



Give and Take to Create a Constitution

Time and Grade Level

Three 50-minute class periods in a 6-8 grade US government, US history, civics or social studies classroom.

Purpose of the Lesson

The purpose of this lesson is to engage students in a discussion of the Constitutional Convention. Students will explore the key disputes that arose during the Convention, including how power would be divided between the federal and state governments and the various branches of government. Furthermore, students will understand the importance of compromise during the Constitutional Convention. They will synthesize various sources explored debate and compromise and the Convention to understand the idea of civic discourse--discussion rooted in mutual respect for differences and a desire for understanding--in the United States.

Critical Engagement Questions & Lesson Objectives

1. What were the key decisions that needed to be made at the Constitutional Convention?
How were these decisions made?
 - Objective: Students will be able to identify two key disputes that arose during the Constitutional Convention and how they were resolved through compromise.
 - Objective: Students will be able to explain the importance of compromise during the Constitutional Convention, referencing specific scenarios from James Madison's notes of the Constitutional Convention.

Standards

[C3 Standards: Suggested K-12 Pathway for College, Career, and Civic Readiness](#)

D2.Civ.9.6-8. Compare deliberative processes used by a wide variety of groups in various settings.

D2.Civ.10.6-8. Explain the relevance of personal interests and perspectives, civic virtues, and democratic principles when people address issues and problems in government and civil society.

D2.His.2.6-8. Classify series of historical event sand developments as examples of change and/or continuity.

Common Core Standards: English Language Arts Standards-Reading Information Text Grade 6-8

CCSS.ELA-Literacy.RH.6-8.2 Determine the central ideas or information of a primary or secondary source; provide an accurate summary of the source distinct from prior knowledge or opinions.

CCSS.ELA-Literacy.RH.6-8.8 Distinguish among fact, opinion, and reasoned judgment in a text.

Overview of the Lesson

Day One
1. Homework: Pre-reading of the ConSource Blog Post, Fitting Together Uneven Planks: The Constitution and the Spirit of Compromise (Appendix C) . 2. Constitutional Convention Web quest exploration of the ConSource Digital Library on the Constitutional Convention and the Teaching American History Convention website. 3. Convention Gallery Assignment: Using days from James Madison’s Notes of the Constitution Convention .

Day Two
1. Convention Gallery Assignment in-class work: Using days from James Madison’s Notes of the Constitution Convention. 2. Homework: to complete the project.

Day Three
1. Convention Gallery Assignment Presentations 2. Homework: Extension Activity.

Materials

1. Printed copies of, and virtual access to, James Madison’s Notes of the Constitutional Convention (found [here](#)). A list of recommended days from the Convention to use in the assignment can be found under Teacher Warm-Up.
2. Printed copies of the Convention Gallery assignment sheet, found in [Appendix A](#).
3. Copies of the Convention word cloud, found in [Appendix B](#).
4. Printed copies of the ConSource Blog Post, found in [Appendix C](#).

Teacher Warm-Up for the Lesson

OVERVIEW OF THE CONSTITUTIONAL CONVENTION¹

Concerns voiced during the Annapolis Convention in September of 1786 about the government's--under Articles of Confederation--inability to mediate interstate conflict resulted in a motion being passed to convene a "Grand Convention" in Philadelphia to consider ways of improving the Articles of Confederation.

James Madison was strong proponent of this grand Convention and of changing the Articles as he and George Washington agreed that the principles of the new nation were at risk of being destroyed by the Articles government, which in its weakness allowed states to become unjust and reckless. As such, Madison was instrumental to energizing the Philadelphia Convention by urging the Virginia legislature to take the convention seriously and elect delegates to the convention. Following Virginia, New Jersey, North Carolina, Pennsylvania, Delaware, and Georgia all chose delegates to the convention to meet in Philadelphia in May of 1787.

