Unit Two: How Did the Framers Create the Constitution?

**Unit 2 Purpose**

After declaring their independence from Great Britain, Americans had to decide how they would govern themselves. The Articles of Confederation, which were the first attempt to establish a national government, proved inadequate in the eyes of many leading citizens. Fifty-five men met in Philadelphia in 1787 and drafted the U.S. Constitution. These men became known as the Framers. The Constitution was not universally acclaimed, and its adoption and ratification provoked discussions of the most basic questions about political life and government institutions.  
  
In this unit you will learn why the Articles of Confederation were replaced by the Constitution. You will learn why the Framers created the United States government as they did. And you will learn how the debates over the adoption of the Constitution raised issues that are debated to this day.

**Unit 2 Terms**

**"new science of politics"**   
  
**ex post facto law**   
  
**Anti–Federalists**   
  
**Articles of Confederation**   
  
**Bill of Attainder**   
  
**Bill of Rights**   
  
**Civil discourse**   
  
**Confederation**   
  
**Constitutional Convention**   
  
**Delegate**   
  
**Deliberative body**   
  
**Electoral College**   
  
**Faction**

**Federal system**   
http://www.civiced.org/wtpcompanion/hs/image/qwdspacer.gif  
**Federalists**   
  
**Great Compromise**

**Majority tyranny**   
  
**National government**   
  
**Necessary and proper clause**   
  
**Proportional representation**   
  
**Ratification**   
  
**Secede**   
  
**Separated powers**   
  
**Shared powers**   
  
**Shays' Rebellion**   
  
**Supremacy clause**   
  
**Tariff**   
  
**The Federalist**   
  
**Three-Fifths Compromise**   
  
**Unit 2 Biographies**

**Aristotle**

**Pierce**

**Oliver Ellsworth**

**Benjamin Franklin**

**Elbridge Gerry**

**Alexander Hamilton**

**Patrick Henry**

**John Jay**

**Thomas Jefferson**

**Rufus King**

**John Locke**

**James**

**Luther Martin**

**George Mason**

**Gouverneur Morris**

**William Paterson**

**Daniel Shays**

**Roger Sherman**

**Mercy Otis**

**George Washington**

**James Wilson**

**Robert Yates**

|  |  |
| --- | --- |
| http://www.civiced.org/wtpcompanion/hs/image/qwdspacer.gif | |
|  | |
|  | **Unit 2 Court Cases**  **[Baker v. Carr (1962)](http://tinyurl.com/yztrwpx" \t "_blank)** **[Barron v. Baltimore (1833)](http://bit.ly/DHpLZ" \t "_blank)** **[Brandenburg v. Ohio (1969)](http://tinyurl.com/4j5r3r" \t "_blank)** **[Bush v. Gore (2000)](http://tinyurl.com/7zz7u" \t "_blank)** **[Bush v. Vera (1996)](http://tinyurl.com/yldyvr6" \t "_blank)** **[Clinton v. City of New York (1997)](http://tinyurl.com/mw32d" \t "_blank)** **[Cooley v. Board of Wardens (1852)](http://tinyurl.com/ykola2m" \t "_blank)** **[Dred Scott v. Sandford (1856)](http://tinyurl.com/c7opo" \t "_blank)** **[Gibbons v. Ogden (1824)](http://tinyurl.com/39f6g8" \t "_blank)** **[Goldwater v. Carter (1979)](http://bit.ly/2vanlM" \t "_blank)** **[Gonzales v. Raich (2005)](http://tinyurl.com/yhxlbg2" \t "_blank)** **[Heart of Atlanta Motel v. United States (1964)](http://tinyurl.com/djd35e" \t "_blank)** **[Korematsu v. United States (1944)](http://bit.ly/T09Mb" \t "_blank)** **[Marbury v. Madison (1803)](http://tinyurl.com/qf2vw" \t "_blank)**  **[McCullough v. Maryland (1819)](http://tinyurl.com/2mmbyv" \t "_blank)**  **[National Labor Relations Board v. Jones and Laughlin Steel (1937)](http://tinyurl.com/yzqd3at" \t "_blank)**  **[Powell v. McCormack (1969)](http://bit.ly/4kLWX" \t "_blank)**  **[Printz v. United States (1997)](http://tinyurl.com/kv7n5f" \t "_blank)**  **[Shaw v. Hunt (1995)](http://tinyurl.com/ybxae93" \t "_blank)**  **[Smith v. Allwright (1944)](http://tinyurl.com/ygl2xgc" \t "_blank)**  **[Texas v. White (1868)](http://tinyurl.com/yzxfqua" \t "_blank)**  **[Wesberry v. Sanders (1964)](http://tinyurl.com/yjo3qsv" \t "_blank)**  **[Youngstown Sheet and Tube Co. v. Sawyer (1952)](http://tinyurl.com/yhqojdw" \t "_blank)** | |

