



American Heritage Discussion Series: Learners with Littles

Study Guide for Session 2, Federal Constitution-Making

Overall Essential Question: What ideas and events influenced the delegates at the 1787 Constitutional Convention?

The Peacemaker’s Journey & The Great Law of Peace by the Onondaga Historical Association, Senate Resolution 331 (1988) —Essential Question: What influence did the Haudenosaunee (Iroquois Confederacy) have on the U.S. Constitution?

- What is the founding story of the Haudenosaunee (Iroquois Confederacy)?
- How did the United States Congress recognize the influence of the Haudenosaunee (Iroquois Confederacy) on the U.S. Constitution?

Articles of Confederation by Extra History—Essential Question: What issues emerged after the American War of Independence that made the American victory and the union precarious?

- What governmental issues did the new United States have under the Articles of Confederation?

Excerpts from Debates in the Constitutional Convention Concerning Slave Importation—Essential Question: What were some of the views about slavery some of the delegates expressed in the Constitutional Convention?

- In your opinion, was it possible to create a union that included the southern states and bring slavery to an end?

Benjamin Franklin’s Closing Speech at the Constitutional Convention—Essential Question: How does Franklin encourage support for the new constitution?

- Why does Benjamin Franklin “give his consent” to the new federal constitution, while also acknowledging it contains errors?
- What does Franklin encourage others to do while considering the proposed constitution?

Excerpt from Federalist 51 by Publius—Essential Question: How do separation of powers and checks and balances help protect against tyranny?

- What is the main argument of Federalist 51?
- What does it mean, “if men were angels, no government would be necessary”?



Excerpts from the Debates in the 1787 Constitutional Convention concerning the Slave Importation Clause

At this point in the Constitutional Convention, the delegates had decided to count enslaved persons as 3/5 for taxes and representation in Congress. In this excerpt they are considering debating possibly ending the Transatlantic Slave Trade.

Questions to Guide Your Reading

1. What were some of the views about slavery some of the delegates expressed in the Constitutional Convention?
2. In your opinion, was it possible to create a union that included the southern states and bring an end to slavery?

Tuesday, 21 August 1787 - Article VII: Section 4 (Import and Export)

“Sect. 4. No tax or duty shall be laid by the Legislature on articles exported from any State; nor on the migration or importation of such persons as the several States shall think proper to admit; nor shall such migration or importation be prohibited.”

Article VII: Section 4 - Clause 1 (Export Duties)

Sect. 4. No tax or duty shall be laid by the Legislature on articles exported from any State;

Article VII: Section 4 - Clause 2 (Slave Trade)

nor on the migration or importation of such persons as the several States shall think proper to admit;

L. Martin's Amendment to Tax or Prohibit the Slave Trade

Sect. 4. No tax or duty shall be laid by the Legislature on articles exported from any State; nor on the migration or importation of such free persons as the several States shall think proper to admit;

Mr L— Martin, proposed to vary the sect: 4. art VII so as to allow a prohibition or tax on the importation of slaves. 1. As five slaves are to be counted as 3 free men in the apportionment of Representatives; such a clause wd. leave an encouragement to this trafic. 2 slaves weakened one part of the Union which the other parts were bound to protect: the privilege of importing them was therefore unreasonable — 3. it was inconsistent with the principles of the revolution and dishonorable to the American character to have such a feature in the Constitution.

Debate on L. Martin's Amendment to Tax or Prohibit the Slave Trade

Mr Rutledge did not see how the importation of slaves could be encouraged by this section. He was not apprehensive of insurrections and would readily exempt the other States from 〈the obligation to protect the Southern against them.〉 . — Religion & humanity had nothing to do with this question — Interest alone is the governing principle with Nations — The true question at present is whether the Southn. States shall or shall not be parties to the Union. If the Northern States consult their interest, they will not oppose the increase of Slaves which will increase the commodities of which they will become the carriers.

Mr. Elsworth was for leaving the clause as it stands. let every State import what it pleases. The morality or wisdom of slavery are considerations belonging to the States themselves — What enriches a part enriches the whole, and the States are the best judges of their particular interest. The old confederation had not meddled with this point, and he did not see any greater necessity for bringing it within the policy of the new one:

Mr Pinkney. South Carolina can never receive the plan if it prohibits the slave trade. In every proposed extension of the powers of Congress, that State has expressly & watchfully excepted that of meddling with the importation of negroes. If the States be all left at liberty on this subject, S. Carolina may perhaps by degrees do of herself what is wished, as Virginia & Maryland have already done.

