



The Conflicts of the Founders



Earth Day: Every
Day for Everybody



Grade Level: High School

Subject Correlation: Social Studies, Government

Objectives:

This lesson describes some conflicting points of view of leading Framers about the Constitution. Most of the delegates argued for the adoption of the Constitution, although many had reservations about all or parts of it. The reservations of three were so serious that they refused to sign the document. The position of one of these Framers, George Mason, is explored in detail. You also will examine Benjamin Franklin's statement in defense of the Constitution.

When you have completed this lesson, you should be able to explain the positions of Franklin and Mason, and give arguments in support of and in opposition to these positions.

Length: One class period

Critical Thinking Exercise

Analyzing the Positions of Gerry and Hamilton

The following remarks were made by two of the Framers on the last day of the convention. One of these Framers signed the Constitution; the other did not.

Work with a study partner or in small groups to analyze the statement. Then answer the questions and be prepared to present and defend your position. What do the following comments tell you about the differences of opinion among the Framers concerning the Constitution they had developed? What were some problems they thought might arise in getting it approved?

"...every member [of the convention] should sign. A few characters of consequence, by opposing or even refusing to sign the Constitution, might do infinite mischief.... No man's ideas were more remote from the plan than [mine are] known to be; but is it possible to



deliberate between anarchy... on one side, and the chance of good to be expected from the plan on the other?" —Alexander Hamilton

"...a Civil war may result from the present crisis.... In Massachusetts...there are two parties, one devoted to Democracy, the worst... of all political evils, the other as violent in the opposite extreme...for this and other reasons... the plan should have been proposed in a more mediating shape." —Elbridge Gerry

What did the Framers think when the Philadelphia Convention ended?

The Constitution has been described as "a bundle of compromises." As you have seen, such prominent features of the Constitution as the different plans for representation in the House and the Senate and the method of selecting the president were settled by compromise. Compromise, however, means that everyone gets less than they want. There were enough compromises in the completed Constitution that nearly every delegate could find something he did not like. During the four months the delegates had spent putting the Constitution together, there were some strong disagreements. Some had walked out of the convention. Three refused to sign the finished document.

Benjamin Franklin argued in support of the Constitution. George Mason argued against it. Mason was one of the three delegates remaining until the end of the convention who refused to sign the document.

How did Franklin defend the work of the convention?

On the last day of the convention, September 17, 1787, Benjamin Franklin prepared a speech intended to persuade all the delegates to sign the completed Constitution. The speech was read by James Wilson, because Franklin's age and illness made him too weak to deliver it himself.

"I confess that there are several parts of this Constitution which I do not at present approve.... [But] the older I grow, the more apt I am to doubt my own judgment, and to pay more respect to the judgment of others.... In these sentiments...I agree with this Constitution with all its faults, if they are such; because I think a general Government necessary for us...[and] I doubt...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...to find this system approaching so near to perfection as it does.... Thus I consent...to this Constitution because I expect no better, and because I am not sure, that it is not the best.... If every one of us in returning to our Constituents were to report the objections he has had to it...we might prevent its being generally received, and thereby lose all the salutary effects and great advantages resulting naturally in our favor among foreign Nations as well as among ourselves, from a real or apparent unanimity.... On the whole...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."



Why did George Mason object to the Constitution?

Less than a week before the convention ended, George Mason wrote a list of objections on his copy of the draft of the Constitution. The list was later printed as a pamphlet during the ratification debate. The following are some of his more important objections:

1. The Constitution does not contain a Bill of Rights.
2. Because members of the Senate are selected by state legislatures, it means that they are not representatives of the people or answerable to them. They have great powers, such as the right to approve the appointment of ambassadors and treaties recommended by the president. They also have the power to try the president and other members of the government in cases of impeachment. These powers place the senators in such close connection with the president that together they will destroy any balance in the government, and do whatever they please with the rights and liberties of the people.
3. The national courts have been given so much power that they can destroy the judicial branches of the state governments by overruling them. If this were to happen, and the only courts available were federal courts, most people would not be able to afford to have their cases heard in these courts, because they would need to travel a great distance. Rich people would have an advantage that would enable them to oppress and ruin the poor.
4. The Constitution does not provide for a council to serve as advisers to the president. Any safe and regular government has always included such a council. Such a council would take the place of the Senate in advising the president on appointments and treaties, and the head of the council would take the place of the vice president. Without it, the president will not get proper advice, and will usually be advised by flattering and obedient favorites; or he will become a tool of the Senate.
5. The president of the United States has the unlimited power to grant pardons for crimes, including treason. He may sometimes use this power to protect people whom he has secretly encouraged to commit crimes, and keep them from being punished. In this way he can prevent the discovery of his own guilt.
6. The Constitution says that all treaties are the supreme law of the land. Since they can be made by the president with the approval of the Senate, together they have an exclusive legislative power in this area. This means they can act without the approval of the House of Representatives, the only branch of the legislature that is directly answerable to the people.
7. The Constitution only requires a majority vote in Congress, instead of a two-thirds vote, to make all commercial and navigation laws. The economic interests of the five southern states, however, are totally different from those of the eight northern states, which will have a majority in both houses of Congress. Requiring only a majority vote means that Congress may make laws favoring the merchants of the northern and eastern states, at the expense of the agricultural interests of the southern states. This could ruin the southern states' economies.
8. Because the Constitution gives Congress the power to make any laws it thinks are "necessary and proper" to carry out its responsibilities, there is no adequate limitation on its powers. Congress could grant monopolies in trade and commerce, create new crimes, inflict severe or unusual punishments, and extend



its powers as far as it wants. As a result, the powers of the state legislatures and the liberties of the people could be taken from them.

Mason also had made other criticisms of the Constitution during the convention. Some were accepted by the Convention; others were incorporated in the Bill of Rights, which was added in 1791.

What changes in the Constitution would have satisfied George Mason's objections?

How did Franklin describe the significance of the convention?

The final entry that James Madison made in his notes on the convention describes the scene as the delegates were signing the document they hoped would become the Constitution of the United States.

"Whilst the last members were signing it, Doctor Franklin looking toward the President's Chair, at the back of which a rising sun happened to be painted, observed to a few members near him that Painters had found it difficult to distinguish in their art a rising from a setting sun. I have, said he, often in the course of the Session...looked at that [sun] behind the President without being able to tell whether it was rising or setting: But now at length I have the happiness to know that it is a rising and not a setting Sun."

What do you think?

1. Describe Benjamin Franklin's attitude toward the Constitution. What reasons did he give for his view?
2. Select one of Mason's objections; identify and describe an event in American history or a contemporary event that provides evidence in support of his objection.
3. Select one of George Mason's objections and explain what remedies our constitutional government provides for the problem he identified. Then take and defend a position on whether the remedy is adequate.

Reviewing and Using the Lesson

1. Why is the Constitution sometimes described as "a bundle of compromises"?
2. What was Benjamin Franklin's opinion of the Constitution crafted by the Framers?
3. Why did George Mason refuse to sign the Constitution?