**Unit 2 Primary Sources**

http://www.civiced.org/wtpcompanion/hs/image/qwdspacer.gif  
***[The Fallacies of the Freeman Detected by a [Pennsylvania] Farmer](http://bit.ly/3lmZDr" \t "_blank)***

***[The Federalist Papers](http://thomas.loc.gov/home/histdox/fedpapers.html" \t "_blank)***

**[Alexander Hamilton's Letter to George Washington, July 3, 1787](http://www.familytales.org/dbDisplay.php?id=ltr_alh4306" \t "_blank)**

**[Alexander Hamilton, The Examination #12](http://bit.ly/2oSOfU" \t "_blank)**

**[An Old Whig No. 2](http://bit.ly/39kei4" \t "_blank)**

**[Annapolis Convention Report](http://bit.ly/pGKng" \t "_blank)**

**[Articles of Confederation](http://avalon.law.yale.edu/18th_century/artconf.asp" \t "_blank)**

**[Benjamin Franklin's Speech to the Constitutional Convention](http://www.usconstitution.net/franklin.html" \t "_blank)**

**[Bill of Rights (1791): The original 12 proposed amendments](http://www.constitution.org/billofr_.htm" \t "_blank)**

**[Brutus No. 1](http://www.constitution.org/afp/brutus01.htm" \t "_blank)**

**[Brutus No. 2](http://www.constitution.org/afp/brutus02.htm" \t "_blank)**

**[Brutus No. 7](http://www.constitution.org/afp/brutus07.htm" \t "_blank)**

**[Centinel No. 11](http://bit.ly/1gyTxL" \t "_blank)**

**[Centinel No. 5](http://bit.ly/NNyAe" \t "_blank)**

**[Constitution of the Iroquois League](http://www.fordham.edu/halsall/mod/iroquois.html" \t "_blank)**

**[Credentials of the Members of the Federal Convention : State of New Hampshire; June 27, 1787](http://avalon.law.yale.edu/18th_century/cred01.asp" \t "_blank)**

**[Credentials of the Members of the Federal Convention. Commonwealth of Massachusetts; April 9, 1787](http://avalon.law.yale.edu/18th_century/cred02.asp" \t "_blank)**