Wednesday, 22 August 1787, Article VII: Section 4 - Clause 2 (Slave Trade)

Art. VII sect 4. resumed. Mr. Sherman was for leaving the clause as it stands. He disapproved of the slave trade: yet as the States were now possessed of the right to import slaves, as the public good did not require it to be taken from them, & as it was expedient to have as few objections as possible to the proposed scheme of Government, he thought it best to leave the matter as we find it. He observed that the abolition of slavery seemed to be going on in the U. S. & that the good sense of the several States would probably by degrees compleat it. He urged on the Convention the necessity of despatch 〈ing its business.〉

Col. Mason. ... Every master of slaves is born a petty tyrant. They bring the judgment of heaven on a Country. As nations can not be rewarded or punished in the next world they must be in this. By an inevitable chain of causes & effects providence punishes national sins, by national calamities. He lamented that some of our Eastern brethren had from a lust of gain embarked in this nefarious traffic. As to the States being in possession of the Right to import, this was the case with many other rights, now to be properly given up. He held it essential in every point of view, that the Genl. Govt. should have power to prevent the increase of slavery.

Mr. Pinkney — ...If the S. States were let alone they will probably of themselves stop importations. He wd. himself as a Citizen of S. Carolina vote for it. An attempt to take away the right as proposed will produce serious objections to the Constitution which he wished to see adopted.

General Pinkney declared it to be his firm opinion that if himself & all his colleagues were to sign the Constitution & use their personal influence, it would be of no avail towards obtaining the assent of their Constituents. S. Carolina & Georgia cannot do without slaves...He contended that the importation of slaves would be for the interest of the whole Union. The more slaves, the more produce to employ the carrying trade; The more consumption also, and the more of this, the more of revenue for the common treasury. He admitted it to be reasonable that slaves should be dutied like other imports, but should consider a rejection of the clause as an exclusion of S. Carola from the Union.



Closing Speech at the Constitutional Convention (1787) by Benjamin Franklin

Benjamin Franklin's closing speech at the Constitutional Convention, delivered on September 17, 1787, was given at the end of the convention to encourage the delegates to sign the Constitution despite their disagreements. Franklin urged the delegates to compromise and put aside personal pride for the sake of creating a unified government. He emphasized the importance of unity and the potential for improvement even if the Constitution was not perfect, asking delegates to "doubt a little of their own infallibility" and support the document for the benefit of the collective goal of a strong, functioning government.

Source: National Constitution Center <https://constitutioncenter.org/the-constitution/historic-document-library/detail/benjamin-franklin-closing-speech-at-the-constitutional-convention>

Document Text

I confess that I do not entirely approve of this Constitution at present, but Sir, I am not sure I shall never approve it: For having lived long, I have experienced many Instances of being oblig'd, by better Information or fuller Consideration, to change Opinions even on important Subjects, which I once thought right, but found to be otherwise. It is therefore that the older I grow the more apt I am to doubt my own Judgment and to pay more Respect to the Judgment of others. Most Men indeed as well as most Sects in Religion, think themselves in Possession of all Truth, and that wherever others differ from them it is so far Error. [Sir Richard] Steele, a Protestant, in a Dedication tells the Pope, that the only Difference between our two Churches in their Opinions of the Certainty of their Doctrine, is, the Romish Church is infallible, and the Church of England is never in the Wrong. But tho' many private Persons think almost as highly of their own Infallibility, as that of their Sect, few express it so naturally as a certain French lady, who in a little Dispute with her Sister,

said, I don't know how it happens, Sister, but I meet with no body but myself that's always in the right.

In these Sentiments, Sir, I agree to this Constitution, with all its Faults, if they are such: because I think a General Government necessary for us, and there is no Form of Government but what may be a Blessing to the People if well administred; and I believe farther that this is likely to be well administred for a Course of Years, and can only end in Despotism as other Forms have done before it, when the People shall become so corrupted as to need Despotic Government, being incapable of any other. I doubt too whether any other Convention we can obtain, may be able to make a better Constitution: 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. From such an Assembly can a perfect Production be expected? It therefore astonishes me, Sir, to find this System approaching so near to Perfection as it does; and I think it will astonish our Enemies, who are waiting with Confidence to hear that our Councils are confounded, like those of the Builders of Babel, and that our States are on the Point of Separation, only to meet hereafter for the Purpose of cutting one another's Throats. Thus I consent, Sir, to this Constitution because I expect no better, and because I am not sure that it is not the best. The Opinions I have had of its Errors, I sacrifice to the Public Good. I have never whisper'd a Syllable of them abroad. Within these Walls they were born, & here they shall die. If every one of us in returning to our Constituents were to report the Objections he has had to it, and endeavour to gain Partizans in support of them, we might prevent its being generally received, and thereby lose all the salutary Effects & great Advantages resulting naturally in our favour among foreign Nations, as well as among ourselves, from our real or apparent Unanimity. Much of the Strength and Efficiency of any Government, in procuring & securing Happiness to the People depends on Opinion, on the general Opinion of the Goodness of that Government as well as of the Wisdom & Integrity of its Governors. I hope therefore that for our own Sakes, as a Part of the People, and for the Sake of our Posterity, we shall act heartily & unanimously in recommending this Constitution, wherever our Influence may extend, and turn our future Thoughts and Endeavours to the Means of having it well administred.