It is important to mention here that at this point, the existing government had yet to approve the convention. It wasn't until February of 1787 that the Confederation Congress finally expressed its approval of a convention to revise the Articles of Confederation. However, the Congress was cautious in giving this power to the convention, stating that any recommendations made by the convention would need to be agreed to in Congress and in the states before they could be adopted. The Confederation Congress resolved that:

"In the opinion of Congress it is expedient that on the second Monday in May next a Convention of delegates who shall have been appointed by the several states be held at Philadelphia for the sole and express purpose of revising the Articles of Confederation and reporting to Congress and the several legislatures such alterations and provisions therein as shall when agreed to in Congress and confirmed by the states render the federal constitution adequate to the exigencies of Government & the preservation of the Union" To this day, it remains questionable if the Confederation Congress had intended to grant the Convention such broad permission in revising the Articles."

Whatever the case, New York joined the list of attendees shortly after Congress' announcement, with South Carolina, Massachusetts, Connecticut, Maryland, and New Hampshire following suit. Rhode Island alone refused to send delegates.

From May 25th until September 17th, the delegates discussed, debated, disagreed, and ultimately compromised on a new version of government that would reflect the democratic will

¹ By Allie Niese. The [ConSource Digital Library](#) and the introduction to the [Teaching American History Convention](#) online exhibit was used for reference.

of the nation while still providing the necessary governance structure to support stability and prevent debilitating factions from eroding legitimacy. Indeed, in his final Notes of the Constitutional Convention, Madison reflected that the adoption of the Constitution marked a new and promising dawn for American government. He spoke of a conversation he had with Benjamin Franklin in writing:

“Whilst the last members were signing it Doctr. Franklin looking towards the Presidents 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 and often in the course of the Session, and the vicissitudes of my hopes and fears as to its issue, looked at that 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.”

Teaching American History’s introduction to an online exhibit about the Constitutional Convention describes the demigod status with which the delegates to the Convention were labeled. While a rather remarkable term, it certainly fits to describe the groundbreaking project the delegates undertook. As written by Gordon Lloyd in the introduction, “Alexis de Tocqueville marveled at the work of the American Founder: never before in the history of the world had the leaders of a country declared the existing government to be bankrupts, and the people, after debate, calmly elected delegates who proposed a solution, which, in turn, was debated up and down the country for nearly a year, and not a drop of blood was spilled.” The genesis of American government as we know it was truly a remarkable event.

Even in the midst of the Convention, the delegates themselves realized they were doing something very special James Madison recognized this success amidst almost insurmountable odds. In Federalist 37, Madison writes about taking time to indulge the uniqueness of the Convention. He stated:

“The novelty of the undertaking immediately strikes us. It has been shewn in the course of these papers, that the existing Confederation is founded on principles which are fallacious; that we must consequently change this first foundation, and with it, the superstructure resting upon it. It has been shewn, that the other confederacies which could be consulted as precedents, have been viciated by the same erroneous principles, and can therefore furnish no other light than that of beacons, which give warning of the course to be shunned, without pointing out that which ought to be pursued. The most that the Convention could do in such a situation, was to avoid the errors suggested by the past experience of other countries, as well as of our own; and to provide a convenient mode of rectifying their own errors, as future experience may unfold them.”

Even James Madison had the foresight to marvel at the uniqueness of this American experiment as a departure from the precedent of past foundings, recalling the brutish nature of

other founders such as Romulus. Lloyd also references Alexander Hamilton's ruminations of the founding in Federalist 1, wherein Hamilton ruminated on the importance of maintaining a deliberative process that was truly fair and responsive to the considerations of the people.

