation? Why do you think each state's name is listed in the introduction to the Articles?
2. Article II of the document notes that each state "retains its sovereignty, freedom, and independence." What do you think this implies regarding the stability of the union?
3. Article V deals with the legislative branch of the government. How many delegates would each state be entitled to according to this article? How many votes would each state be entitled to according to Article V? What sort of problems or situations might this cause?
4. Article X notes that nine of the thirteen states would need to vote for any legislative bill before it became law. Form a conclusion as to why the Articles included this provision. How might this provision have handicapped the central government?

5. According to Article XIII, describe how the Articles of Confederation could be amended. In your view, would this be a workable way to change the Articles?

6. Near the bottom of Article XIII, the date of the writing of the Articles of Confederation is noted as July 9, 1778, with the date the Congress commissioned the writing of them set at November 15, 1777. Both dates occur before the end of the Revolutionary War in 1783. Speculate why it was important that the Articles be written and in place before the British granted independence to the United States.

7. The framers of the Articles decided not to include an executive branch or a federal court system. Why do you think the framers did this? Do you think this was a good idea or a bad idea? Explain your position.

The Virginia Plan and the New Jersey Plan Teacher Page

Overview:

In this lesson, students will investigate one of the most fundamental debates of the Constitutional Convention, between those who favored the Virginia Plan of representation and those who favored the New Jersey Plan. The main source for the lesson includes James Madison's notes on the daily debates over the Constitution.

Objectives:

Students will:

- analyze the views of those who supported the Virginia Plan with those who supported the New Jersey Plan
- speculate on the motives of those who supported each proposal
- critically evaluate the plans and the compromise

Web Sites Used in this Lesson:

The main source for resources for this lesson is the Yale University Law School Avalon Project, specifically the “Madison Debates” page, located at <http://www.yale.edu/lawweb/avalon/debates/debcont.htm>. The entire Avalon Project page, which includes primary source documents from the 18th, 19th, 20th, and 21st centuries, is located at <http://www.yale.edu/lawweb/avalon/avalon.htm>. In addition, a good companion resource for this lesson is the National Archives and Records Administration’s page on the creation of the Constitution, “A More Perfect Union: The Creation of the U.S. Constitution,” located at <http://www.nara.gov/exhall/charters/constitution/conhist.html>.

Specific Web pages used in this lesson are:

- <http://www.yale.edu/lawweb/avalon/debates/529.htm> (Madison’s notes from the session of May 29th, 1787)
- <http://www.yale.edu/lawweb/avalon/debates/613.htm> (Madison’s notes from the June 13th, 1787 session)
- <http://www.yale.edu/lawweb/avalon/debates/806.htm> (Madison’s notes from the session of August 6th, 1787)

Prior Knowledge Required:

Students should have studied the events leading to the 1787 Philadelphia convention as well as have a general background of the makeup of the convention and the role of James Madison in the framing of the document. It might also be helpful for students to have background information on the issue of a strong national government versus states’ rights.

Strategies:

Introduce the lesson with a brief discussion of the struggle between those who wanted the new Constitution to contain a strong central government with the views of those who felt it crucial to maintain a sense of states' rights. In the discussion, you may also wish to remind students that the finished Constitution included a substantial number of compromises designed to protect the views of all sides in the debates.

Next, you should have the students access the May 29th and June 13th transcripts from 1787. The students will answer the questions on the debate over the Virginia and New Jersey Plans. When they complete that part of the lesson, guide the students to the August 6th transcript, which highlights the Connecticut Compromise, and have the students answer questions based on that transcript.

Answers to Questions 1–7 may be one or two sentences, depending on the depth of answer desired. Answers to Questions 8–11 may be as much as a paragraph to a full page, depending on time available.

Wrap-Up:

After students have answered the questions, have a class discussion on how the Connecticut Compromise (the “Great Compromise”) satisfied the concerns of both nationalists and states' rights delegates.

Extension Activity:

Have students investigate (either online or through other research) other instances where nationalism and states' rights have conflicted, such as the pre-Civil War period, or federal involvement in civil rights issues such as school desegregation.

The Virginia Plan and the New Jersey Plan Student Worksheet

Introduction:

While many understood and accepted the need for some revision of the Articles of Confederation as well as development of a new Constitution for the United States, there were those who felt the national government's powers should be kept weak. They felt the national government and interests of the larger states would threaten the existence of the smaller states as well as state sovereignty (the right of individual states to govern themselves independently). Two major proposals related to this issue arose at the Constitutional Convention. The Virginia Plan would base representation in the legislative branch on population, while the New Jersey Plan sought to maintain the interests of smaller states by guaranteeing a set number of representatives from each state in Congress.

Directions:

The Debates in the Federal Convention of 1787 reported by James Madison

Go to <http://www.yale.edu/lawweb/avalon/debates/529.htm> and <http://www.yale.edu/lawweb/avalon/debates/613.htm>.

Read through James Madison's notes of the convention debate of these two days, then answer the following questions.

1. The Virginia Plan was introduced during the May 29th, 1787 session of the Constitutional Convention. Who was the delegate who introduced the plan to the convention? For what reason(s) was the plan introduced?
2. List at least four of the problems or defects of the Articles of Confederation that Randolph claimed were unsolvable.
3. In his resolutions proposed to the Convention (specifically, number 2), Randolph asks the delegates to resolve that, "therefore, the rights of suffrage in the National Legislature ought to be proportioned to the Quotas of contribution, or to the number of free inhabitants, as to one of the other rule may seem best in different cases." What do you think Randolph was asking the delegates to consider?

4. According to Randolph, how many branches would the new government include? What powers (controls) would the national government have over actions of state legislatures?
5. The New Jersey Plan was introduced during the June 13th session of the Convention. How was the plan introduced to the delegates?
6. Look at the seventh article proposed in the New Jersey Plan. How would this article accord the “rights of suffrage”? How many houses would the New Jersey plan include in the national legislature? How would the “rights of suffrage” be determined in the other house?

Next, go to <http://www.yale.edu/lawweb/avalon/debates/806.htm> to find Madison’s notes from the Convention session of August 6th, 1787. Read through Madison’s account, then answer the following questions.

7. According to Madison’s notes, how many houses would the national legislature include?
8. How many delegates made up the first House of Representatives? How were the delegates divided per state? How would House members be selected? How would delegates to the U.S. Senate be selected? How were the delegates divided per state?
9. According to Madison’s notes, what requirements were there for members of the House of Representatives? What requirements were there for members of the Senate?

10. Why do you think there was a different method for selecting senators than there was for selecting house members?

11. In your view, do Madison's notes of August 6th favor those who desired a strong federal government or those who desired states' rights? Explain your view.