

The Constitutional Convention

Klein Oak High School
Fall 2005

Participants

- 55 delegates from 12 states
 - Young (average age 42), professional (1/2 were lawyers), men of economic substance
 - Revolutionary War veterans

Absent from Convention

- Thomas Jefferson
 - ambassador to France
 - called the convention “an assembly of demigods”
- Patrick Henry
 - “smelt a rat”
- Richard Henry Lee
 - proposed of declaration of independence in 1776

George Washington

- broke promise to retire from public life
- cautioned against attending
 - Jay thought convention illegal
 - Madison feared it would be aborted
 - possibly ruin Washington’s reputation

Benjamin Franklin

- 81 years old
- infirmed
 - carried into state house (later renamed Independence Hall) on a chair by convicts

James Madison

- “Father of the Constitution”
 - author of Virginia Plan
- strong nationalist
 - states should be “subordinately useful”
 - later became strong states rights advocate
- kept extensive notes
 - source of most of knowledge of convention
 - later altered by Madison to cushion his previous strong nationalism

Convention Begins

- scheduled for Monday, May 13th

- only two states present
- Friday, May 25th
 - quorum finally present
 - convention begins

Philadelphia in 1787

- 50 miles inland from Atlantic
 - hot and humid, like Houston
 - sealed windows to preserve secrecy

Voting in Convention

- each state got one vote
- needed to get small states to participate
 - Madison agreed, promising to “fight another day”

Virginia Plan 1

- formulated in preconvention meetings
 - Virginians & possibly Pennsylvanians
 - held at Indian Queen Tavern (see [map](#))
- radically nationalistic proposals
 - new constitution
 - rejected amending Articles
- introduced by Gov. Edmund Randolph
 - less controversial than Madison

Virginia Plan 2

- set agenda for debate
- discussed in “Committee of the Whole”
 - parliamentary device for allowing debate without binding votes
 - Washington could participate
 - ordinarily presiding officer is silent
 - still used in U.S. House of Representatives
- for more information

Virginia Plan 3

- representation was most controversial
 - proposal was representation by # of free inhabitants
 - Delaware threatened to bolt
 - issue was postponed

VP - Bicameral Legislature

- as all states but Pennsylvania
- 1st house chosen by the people
 - Elbridge Gerry – “the people ... are dupes of pretended patriots.”
 - others wanted popular election to make the base of the new government broad

- this passed
- 2nd house chosen by 1st house
 - from nominees of state legislatures
 - this failed

VP – Powers of Legislature

- powers extend to all cases in which the states are incapable
 - broad, undefined power
 - Madison said he preferred specified powers, but he doubted it was practical.
- this passed
 - small states agreed to fight another day

VP - Executive

- single or plural not specified
 - great debate
 - energy
 - too great power – “foetus to monarchy”
 - settled on single executive
- 7 year term – later changed to 4 years
- no reelection – later changed

VP – Executive 2

- veto power
 - original proposal for “council of revision”
 - executive plus some # of judges
 - objection that judges should not be involved in setting policy
 - objection that it would bias judges who had to interpret legislation
 - compromise – executive veto w/ legislative override
- power to appoint other officers

VP - Courts

- supreme court
- inferior courts
- holding office “during good behavior”

VP - The Senate

- desire for a check on “temporary passions” of the people
- 4 modes of appointment proposed
 - by 1st branch (the House)
 - by the Executive
 - by the people
 - by state legislature

VP - The Senate 2

- election by stages

- belief that elected representatives are wiser and more virtuous than the people
- debate over role of states
 - nationalists wanted states to have no role
 - federalism prevailed – national government compared to the sun and states the planets, each independent in its own orbit
- smaller number produces more deliberative body

VP - Large vs. Small States

- really nationalists vs. federalists
- most large state reps were nationalist
 - large states would usually prevail
- exceptions
 - New York (5th largest) was antinationalist
 - influence of Governor Clinton
 - Georgia, N. Carolina, S. Carolina part of “large state” block
 - assumption that slaves would count according to “federal ratio” (3/5)