Hamilton's stated:

"It will be forgotten, on the one hand, that jealousy is the usual concomitant of violent love, and that the noble enthusiasm of liberty is too apt to be infected with a spirit of narrow and illiberal distrust. On the other hand, it will be equally forgotten, that the vigour of government is essential to the security of liberty; that, in the contemplation of a sound and well informed judgment, their interest can never be separated; and that a dangerous ambition more often lurks behind the specious mask of zeal for the rights of the people, than under the forbidding appearance of zeal for the firmness and efficiency of government. History will teach us, that the former has been found a much more certain road to the introduction of despotism, than the latter, and that of those men who have overturned the liberties of republics the greatest number have begun their career, by paying an obsequious court to the people, commencing Demagogues and ending Tyrants."

Upon reflection, these comments suggest the novelty of the Constitution as being "established by reflection and choice rather than force and fraud." While fierce debate and argument existed during the Constitutional Convention, the delegates commitment to civic discourse and freedom for the American people was thus the ultimate expression of a nation's commitment to values that would contribute to making the American Conception a lasting model of government across the world.

KEY AREAS OF DEBATE & COMPROMISE AT THE CONVENTION²

SMALL STATES V. LARGE STATES: The Virginia plan, introduced by Edmund Randolph and echoing the opinions on government of James Madison, supported a style of government that favored states with large populations. The plan was filled with language supporting the need for a diverse and varied society to make government work; ideas about filtering opinions of majorities that led to the Virginia plan favoring a strong federal government that limited the roles of state legislatures. This led to propositions for proportional representation in the legislature, much to the displeasure of smaller states, who felt their voice would be lost among the large states.

Small states like New Jersey, who submitted the New Jersey, were largely supporters of minor changes to the mode of government existing under the articles of confederation, since such a system retained state sovereignty. These delegates saw the problem of representation less about the people in each state, but the state as a whole. Delegates from small states favored equal representation in the legislature (as identified in the New Jersey plan) as they equated states not

² By Allie Niese. The [Teaching American History Convention](#) online exhibit was used for reference.

as parts of a whole, but whole and independent entities in and of themselves, which deserve equal representation in the legislature just as any other sovereignty might when joining a confederation.

Ultimately, this dispute was mediated with the adoption of the great compromise (also known as the Connecticut Compromise), which used the ideas of both equal and proportional representation to populate the legislature of the new government. The compromise, introduced on June 11, 1787, allowed for the lower house of Congress to be based on population and popularly elected. This satisfied those advocating a wholly national government. The upper house would be equally represented among the states and elected by state legislatures. After the proposal was initially introduced, the delegates spent the next month debating these principles. The Gerry committee, meeting from July 5-7, was formed to defend the compromise. Elbridge Gerry said of the work, “We need to put theoretical niceties to one side and think about accommodation. We were...in a peculiar situation. We were neither the same nation nor different nations. If no compromise should take place what will be the consequence?” Indeed, the issue of small and large states was less about population and more about states rights. Ultimately, the compromise was finalized after Elbridge Gerry and George Mason, supports of a wholly national government (large state) were able to win agreement that the power to introduce money bills would remain completely in the power of the lower house without opportunity for amendment by the upper house; preserving the legacy of the no taxation without popular representation. On July 16, the Connecticut Compromise was agreed to by a 5-4-1 vote of the delegates.

THE ISSUE OF SLAVERY: The issue of slavery first came up on August 6, when the Committee of detail submitted its initial draft of the Constitution. This early draft included a section which read, “No tax or duty shall be laid by the Legislature...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.” Although the section would be amended to include a date at which Congress could eliminate slavery and allow Congress to take the trade, the section did find its way into the Constitution. At face value, the section, located in Article I, seems to suggest that the delegates supported the continuance of slavery. However, the additions of an elimination date and taxation powers suggest that the delegates sought gradually abolish slavery. Why not abolish it at the outset though? Because the nature of the Southern states reliance on slave labor required compromise.

