

## Chapter 1 : Introduction to the Constitutional Convention | Teaching American History

*The National Constitution Center in historic Philadelphia is America's most hands on history museum. Located just two blocks from the Liberty Bell and Independence Hall, it is the only museum devoted to the U.S. Constitution and the story of we, the people.*

What emerged was the most extensive documentation of the powers of government and the rights of the people that the world had ever witnessed. These state constitutions displayed a remarkable uniformity. Seven attached a prefatory Declaration of Rights, and all contained the same civil and criminal rights. New York incorporated the entire Declaration of Independence into its constitution. The primary purpose of these declarations and bills was to outline the objectives of government: All accepted the notion that the legislative branch should be preeminent, but, at the very same time, endorsed the concept that the liberty of the people was in danger from the corruption of the representatives. And this despite the fact that the representatives were installed by the election of the people. Thus, each state constitution embraced the notion of short terms of office for elected representatives along with recall, rotation, and term limits. The Second Continental Congress also created the first continental-wide system of governance. The Articles of Confederation created a nation of pre-existing states rather than a government over individuals. Thus, the very idea of a Bill of Rights was irrelevant because the Articles did not entail a government over individuals. Amendments required the unanimous approval of all thirteen state legislatures. These two directives produced two opposite and rival situations: Several statesmen, especially George Washington, were concerned that the idea of an American mind that had emerged during the war with Britain was about to disappear and the Articles of Confederation were inadequate to foster the development of an American character. And there was nothing that the union government could do about it because the Articles left matters of religion and commerce to the states. The solution, concluded Madison, was to create an extended republic, in which a variety of opinions, passions, and interests would check and balance each other, supported by a governmental framework that endorsed a separation of powers between the branches of the general government. Matters changed, however, in 1787. The people have the right to choose the form of government under which they shall live and to install such government as they deem appropriate to secure their liberty, security, and happiness. The Selection of the Delegates Madison and Washington agreed that the principles of the Revolution were in danger due to a weak continental arrangement and overbearing, unjust, and reckless state legislatures. But how could they take advantage of the opportunity provided by the Annapolis recommendation? How was such a bold proposal to be put into effect? Madison persuaded the Virginia Legislature to implement the challenge of the Annapolis Convention and invite all the other states to also reconsider the status of the Articles. Pennsylvania selected eight delegates: Thomas Mifflin was elected as the leader of the delegation; he was speaker of the Pennsylvania Assembly. All the delegates from Pennsylvania resided in Philadelphia. Former Governor Alexander Martin was chosen to lead the North Carolina delegation, but left before the signing. In he was killed in a duel. Howard Christy gives this central signing honors in his commemoration of the Constitution. Jacob Broom and Richard Bassett. Other states, however, were more cautious and wanted the existing Congress to address the legitimacy of such a gathering. The recommendatory act of Congress reads thus: New York was the first state to act after the Congressional endorsement. The New York delegation was not particularly prominent at the Convention. Yates and Lansing left in early July, just prior to the passage of the Connecticut Compromise, and the year-old Hamilton, who lost his life at age 49 in a duel with Aaron Burr, was far more influential in securing the adoption of the Constitution in than in its framing in 1787. Four days before the Convention began, Connecticut elected three delegates: William Samuel Johnson, who learned of his appointment to the Presidency of Columbia College on his way to Philadelphia, Roger Sherman, who signed both the Declaration and the Articles, and year-old Oliver Ellsworth who had the reputation of talking to himself and being a chain chewer of snuff. He was joined by year-old bachelor, Daniel of St. New Hampshire was short of cash so John Langdon funded the expenses for himself and Nicholas Gilman; they arrived at the Convention on July 23, after the main debate over the Connecticut Compromise was completed and yet just in

