

## Part V: The Constitution of 1787

After nearly four months of debate, controversy, and compromise, the state delegates at the Philadelphia convention agreed on September 15, 1787, to the final draft of a new Constitution. The document reflected the give and take of the long, heated sessions on the second floor of the Pennsylvania State House. Many provisions, such as those dealing with state representation in the national government, went through numerous stages of revision. If the convention had continued, delegates would undoubtedly have made further changes.

### ***How did the new Constitution deal with most difficult issues?***

Delegates did not reach consensus on some issues, such as how slaves should be classified for purposes of political representation and taxation. To break the deadlock between southern and northern states, the delegates agreed to count each slave as equivalent to three-fifths of a free person. (The formula was borrowed from a proposed amendment to the Articles of Confederation.) Other key questions remained unanswered as well. In the end, the delegates to the convention presented their draft not so much as a polished document, but with the acknowledgment that after four months of work they were not going to make much more progress.

In many respects, the Constitution put forward resembled a patchwork quilt. Each section of the document had been crafted separately and then loosely stitched together at the end. Some sections seemed to clash with others, but from a larger perspective a clear pattern stood out.

### ***How was the new government organized?***

The delegates created a strong national government with interdependent executive, legislative, and judicial branches. They spelled out the general powers of the national legislature, and yet left much room for interpretation. The Constitution asserted the supremacy of

the national government while allowing the states to hold onto broad areas of authority. In many instances, the boundary between the jurisdiction of the national government and the states seemed intentionally fuzzy.

### ***Why didn't all the delegates sign the proposed Constitution?***

When the draft Constitution was finally put before the Philadelphia convention, only thirty-nine of the original fifty-five delegates signed it. A few of the delegates had left in protest, while others were drawn away for personal reasons. Rhode Island had not bothered to send a delegation to Philadelphia, while two of the three New York delegates had walked out to protest the establishment of a strong central government. Some of the most vocal participants in the convention, including Elbridge Gerry, Edmund Randolph, and George Mason, refused to sign the document because of their opposition to specific provisions.

Even among the delegates who signed the Constitution, no one was entirely happy with the document. Benjamin Franklin, the oldest delegate at the convention, conceded that he did not approve of every section of the Constitution. However, he told his fellow delegates at the last meeting of the convention that the proposed Constitution they were carrying with them back to their home states was needed to establish an effective national government.

***“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 astonished me to find this system approaching so near to perfection as it***

*does. I consent 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.”*

—Benjamin Franklin

## Excerpts from the U.S. Constitution

*We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.*

### Article I

**Section 1.** All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

**Section 2.1** The House of Representatives shall be composed of members chosen every second year by the people of the several states, and the electors [voters] in each state shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

**Section 2.3** Representatives and direct taxes shall be apportioned among the several states... according to their respective numbers [populations], which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons [slaves].

**Section 3.1** The Senate of the United States shall be composed of two senators from each state chosen by the legislature thereof, for six years; and each senator shall have one vote.

**Section 4.1** The times, places, and manner of holding elections for senators and representatives shall be prescribed in each state by the legislature thereof.

**Section 7.2** Every bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a law, be presented to the President of the United States; if he approves he shall sign it, but if not he shall return it....If after such reconsideration two thirds of that House shall agree to pass it, it shall be sent, together with the [President's] objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a law.

**Section 8.** The Congress shall have the power

- 1) To lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States...;
- 2) To borrow money on the credit of the United States;
- 3) To regulate commerce with foreign nations, and among the several states...;
- 5) To coin money, regulate the value thereof...;
- 9) To constitute tribunals [courts] inferior to the Supreme Court;
- 11) To declare war...;

18) To make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the government of the United States...;

**Section 9.1** The migration or importation of such persons [slaves] as any of the states now existing shall think proper to admit, shall not be prohibited by Congress prior to the year 1808....

**Section 9.4** No capitation [tax on individuals], or other direct tax shall be laid unless in proportion to the census or enumeration....

**Section 10.1** No state shall...coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts.

## Article II

**Section 1.1** The executive power shall be vested in a President of the United States. He shall hold his office during the term of four years.

**Section 1.2** Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the state may be entitled in Congress.... The electors shall meet in their respective states, and vote by ballot for two persons.... The person having the greatest number of votes [if a majority] shall be the President....

**Section 2.1** The President shall be the commander in chief of the army and navy of the United States....

**Section 2.2** He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the senators present concur....

## Article III

**Section 1** The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may establish....

**Section 2.1** The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties...to controversies to which the United States shall be a party...between a State and citizens of another state...between citizens of different states.

## Article IV

**Section 1** Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state....

**Section 2.1** The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states....

**Section 3.1** New states may be admitted by the Congress into this Union....

**Section 4** The United States shall guarantee to every state in this Union a republican form of government, and shall protect each of them against invasion and...against domestic violence.

### **Article V**

The Congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or on the application of the legislatures of two thirds of the several states, shall call a convention for proposing amendments; which in either case, shall be valid as part of this Constitution when ratified by the legislatures of three fourths of the several states, or by conventions in three fourths thereof.

### **Article VI**

1. All debts contracted and engagements entered into before the adoption of this Constitution shall be valid against the United States....

2. This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made under the authority of the United States shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any state to the contrary notwithstanding....

### **Article VII**

The ratification of the conventions of nine states shall be sufficient for the establishment of this Constitution between the states so ratifying the same.