During the time the section was introduced and the constitution adopted, John Rutledge of South Carolina said this about the possibility of eliminating slavery: “Interest alone is the governing principle with Nations. THE true question at present is whether the Southern States shall or not be parties of the Union.” Even though many delegates stood morally opposed to slavery (George Mason once said, “Every master of slave sis born a petty tyrant. They bring the judgement of heaven on a country”) many came to see that compromise was necessary to avoid a standoff on such a divisive issue. Still, compromise was not easily found. On June 6, James Madison referred to slavery as a cause of faction in government. On August 25, Gouverneur

Morris cynically suggested that the section be footnoted as a concession to North Carolina, South Carolina, and Georgia.

Eventually, however, the delegates agreed to a version of the section that allowed for the elimination of slavery in 1808 in a 7-4 vote.

THE PRESIDENCY: On the issue of the presidency, the delegates at the Constitutional Convention faced many disputes to be reconciled and agreed upon. The four main sources of dispute the term-length of the president, the eligibility of the president to be reelected, how the president would be elected, and the powers of the president. Interestingly enough, the decision to create a single, nation executive was not a great source of dispute. Rather, the biggest dispute was of how to select the president. Beginning June 9, the delegates heard many options for selecting the president and subsequently defeated most of them. Suggestions included a president elected by the legislature and eligible for reelection, a president chosen by electors of state legislatures, and a seven year-term without eligibility for reelection. It wasn't until September 4, that a committee charged with settling the outstanding issues of the presidential clause suggested the electoral college as a mode of selection. Shortly thereafter, the delegates agreed on a four-year term with the opportunity for reelection. At this time, the delegates also agreed on the qualification that the president should be a natural born citizen. The adoption of the electoral college as the method for selecting the president again represents the compromise between the large, nationally oriented states and the smaller, federally oriented states.

NECESSARY AND PROPER CLAUSE: The addition of the necessary and proper clause is evidence of another compromise made at the Constitutional Convention. This clause, which gives the legislature branch room for more broad interpretation of powers, originated out of the dispute between delegates desiring a strong national government and those wary of limiting states rights. As the necessary and proper clause is identified alongside the enumerated powers of congress, the clause was able to satisfied both sides of the debate. While the enumerated powers limited Congress, the necessary and proper clause also ensured Congress the flexibility necessary to confront unforeseen circumstances.

RESOURCES ON THE CONVENTION (For Teachers and Students)

Primary Source Documents (ConSource)

- A list of the delegates to the Constitutional Convention can be found [here](#) and a record of their attendance is found [here](#).
- ConSource's collection of the plans proposed at the Convention include:
 - [The Hamilton Plan](#) This plan suggests Alexander Hamilton's suggestions for the new American government. Based largely off of the evolving draft of the Constitution at the Convention, Hamilton's plan differs in its suggestion of a tertiary election process for the chief executive, identification of the number of justices on the supreme court as 12;