time for a one-week recess. Rhode Island, the thirteenth state, declined to send delegates. Alexis de Tocqueville marveled at the work of the American Founders: Madison , in Federalist 37, indicates the uniqueness of the Founding: And Hamilton , in Federalist 1, suggested that this was a unique event in the history of the world; finally government was going to be established by reflection and choice rather than force and fraud. And what is also unique is the fact that the framers were relatively young , well educated , and politically experienced. Like the Declaration of Independence , the Constitution was written by delegates immersed in 1 the writings of Aristotle, Cicero, Locke, and Montesquieu, and 2 a world of political experience at both the state and continental level. Both basic documents were written in Independence Hall , Philadelphia, and thirty signers of the Declaration in played a vital part in the creation and adoption of the Constitution , How to Read the Convention Very few of the delegates selected were present at the appointed time for the meeting of the Grand Convention in Philadelphia on May 14, All the Virginia delegates were present, however, and fully settled into their accommodations. During this waiting period, the Virginia delegates caucused with each other in an attempt to set the tone for the deliberations of the Convention and paid courtesy calls on prominent members of Philadelphia society. Some entered a Catholic church for the first time. On May 25 , a quorum of seven states was secured. The first order of business was to elect a President, and George Washington was the obvious choice. William Jackson , yet another immigrant at the Convention, was elected Secretary of the Convention and he recorded the propositions and amendments as well as the vote tabulation. James Madison took extensive Notes of the proceedings and although some scholars have questioned their authenticity and completeness, they remain the primary source for reproducing the conversations at the Convention. Other delegates kept specific notes on certain days, there are letters back home to friends and loved ones, there are urgent bills sent for immediate payment that augment, and there are personal diaries, some more complete than others. The delegates also agreed that the deliberations would be kept secret. The case in favor of secrecy was that the issues at hand were so important that honest discourse needed to be encouraged and delegates ought to feel free to speak their mind, and change their mind, as they saw fit. The merits and demerits of the secrecy rule have been a subject of considerable debate throughout American history. Under the wholly federal Articles of Confederation , only the states are represented and the central government was restrained to the exercise of expressly delegated powers. And under the state republican constitutions, the governor had very little authority, and the elected representatives were kept under close scrutiny. This wholly national republican plan is debated, and amended, over the next two weeks , and the main features are adopted by the delegates in mid June over two alternatives: Hamilton , among other things, envisioned a President for life. Act Two portrays the Convention in crisis, in the sense that the delegates were at a stalemate. Far from the wholly national republican Virginia Plan being accepted, as we might very well anticipate when the curtain fell at the end of Act One, the delegates from Connecticut, New Jersey, Delaware, New York, and Mr. They argued that the Convention had exceeded the Congressional mandate because the Articles had in fact been scrapped rather than revised. Thus the Convention had violated the rule of law. These delegates knew their Locke and Montesquieu and they relied on their own political experience which was remarkably extensive: A breakthrough occurs at the end of June when Oliver Ellsworth of Connecticut suggests that we are neither wholly national nor wholly federal but a mixture of both. Several delegates echo this theme and the Convention decides to move beyond the exclusively national or federal paradigms. The Gerry Committee is created to explore the ramifications of this suggestion that the people be represented in the House and the states be represented in the Senate. Act Three focuses on the debates during August over the Committee of Detail Report, especially concerning the itemization of Congressional powers. With the Connecticut Compromise in place, the delegates turned from the question of structure to the question of national and state powers. Under the Virginia Plan, Congress was empowered to do anything the States were incompetent to do. By July, that was no longer acceptable to the delegates. Another issue that emerged in Act Three is the slavery question. This is a vital question and deserves special coverage. The former forbids Congress from ever regulating the slave trade and prohibits Congress from discouraging the trade by means of a tax or tariff. By contrast the final Constitution, limits the prohibition on Congress until and permits Congress to discourage the slave trade. In March, , President Jefferson signed into law an Act of Congress prohibiting

the slave trade effective January 1, 1808, and during the 1800s Congress took specific steps to discourage the importation of Africans for the purpose of being sold into slavery. Despite all the progress that had been made on the structural role of the states and enumerating the powers of Congress, there was much work still to be done on the Presidency. The Brearley Committee came up with the idea of an Electoral College as a sensible compromise to the long and largely fruitless debates on how to elect the President. It had been clear for four months that until the mode of election was settled, no progress could be made on 1 length of term, 2 the issue of re-eligibility, and 3 the powers of the President. The Electoral College was modeled on the Connecticut Compromise: The Committee of Style wrote the final draft of the Constitution. It included a Preamble and an obligation of contracts clause, both written by Gouverneur Morris, and an enumeration of the powers of Congress in Article I, Section 8. During the last week of the Convention the delegates added a few refinements, raised some serious concerns, and discussed what they agreed to over the four months of deliberations. And the delegates wondered whether or not the power to create a national university was implied within the meaning of the necessary and proper clause. On the last day of the Convention, September 17, Benjamin Franklin looked at the chair occupied by Washington and declared the sun enshrined on the chair to be a rising sun. Many delegates over the four months of deliberation often thought that it was a setting sun.