**[Credentials of the State of Connecticut 1787](http://avalon.law.yale.edu/18th_century/credct.asp" \t "_blank)**

**[Daniel Shays to Selectment of South Hadley, October 23, 1786](http://bit.ly/r1wNd" \t "_blank)**

**[Federal Farmer No. 11](http://tinyurl.com/ye2pj27" \t "_blank)**

**[Federal Farmer No. 15](http://tinyurl.com/ybtcdhj" \t "_blank)**

**[Federal Farmer No. 17](http://tinyurl.com/yzvy57n" \t "_blank)**

**[Federal Farmer No. 18](http://bit.ly/b5qGH" \t "_blank)**

**[Federal Farmer No. 4](http://bit.ly/o9tpr" \t "_blank)**

**[Federal Farmer No. 7](http://www.constitution.org/afp/fedfar07.htm" \t "_blank)**

**[Federal Farmer No. 8](http://www.constitution.org/afp/fedfar08.htm" \t "_blank)**

**[Federalist No. 1](http://www.constitution.org/fed/federa01.htm" \t "_blank)**

**[Federalist No. 10](http://www.constitution.org/fed/federa10.htm" \t "_blank)**

**[Federalist No. 10](http://tinyurl.com/5az5uz" \t "_blank)**

**[Federalist No. 14](http://www.constitution.org/fed/federa14.htm" \t "_blank)**

**[Federalist No. 33](http://www.constitution.org/fed/federa33.htm" \t "_blank)**

**[Federalist No. 34](http://www.constitution.org/fed/federa34.htm" \t "_blank)**

**[Federalist No. 37](http://avalon.law.yale.edu/18th_century/fed37.asp" \t "_blank)**

**[Federalist No. 39](http://www.constitution.org/fed/federa39.htm" \t "_blank)**

**[Federalist No. 42](http://www.constitution.org/fed/federa42.htm" \t "_blank)**

**[Federalist No. 43](http://avalon.law.yale.edu/18th_century/fed43.asp" \t "_blank)**

**[Federalist No. 45](http://avalon.law.yale.edu/18th_century/fed45.asp" \t "_blank)**

**[Federalist No. 47](http://www.constitution.org/fed/federa47.htm" \t "_blank)**

**[Federalist No. 47](http://avalon.law.yale.edu/18th_century/fed47.asp" \t "_blank)**

**[Federalist No. 48](http://avalon.law.yale.edu/18th_century/fed48.asp" \t "_blank)**

**[Federalist No. 51](http://avalon.law.yale.edu/18th_century/fed51.asp" \t "_blank)**

**[Federalist No. 68](http://avalon.law.yale.edu/18th_century/fed68.asp" \t "_blank)**

**[Federalist No. 70](http://tinyurl.com/5a5dlw" \t "_blank)**

**[Federalist No. 71](http://www.constitution.org/fed/federa71.htm" \t "_blank)**

**[Federalist No. 78](http://www.constitution.org/fed/federa78.htm" \t "_blank)**

**[Federalist No. 8](http://www.constitution.org/fed/federa08.htm" \t "_blank)**

**[Federalist No. 84](http://www.constitution.org/fed/federa84.htm" \t "_blank)**

**[Fisher Ames, Speech at the Massachusetts Ratifying Convention](http://tinyurl.com/yz2f4za" \t "_blank)**

**[Franklin's Plan of 1775](http://tiny.cc/gJHkw" \t "_blank)**

**[Governor Bowdoin's Proclamation, 1786](http://bit.ly/OHl3V" \t "_blank)**

**[Great Compromise of 1787](http://bit.ly/HCnz9" \t "_blank)**

**[Hamilton Plan for a National Government](http://avalon.law.yale.edu/18th_century/hamtextb.asp" \t "_blank)**

**[James Madison's Notes of Debates in the Federal Convention of 1787](http://avalon.law.yale.edu/subject_menus/debcont.asp" \t "_blank)**

**[James Madison's Notes of Debates in the Federal Convention of 1787](http://bit.ly/gdfSR" \t "_blank)**

**[James Madison's Notes of Debates in the Federal Convention of 1787](http://bit.ly/2rJ4t" \t "_blank)**

**[James Madison's Original 17 Amendments](http://home.att.net/%7Eaha382/gl/amend.html" \t "_blank)**

**[James Madison's speech to Congress, June 8, 1789](http://www.constitution.org/jm/17890608_removal.txt" \t "_blank)**   
http://www.civiced.org/wtpcompanion/hs/image/qwdspacer.gif

**[Jefferson's letter to James Madison on January 30, 1787](http://www.earlyamerica.com/review/summer/letter.html" \t "_blank)**   
http://www.civiced.org/wtpcompanion/hs/image/qwdspacer.gif  
**[Land Ordinance of 1785](http://www.in.gov/history/2478.htm" \t "_blank)**   
http://www.civiced.org/wtpcompanion/hs/image/qwdspacer.gif  
**[Luther Martin's Speech to the Maryland House of Delegates 1789](http://tinyurl.com/y99k3ln" \t "_blank)**   
http://www.civiced.org/wtpcompanion/hs/image/qwdspacer.gif  
**[Luther Martin: Address No. 4](http://bit.ly/bDQYl" \t "_blank)**   
http://www.civiced.org/wtpcompanion/hs/image/qwdspacer.gif  
**[Luther Martin: Genuine Information No. 12 (1788)](http://bit.ly/146y0y" \t "_blank)**

**[Madison's Letter to Washington, April 16, 1787](http://tinyurl.com/yknjb4x" \t "_blank)**

**[New Jersey Plan (1787)](http://avalon.law.yale.edu/18th_century/patexta.asp" \t "_blank)**

**[Notes of Ancient and Modern Confederacies](http://bit.ly/gg3Vw" \t "_blank)**

**[Patrick Henry's Speech to the Virginia Ratifying Committee](http://www.sagehistory.net/constitution/HenryConst.htm" \t "_blank)**