- suggestion of a specific jurisdiction for federal courts created by the legislature; and, the involvement of associate justices of the Supreme Court in impeachment trials.
- [The Virginia \(Randolph\) Plan](#) Edmund Randolph submitted the Virginia plan for consideration on May 29, 1787. This proposal suggested a system of government with a two-house legislature which was elected according to population, a benefit to larger states.
 - [The New Jersey \(Paterson\) Plan](#) This plan was introduced to the Convention on June 15 by William Paterson of New Jersey, although the plan represented the ideas of several other delegates. Like the Hamilton plan, the Paterson plan was based off of the existing drafts of the constitution thus far in the Convention, though it contained many recommendations. The chief idea for government presented by the Paterson plan include the adoption of a bicameral legislature that was populated by equal representation across the states, a favored method of representation for smaller states.
 - [The Pinckney Plan](#) The Pinckney plan was introduced following the Virginia plan on May 25 and included suggestions for a government similar to the arrangement of parliament and the selection of the prime minister.
 - ConSource’s collection of [James Madison’s Notes of the Constitutional Convention](#):
 - Suggested days to use for the Convention Gallery Assignment include:
 1. [Wednesday, May 30](#) (Organization of Government)
 2. [Thursday, May 31](#) (Legislature)
 3. [Friday, June 1](#) (Executive)
 4. [Monday, June 4](#) (Executive)
 5. [Wednesday, June 6](#) (State v. national government debate)
 6. [Thursday, June 7](#) (Purpose and election of the Senate)
 7. [Saturday, June 16](#) (New Jersey plan introduced and debated)
 8. [Monday, June 18](#) (Hamilton plan introduced and debated)
 9. [Wednesday, June 20](#) (Debate of bicameral legislature)
 10. [Thursday, June 28](#) (representation, state v. national government)
 11. [Saturday, June 30](#) (federalism v. nationalism)
 12. [Saturday, July 14](#) (Election of the branches)
 13. [Wednesday, July 18](#) (Executive and Judiciary)
 14. [Wednesday, July 25](#) (Election of the Executive)
 15. [Tuesday, August 21](#) (Military)
 16. [Wednesday, August 22](#) (Slavery, Bill of Attainder, and ex post facto)
 17. [Friday, August 24](#) (Slavery)
 18. [Saturday, September 8](#) (powers of the executive)
 - ConSource’s Blog contains many short, interesting articles related to Constitutional law and history. For this lesson, applicable postings include:
 - [The Second Continental Congress adopted the Articles of Confederation on November 15, 1777](#)

- [Doubting a Little of One’s Infallibility: The Real Miracle at Philadelphia](#)
- [Fitting Together Uneven Planks: The Constitution and the Spirit of Compromise](#)
- [The Indispensable “Spirit of Amity”: The Constitution’s Cover Letter and the Importance of Civic Friendship](#)

Videos (The Annenberg Classroom)

- [Our Constitution, A Conversation](#): Hosted by Justices Sandra Day O’Connor and Stephen Breyer who are interviewed by high school students and answer questions such as: Why have a Constitution; How does the Constitution help Americans solve problems; and, “I think that when the framers were writing the Constitution that the situation in the United States and the Relationship between the federal government and state government was a lot different than it is now. Do you ever find that in your rulings there are specific aspects of the Constitution that frustrate you to have to apply to modern-day cases?”

Word Cloud

- Word clouds highlight the words repeated the most in a given document. This word cloud (found in [Appendix D.](#)), created by ConSource, highlights the words (names and common words omitted) and ideas most repeated during the Convention.

Website

- An interactive map of Philadelphia during the Constitutional Convention can be found [here](#).
- [Center for Civic Education](#): 60 Second lessons about the Convention and related topics.

Blog (Constitution Daily)

- [“Looking back at America’s forgotten first constitution”](#)
- [“222 years of constitutional history”](#)

Activity

DAY ONE

Activity	Description	Suggested Questions
Homework	Ask students to read the ConSource Blog Post, Fitting Together Uneven Planks: The Constitution and the Spirit of Compromise (Appendix C) .	
Convention Word Web	Begin class by projecting or distributing the word cloud (Appendix B). Ask students to make observations about the word cloud and what it tells us about the priorities of the delegates.	1. Consider what each word could refer to, thinking about the debates that occurred at the Convention. Do any of these commonly said words refer to compromise that took place at the Convention?
Constitutional Convention Web quest	<ol style="list-style-type: none"> 1. Have students explore the Teaching American History Convention website for 10 minutes to familiarize themselves with the Constitutional Convention as a whole. 2. Introduce the Gallery Assignment (below). 3. Have students spend the remainder of class time exploring their day of the Convention through their digital versions on the ConSource Digital Library. <p>* Students should be encouraged to explore the Records of Proceeding in Convention and Supplementary Records of Proceedings in Convention for letters and diary entries about the ideas being discussed at the Convention.</p>	<ol style="list-style-type: none"> 1. What was the Constitutional Convention and why was it necessary? 2. What were the biggest issues discussed there? 3. How was compromise reached? Did one side ‘win’ or were many ideas about government represented?
Web quest assignment	By the end of class, Students should send a short email with a list of 2-3 issues or disputes (i.e, proportional v. equal representation; slavery v. abolition) they read about and what they think caused those disputes among the delegates.	
Convention Gallery Assignment	Distribute the Convention notes packets & assignment sheet (Appendix A). Students should work independently to create an art project that represents the challenges of the Constitutional Convention on a given day (use the list of dates provided in the teacher warm-up to assign days), using James Madison’s Notes of the Convention for reference.	