On the whole, Sir, I cannot help expressing a Wish, that every Member of the Convention, who may still have Objections to it, would with me on this Occasion doubt a little of his own Infallibility, and to make manifest our Unanimity, put his Name to this Instrument.



Excerpt of Federalist 51 (1788)

by Publius

(In this case, James Madison)

The Federalist Papers are a collection of essays written in 1788 during the Constitution's ratification period by John Jay, James Madison, and Alexander Hamilton under the pseudonym Publius. The essays were published in New York newspapers for the purpose of persuading New Yorkers to adopt the newly proposed federal constitution. After publication in New York, the essays were often circulated to other states. Today, the Federalist Papers are used to interpret the meaning of key constitutional ideas. Federalist No. 51 was written by James Madison to explain the separation of powers and checks and balances in the US Constitution.

Source: National Constitution Center <https://constitutioncenter.org/the-constitution/historic-document-library/detail/james-madison-federalist-no-51-1788>

Document Text

In order to lay a due foundation for that separate and distinct exercise of the different powers of government, which to a certain extent is admitted on all hands to be essential to the preservation of liberty, it is evident that each department should have a will of its own; and consequently should be so constituted that the members of each should have as little agency as possible in the appointment of the members of the others. . . .

It is equally evident, that the members of each department should be as little dependent as possible on those of the others, for the emoluments annexed to their offices. Were the executive magistrate, or the judges, not independent of the legislature in this particular, their independence in every other

would be merely nominal. But the great security against a gradual concentration of the several powers in the same department, consists in giving to those who administer each department the necessary constitutional means and personal motives to resist encroachments of the others. The provision for defense must in this, as in all other cases, be made commensurate to the danger of attack. Ambition must be made to counteract ambition. The interest of the man must be connected with the constitutional rights of the place. It may be a reflection on human nature, that such devices should be necessary to control the abuses of government. But what is government itself, but the greatest of all reflections on human nature? If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself.

A dependence on the people is, no doubt, the primary control on the government; but experience has taught mankind the necessity of auxiliary precautions. This policy of supplying, by opposite and rival interests, the defect of better motives, might be traced through the whole system of human affairs, private as well as public. We see it particularly displayed in all the subordinate distributions of power, where the constant aim is to divide and arrange the several offices in such a manner as that each may be a check on the other that the private interest of every individual may be a sentinel over the public rights. These inventions of prudence cannot be less requisite in the distribution of the supreme powers of the State. But it is not possible to give to each department an equal power of self-defense. In republican government, the legislative authority necessarily predominates. The remedy for this inconveniency is to divide the legislature into different branches; and to render them, by different modes of election and different principles of action, as little connected with each other as the nature of their common functions and their common dependence on the society will admit. It may even be necessary to guard against dangerous encroachments by still further precautions. As the weight of the legislative authority requires that it should be thus divided, the weakness of the executive may require, on the other hand, that it should be fortified. . . .

In the compound republic of America, the power surrendered by the people is first divided between two distinct governments, and then the portion allotted to each subdivided among distinct and separate departments. Hence a double security arises to the rights of the people. The different governments will control each other, at the same time that each will be controlled by itself. . . . It is of great importance in a republic not only to guard the society against the oppression of its rulers, but to guard one part of the society against the injustice of the other part. Different interests necessarily exist in different classes of citizens. If a majority be united by a common interest, the rights of the minority will be insecure.

There are but two methods of providing against this evil: the one by creating a will in the community independent of the majority that is, of the society itself; the other, by comprehending in the society so many separate descriptions of citizens as will render an unjust combination of a majority of the whole very improbable, if not impracticable. The first method prevails in all governments possessing an hereditary or self-appointed authority. This, at best, is but a precarious security; because a power independent of the society may as well espouse the unjust views of the major, as the rightful interests of the minor party, and may possibly be turned against both parties. The second method will be exemplified in the federal republic of the United States. Whilst all authority in it will be derived from and dependent on the society, the society itself will be broken into so many parts, interests, and classes of citizens, that the rights of individuals, or of the minority, will be in little danger from interested combinations of the majority. . . .

Justice is the end of government. It is the end of civil society. It ever has been and ever will be pursued until it be obtained, or until liberty be lost in the pursuit. In a society under the forms of which the stronger faction can readily unite and oppress the weaker, anarchy may as truly be said to reign as in a state of nature, where the weaker individual is not secured against the violence of the stronger; and as, in the latter state, even the stronger individuals are prompted, by the uncertainty of their condition, to submit to a government which may protect the weak as well as themselves; so, in the former state, will the more powerful factions or parties be gradually induced, by a like motive, to wish for a government which will protect all parties, the weaker as well as the more powerful.