VP - Representation 1

- Virginia, Pennsylvania & Massachusetts had 45% of the national population
 - fear that they would rule everything
- small states wanted equal representation
- large states argued for justice via proportional representation
- small states proposed redividing the nation into 13 equally sized states –
 - probably not serious
 - it exploded the “justice” argument

VP - Representation 2

- small states would not agree to union if representation proportional
- large states would not agree if it wasn't
- tempers flared at the impasse
- resolutions for proportional representation in each house, though, passed

New Jersey Plan

- proposed at this point
 - after a revised Virginia Plan was already in place
- small states argued that the Committee had exceeded the delegates authority
- more federal, less national, plan
- New Jersey plan defeated 7-5

End of Committee of the Whole

- Wed., June 20th
- now sitting as the convention
- all the proposals of the committee now had to be debated and voted again
- removed the term “national government” from the plan

– substituted “government of the United States”

Luther Martin’s Argument

- large states would rule in proportional scheme
- states would be ruined

Madison’s Argument

- 1st – states were giving up sovereignty in order to form any constitution
- 2nd – Virginia, Pennsylvania & Massachusetts did not have common interest

Franklin’s Proposal

- “We feel our own want of political wisdom, since we have been wandering around in search of it. ... How has it happened that we have not thought of applying once to the Father of Lights to illuminate our understandings?”
- Proposed appointing a clergyman and opening each session with prayer.

Franklin’s Proposal 2

- fear that it would appear that convention was in crisis if a clergyman were appointed
- Hamilton – “no time to apply for foreign aid”
 - tongue in cheek comment
- no money to hire clergyman
- motion failed, but reminder that they were, despite strong opinions, fallible humans

Proposal for a Committee

- to avoid an end to the convention, refer the matter to a committee
- Madison, Wilson and other opposed because they knew a compromise would be offered
- resolution passed
- committee met for two days

The Great Compromise

- a.k.a. Connecticut Compromise
- committee’s proposal brought by Elbridge Gerry
- proportional representation in the House
- equal representation in the Senate
- 3/5 rule applies to slaves
- money bills must originate in the House

Voting on Great Compromise

- passed 5 to 4 on July 16th, with Massachusetts divided

- not voting
 - Rhode Island – no delegates
 - New Hampshire – delegates not yet present
 - New York – delegates had left in protest over convention’s nationalism
 - all three states were small state allies
 - would have voted in favor

Supremacy Clause

- proposal for national veto of state laws defeated 7-3
- Luther Martin proposed instead the “supremacy clause”
 - had been part of New Jersey plan
 - makes Constitution, national laws, treaties of U.S. “supreme law of the land”
 - passed without debate

Harmony at last!

- after Great Compromise, small states supported strong national government
- Madison: real issue had been representation, not national power
- other business not controversial
 - elimination of one term executive

Committee on Detail

- 10 days given to write a final draft
- Washington and others went trout fishing
- goals
 - only general provisions in Constitution
 - clear
 - concise
- draft by George Wilson of PA

Report of Committee on Detail

- established the names for the branches
- delineated the specific powers of Congress
 - and “necessary and proper” or elastic clause
- debated for more weeks

Committee on Style

- given charge on September 10th
- took two days to write final draft
 - Gouverneur Morris (PA) wrote the text
 - wrote the preamble himself

Final Passage – Sept. 17th

- refused to sign

- Edmund Randolph – VA Gov. who had introduced the VA plan thought the national government too powerful
- George Mason – VA, author of VA Bill of Rights, on which US version is patterned
- Franklin – delegates should “doubt their own infallibility”
- Constitution passed unanimously, but 5 delegates refused to sign

Franklin

- wept as he signed the Constitution
- Painters, he said, found it difficult to distinguish a rising from a setting sun. He had often wondered about the sun in the picture behind Washington’s chair.
 - “Now at length I have the happiness to know that it is a rising and not a setting sun.”

The End

- Madison: “The business being closed, the members adjourned to the City Tavern”