DAY TWO

Activity	Description	Suggested Questions
Convention Gallery Assignment, in-class work	<p>Students have time to work in-class (in a computer lab if possible) on their Convention Gallery Project. Students should be reading their assigned Notes and completing outside research if necessary to create a piece of artwork, song, or poem that reflects the struggles of that day to reach compromise.</p> <p>Students should keep in mind: what was said and by whom, who opposed and criticized certain delegates? What topics were heavily discussed that day? What were the arguments for or against an addition to the Constitution?</p> <p>Along with creating their piece of art, students should write a short paragraph summary of their day of the Constitutional Convention</p>	<ol style="list-style-type: none"> 1. What were the issues debated that day? 2. What did the delegates have to say to each other about a specific issue? 3. What do you know about the issue? 4. What is the perspective (political ideology) of the delegates making those opinions? 5. What was the outcome of this debate? 6. Was compromise reached here? 7. How was a decisions made? 8. How did each delegate present their argument?
Homework	Students should continue working on their project for homework.	

DAY THREE

Activity	Description
Presentations	Stage a gallery for all works to be presented around the room and have students spend the first 15 minutes of class reviewing the gallery.
Extension Activity	Choose an extension activity for students to complete.

Homework

Day One: Before the first day of the lesson, ask students to read the ConSource Blog Post, [Fitting Together Uneven Planks: The Constitution and the Spirit of Compromise \(Appendix C\)](#).

For homework on day one, students should begin working on their Convention Gallery project.

Day Two: Students should continue working on their Convention Gallery project.

Day Three: If desired, ask students to complete an extension assignment for homework.

Extension Activity

- A. Essay Prompt: Write an essay that explains one of the debates that happened at the Constitutional Convention (you can't pick one you covered in your own project) and how the delegates compromised on the issue.
- B. Independent Student Document Exploration
 - A. Search the ConSource Library by clause-Enter the Constitutional Index by clicking the quick link option on the left hand side to the U.S. Constitution. Choose hyperlinked clauses that will take you to a list of collections. Choose the collection, "James Madison's Notes of the Constitutional Convention." Find your chosen clause beneath the source image and click the circle next to it. It will highlight the portion of text related to your chosen clause. Track the discussion in the Constitutional Convention regarding these clauses and write at least a 3 sentence summary of the evolution of your chosen clause.
 - 3/5 clause
 - Allocation of representation clause
 - Slave trade clause
 - A. Search the ConSource library to learn about the Framers of the Federal Convention-Enter the ConSource Archive. Choose the collection: [Constitutional Convention Records, The Delegates of the Federal Convention, Their Credentials, and Attendance](#). Explore the documents. Write at least 3 sentences describing your chosen Framer.

Appendix A. Convention Gallery Assignment Sheet

Name: _____

CONSTITUTIONAL CONVENTION GALLERY ASSIGNMENT

For this assignment, you will create a piece of artwork, song, or poem that reflects the discussions between Convention delegates on a particular day of the Constitutional Convention. Using a single day of [James Madison's Notes of the Constitutional Convention](#), you will use your artwork to explore the idea of compromise at the Convention. Your piece of art should represent the biggest issue(s) being discussed that day and the reactions of the various delegates to that issue.