**[Ratification of the Constitution by the state of North Carolina](http://www.constitution.org/rc/rat_decl-nc.htm" \t "_blank)**

**[The constitution of the Pennsylvania Society, for Promoting the Abolition of Slavery, and the Relief of Free Negroes, Unlawfully Held in Bondage](http://www.archive.org/details/constitutionacto00penn" \t "_blank)**

**[The Statistical Abstract of the United States](http://www.census.gov/compendia/statab/" \t "_blank)**

**[The Text of Pinckney](http://www.usconstitution.net/plan_pinck.html" \t "_blank)**

**[The Virginia Plan (1787)](http://avalon.law.yale.edu/18th_century/vatexta.asp" \t "_blank)**

**[Treaty of Paris](http://bit.ly/FU5js" \t "_blank)**

**[United States Bill of Rights](http://www.constitution.org/billofr_.htm" \t "_blank)**

**[United States Constitution](http://www.usconstitution.net/const.html" \t "_blank)**

**[Vices of the Political System of the United States—James Madison, 1787](http://tinyurl.com/yln7zkk" \t "_blank)**

**UNIT TWO websites to look at for current events:**  
  
www.constitutioncenter.org/education click on “Constitution Newswire”  
  
www.billofrightsinstitute.org click on “Bill of Rights News Headlines”

**Examples of Follow Up Questions:**

* Who was sovereign under the Articles of Confederation, and how did the question of sovereignty change under the Constitution written in Philadelphia?
* Does a bicameral legislature have any benefits today?

1. Why did the Framers specifically enumerate the powers granted to Congress?
2. What are some of the powers that are specifically denied to the Congress?

* Explain why the Framers believed that the enumeration of congressional powers in the Constitution would help to limit the powers of government.
* How did the writings of people such as Montesquieu and Locke influence the government created under the Constitution?
* What powers are denied to the states by the Constitution?
* What is the tyranny of the majority? In what ways does the Constitution attempt to prevent it?
* How would you define the common (or public) good and what are some current issues that involve the public good?
* What checks are there on the federal judiciary?
* What are the checks on the legislative branch?
* What are the checks on the executive branch?
* What branch of government best represents the will of the people? Why?
* What were the historical reasons for the Framers to distrust democracy?
* How do the Senate and House of Representatives differ?
* Was the Constitution as written in 1787, adequate to protect individual rights?
* What provisions of the Constitution protect rights?
* What individual rights do you think are most in need of protection today? Why?
* Was planning a new Constitution what the Framers were supposed to be doing? (What then?)
* Which Framers played important roles at the Philadelphia Convention?
* Explain why the writ of habeas corpus was deemed so important by the Framers that they included it in the body of the Constitution.
* When is it appropriate for the writ of habeas corpus to be suspended? Provide examples.
* Why was the right to a jury trial important to American colonists under British rule?
* How are the rights of habeas corpus and trial by jury related to the concept of rule of law?
* Why do you think the Framers included such a specific and narrow definition of treason in the body of the Constitution?
* Why do you think the Framers saw the jury system as a way to protect individuals due process rights?

1. If you had to give a letter grade to work done by the Framers at the Philadelphia convention, what would it be?
2. What disagreements might arise over the interpretation of a clause that says that Congress has the power to make all laws necessary and proper for fulfilling its responsibilities as outlined in the Constitution? (Why would such disagreements arise?)

* Using examples from current events or recent history, explain whether or not you believe the system of separation of powers and checks and balances is working to keep the power of the government limited.

**Speech Topic #2: What were the major conflicts at the Philadelphia Convention and how were they resolved?**

* What arguments can you make for and against giving each state the right to send the same number of members to the Senate?
* What arguments can you make for and against including the three-fifths clause and the fugitive slave clause in the Constitution?