Your completed artwork, poem, or song should be able to answer the following questions:

1. What happened on this day?
2. What issues were being discussed?
3. Did the delegates easily agree on this issue or was there conflict?
4. How did the day end? Was compromise reached on the issue being discussed?
5. How does this discussion compare to what we know about how the issue was resolved in the final Constitution?

Along with the artwork, poem, or song, you are also required to produce a paragraph summary of your assigned day of the Constitutional Convention that will accompany your piece of art.

Be prepared to present your project to the class and explain its meaning.

Due Date: _____

Appendix C. ConSource Blog Post

Fitting Together Uneven Planks: The Constitution and the Spirit of Compromise

By Derek Webb

Constitutional Law Center Fellow, Stanford Law School

Editor's note: This is the third installment in a three-part series on civility at the Philadelphia Constitutional Convention – a joint project of ConSource and the National Constitution Center's Constitution Daily.

By August of 1788, George Washington was thoroughly relieved. Having presided over a stormy Constitutional Convention in Philadelphia the previous summer, and having just witnessed the culmination of a rollicking yearlong, nationwide debate over the ratification of the Constitution in the states, he was simply relieved that they finally had something better than the Articles of Confederation. “The merits and defects of the proposed constitution have been largely and ably discussed. For myself, I was ready to have embraced any tolerable compromise that was competent to save us from impending ruin.”

Despite the considerable disagreement about the Constitution expressed between its proposal on September 17, 1787, and its official ratification on June 21, 1788, Washington's sentiment that it represented at the very least a “compromise,” if not a “tolerable” one for some, enjoyed a broad consensus. Throughout that period, the most common, contemporaneous description of the new Constitution was that it was, warts and all, the product of “compromise.”

Just months after the Convention concluded, both John Adams and Thomas Jefferson, two men destined to spend much of their lives in fierce disagreement, independently wrote to their friends raving about the new compromise. Writing to John Jay on December 16, 1787, Adams described it as “the result of accommodation and compromise” “admirably calculated to cement all America in affection and interest, as one great nation.” Writing to James Madison on December 20, 1787, Jefferson said that “I am captivated by the compromise of the opposite claims of the great and little states, of the latter to equal, and the former to proportional influence.” Four months later, Madison himself would observe to Jefferson that the reason he opposed convening a second constitutional Convention in which to debate amendments was that “if a second Convention should be formed, it is as little to be expected that the same spirit of compromise will prevail in it as produced an amicable result to the first.”

But while in retrospect many agreed that the “spirit of compromise” had happily prevailed in Philadelphia, at the time when compromise was most needed, the critical debate that raged over whether representation in Congress would be equal among the states or proportional according to population, it was anything but a foregone conclusion that compromise would win the day. Despite the warm, cross-sectional socializing and gestures of “civic friendship” that had prevailed throughout the summer, and regardless of the parliamentary rubrics aimed to encourage listening, learning, and intellectual humility, the debate over representation came very close to upending the entire convention.

For two seemingly unmovable armies were set to clash by day and night over this issue. On the side of the large states that wanted proportional representation all the way down, many delegates like James Madison, James Wilson, and Alexander Hamilton refused to depart from this in any respect. Rufus King of Massachusetts nicely summarized their negotiating posture: “He preferred the doing of nothing, to an allowance of an equal vote to all the States. It would be better he thought to submit to a little more confusion and convulsion, than to submit to such an evil.” On the side of the smaller states that insisted upon equal representation, the intransigence was met in equal part. Gunning Bedford of Delaware, for example, insisted that “there was no middle way” between equal and proportional representation and threatened the large states that if they did not concede on the issue of representation, the small states might leave the union and ally themselves with foreign nations.

As tensions mounted, civility deteriorated, and the prospect of dissolving the Convention became a distinct possibility, prompting George Washington to write that “I almost despair of seeing a favorable issue to the proceedings of the Convention,” three things intervened that helped bring the Convention back from the brink.

First, a group of delegates from both large and small states, north and south, urged the Convention to transition from interminable philosophic debate to a posture of negotiation and compromise. Progress could only be made, not by further attempts to persuade others of rival first principles, but by a partial sacrifice, however grudging, of fully realizing one’s own principles and interests. Oliver Ellsworth of Connecticut said that “if no compromise should take place, our meeting would not only be in vain but worse than in vain... He was not in general a half-way man, yet he preferred doing half the good we could, rather than do nothing at all. The other half may be added, when the necessity shall be more fully experienced.” William Davie of North Carolina observed that “in general there were extremes on both sides. We were partly federal, partly national in our Union, and he did not see why the Gov. might not in some respects operate on the States, in others on the people.” And Benjamin Franklin, in many respects the delegate most adept at lowering the temperature of the proceedings, and who in his Autobiography urged his readers to “avoid extreams,” offered a characteristically homespun analogy. “When a broad table is to be made, and the edges of planks do not fit, the artist takes a little from both, and makes a good joint. In like manner here both sides must part with some of their demands, in order that they may join in some accommodating proposition.”

Second, getting the rough edges of the planks to fit together fell to a small committee appointed to hash out the thorny issue of representation and come up with a deal. For the delegates who advocated giving this responsibility to a committee, there was a sense that smaller might just be better. Hugh Williamson of North Carolina, who said that “If we do not concede on both sides, our business must soon be at an end,” thought that “as the Committee would be a smaller body, a compromise would be pursued with more coolness.” Out of the spotlight of the Assembly room where grandstanding and contestation had proved too irresistible a temptation for some, and in the more comfortable and convivial settings of Benjamin Franklin’s home, the nine delegates could quietly cobble together a compromise.

And third, key to the success of the committee was the critical mass of known moderates among its members. While the names of James Madison, Alexander Hamilton, and James Wilson echo down through history as some of the principal movers and shakers behind the scenes of the Convention, it was not these heavyweight figures, but actually the more unheralded ones like Abraham Baldwin, William Davie, and Oliver Ellsworth whose ability to compromise as members of the committee made them the indispensable men of that particular constitutional moment.

By September 17, 1787, the delegates had themselves enough votes to propose a new Constitution. But as with any difficult and important compromise, few were completely satisfied with the final product. Even in the Federalist Papers, Madison and Hamilton both conceded that the final product fell somewhere short of the ideal. Madison ruefully observed in Federalist 62 that several parts of the new Constitution could not be tested by theory because, “it is superfluous to try, by the standard of theory, a part of the Constitution which is allowed on all hands to be the result, not of theory, but ‘of a spirit of amity, and that mutual deference and concession which the peculiarity of our political situation rendered indispensable.’” And Hamilton wrote in Federalist 85, his final paper in their series, that “The compacts which are to embrace thirteen distinct States in a common bond of amity and union, must as necessarily be a compromise of as many dissimilar interests and inclinations. How can perfection spring from such materials?”

It was that negative capacity of many of the delegates, in the end, to accept an incomplete victory, to lower the temperature of debate by moving beyond an interminable clash of first principles towards quieter, responsible compromise, and to empower a critical mass of lesser known moderates to do “half the good we could rather than do nothing at all,” that proved decisive in generating the proposed Constitution. As it was in 1787, so it was also in 1824, when Thomas Jefferson, just two years away from his passing, would provide this lovely coda on the importance of compromise to the kind of democratic government the Constitution had brought forth: “A government held together by the bands of reason only, requires much compromise of opinion; that things even salutary should not be crammed down the throats of dissenting brethren, especially when they may be put into a form to be willingly swallowed, and that a great deal of indulgence is necessary to strengthen habits of harmony and fraternity.” As we reflect upon what “We the People” accomplished now 225 years ago, it may be helpful to consider that before the delegates could “ordain and establish” a new government born in reflection and choice, they first had to “avoid extreams,” encourage “habits of harmony and fraternity,” and find ways to compromise.