**Follow-up Questions:**

* On what fundamental principals were the Framers in agreement?
* Why did the Framers fear a strong central government?
* How did the Virginia Plan and the New Jersey Plan differ? How did these plans reflect differences between states?
* How did the rebellion led by Daniel Shays indirectly lead to the demise of the Articles of Confederation?
* Describe some of the major problems the young nation faced during the period of the Articles of Confederation.
* What were some achievements of the government under the Articles of Confederation?
* What are the pros and cons of a confederate system of government?
* What were some of the major weaknesses of the Articles of Confederation?
* What are the advantages and disadvantages of a federal form of government?
* It used to be true that the House of Representatives was the most democratic part of the federal government. Is this still true since we now also directly elect Senators?
* Are there good reasons today to have longer terms of office for Senators and shorter terms for Representatives?
* Why did the Framers choose the Electoral College system for choosing the President? Do you think the Electoral College should be altered or abolished? Explain.
* Why was the 3/5ths compromise adopted by the Framers?
* How does the Constitution balance state powers with powers granted to the national government?
* How did the conflicts over the Virginia Plan and the New Jersey plans reflect a difference of opinion about sovereignty?
* What would the Framers have thought of the 14th Amendment?
* Does the Constitution secure the individual’s right to vote?
* Were there clear-cut winners and losers in the compromises at Philadelphia?
* If a new Constitutional convention were to be called in America, what would be the major issues that would be debated?
* What instructions were given to the delegates? Did they have the right to ignore those instructions?
* What made the Virginia plan so objectionable to some at Philadelphia?
* What made the NJ plan so objectionable to some at Philadelphia?
* Do you believe the U.S. Constitution should be viewed as a “living document?” What implications would that have for the way in which it is interpreted?
* The Framers decided to leave the issue of slavery up to the states. Why did they and were they right to do this?

**Speech Topic #3: What were the major differences between the Federalists and Anti-Federalists?**

* How did the arguments of the Federalists and the Anti-Federalists reflect their points of view regarding natural rights, republicanism, and the powers of the states?
* Why are the Federalist and Anti-Federalist debates still relevant today?

**Follow-up Questions:**

* The anti-Federalists feared that the growth of the national government would lessen the importance of state government. To what extent were their predictions correct?
* Not adding a Bill of Rights has been called the Framers’ greatest tactical error. Do you agree or disagree with this statement?
* Why did Anti-Federalists believe that the design of the Constitution was insufficient to protect individual rights?
* Why did the Federalists believe that a bill of rights was unnecessary?
* Who were some of the leading Federalists?
* Who were some of the leading Anti-Federalists?
* Give some specific examples of how the power of the federal government has grown since the adoption of the Constitution.
* Why did some Anti-Federalists believe the Constitution would destroy a republican form of government? Why did Federalist like Madison believe a federal form of government would thrive under the Constitution?
* George Washington’s cabinet had only three members. Today the number of cabinet level appointments has grown to 15. How would the Federalists and anti-Federalists have reacted to this growth in the executive branch?
* Should the President be given the power to pardon criminals who commit federal crimes? Why or why not?
* What disagreements might arise over the interpretation of a clause that says that Congress has the power to make all laws necessary and proper for fulfilling its responsibilities as outlined in the Constitution? (Why would such disagreements arise?)
* What are some examples of areas of government that are traditionally left up to the states? What areas of government are the responsibilities of the federal government?
* Why did some anti-Federalists fear the independent executive and judicial branches created by the proposed Constitution?
* Why were the Federalists able to win the battle over ratification?

1. What do you think were the most compelling reasons for ratification made by the Federalists?

* Has the growth in power of the Federal government at the expense of the state destroyed the original intention of the Framers?

1. What are some examples of areas of government that are traditionally left up to the states? What areas of government are the responsibilities of the federal government?
2. If you were alive during the ratification debate, would you have been a Federalist, or an Anti-Federalist? Why?
3. Are we more Federalist or Anti-Federalist today?
4. Does the poor response by the government to the Hurricane Katrina disaster show some of the disadvantages of federalism? Explain.

* Is the “necessary and proper” clause consistent with the division of powers that is supposed to exist in our federal system?
* Has the “necessary and proper” clause proven as dangerous as the Anti-Federalists predicted?
* The Founders believed it wasn’t practical to expect people in a large, diverse nation to possess a lot of civic virtue. Do you think that modern communication technologies are increasing or decreasing our capacity to have civic virtue in the present day?

1. Why are judges in the federal system appointed, not elected, to serve “during good behavior”
2. What are the advantages and disadvantages of giving judges a lifetime appointment?
3. Do you believe the Framers intended to give the Federal Courts the power of judicial review?

* Do you believe the U.S. Constitution should be viewed as a “living document?” What implications would that have for the way in which it is interpreted?
* Are the ideals of the Constitution still in practice today? Which ones, and how?

**Other General Unit 2 questions**:

* Civil Discourse?
* Secrecy Rule?