**Chapter 2 : Constitution Through Compromise [www.nxgvision.com]**

*The Commerce Compromise refers to a compromise between the Northern and Southern States during the Constitutional Convention as to how the federal government could regulate commerce, according to.*

The Constitutional Convention of The Issues: Why was the Convention called? Did it do what it was expected to do? Who were the major players at the Convention? What were the key compromises that were made in Philadelphia? Introduction By , Americans recognized that the Articles of Confederation, the foundation document for the new United States adopted in , had to be substantially modified. The Articles gave Congress virtually no power to regulate domestic affairs--no power to tax, no power to regulate commerce. Without coercive power, Congress had to depend on financial contributions from the states, and they often time turned down requests. Congress had neither the money to pay soldiers for their service in the Revolutionary War or to repay foreign loans granted to support the war effort. In , the United States was bankrupt. Moreover, the young nation faced many other challenges and threats. States engaged in an endless war of economic discrimination against commerce from other states. Southern states battled northern states for economic advantage. The country was ill-equipped to fight a war--and other nations wondered whether treaties with the United States were worth the paper they were written on. On top of all else, Americans suffered from injured pride, as European nations dismissed the United States as "a third-rate republic. In Rhode Island called by elites "Rogue Island" , a state legislature dominated by the debtor class passed legislation essentially forgiving all debts as it considered a measure that would redistribute property every thirteen years. The final straw for many came in western Massachusetts where angry farmers, led by Daniel Shays, took up arms and engaged in active rebellion in an effort to gain debt relief. Troubles with the existing Confederation of States finally convinced the Continental Congress, in February , to call for a convention of delegates to meet in May in Philadelphia "to devise such further provisions as shall appear to them necessary to render the constitution of the Federal Government adequate to the exigencies of the Union. Few people claim to be anti-liberty, but the word "liberty" has many meanings. Should the delegates be most concerned with protected liberty of conscience, liberty of contract meaning, for many at the time, the right of creditors to collect debts owed under their contracts , or the liberty to hold property debtors complained that this liberty was being taken by banks and other creditors? Convention in Philadelphia The room in Independence Hall formerly the State House in Philadelphia where debates over the proposed Constitution took place photo by Doug Linder On May 25, , a week later than scheduled, delegates from the various states met in the Pennsylvania State House in Philadelphia. Among the first orders of business was electing George Washington president of the Convention and establishing the rules--including complete secrecy concerning its deliberations--that would guide the proceedings. Several delegates, most notably James Madison, took extensive notes, but these were not published until decades later. The main business of the Convention began four days later when Governor Edmund Randolph of Virginia presented and defended a plan for new structure of government called the "Virginia Plan" that had been chiefly drafted by fellow Virginia delegate, James Madison. The Virginia Plan called for a strong national government with both branches of the legislative branch apportioned by population. The plan gave the national government the power to legislate "in all cases in which the separate States are incompetent" and even gave a proposed national Council of Revision a veto power over state legislatures. Delegates from smaller states, and states less sympathetic to broad federal powers, opposed many of the provisions in the Virginia Plan. Charles Pinckney of South Carolina asked whether proponents of the plan "meant to abolish the State Governments altogether. The New Jersey Plan kept federal powers rather limited and created no new Congress. Instead, the plan enlarged some of the powers then held by the Continental Congress. Paterson made plain the adamant opposition of delegates from many of the smaller states to any new plan that would deprive them of equal voting power "equal suffrage" in the legislative branch. Over the course of the next three months, delegates worked out a series of compromises between the competing plans. Most importantly, perhaps, delegates compromised on the thorny issue of apportioning members of Congress, an issue that had bitterly divided the larger and smaller states. Under a plan put forward

by delegate Roger Sherman of Connecticut "the Connecticut Compromise" , representation in the House of Representatives would be based on population while each state would be guaranteed an equal two senators in the new Senate. By September, the final compromises were made, the final clauses polished, and it came time to vote. In the Convention, each state--regardless of its number of delegates-- had one vote, so a state evenly split could not register a vote for adoption. In the end, thirty-nine of the fifty-five delegates supported adoption of the new Constitution, barely enough to win support from each of the twelve attending state delegations. Rhode Island, which had opposed the Convention, sent no delegation. Following a signing ceremony on September 17, most of the delegates repaired to the City Tavern on Second Street near Walnut where, according to George Washington, they "dined together and took cordial leave of each other.

**Chapter 3 : The Constitutional Convention of in Philadelphia**

*The signing of the U.S. Constitution in the State House in Philadelphia. MPI/Archive Photos / Getty Images The Articles of Confederation under which the United States operated from to provided that each state would be represented by one vote in Congress.*

Text and pairing[ edit ] Article I, Section 8, Clause 3: Raich , U. For the first century of our history, the primary use of the Clause was to preclude the kind of discriminatory state legislation that had once been permissible. Then, in response to rapid industrial development and an increasingly interdependent national economy, Congress "ushered in a new era of federal regulation under the commerce power," beginning with the enactment of the Interstate Commerce Act in and the Sherman Antitrust Act in The Commerce Clause represents one of the most fundamental powers delegated to the Congress by the founders. The outer limits of the Interstate Commerce Clause power have been the subject of long, intense political controversy. Interpretation of the sixteen words of the Commerce Clause has helped define the balance of power between the federal government and the states and the balance of power between the two elected branches of the federal government and the Judiciary. As such, it directly affects the lives of American citizens. Significance " federal rights in navigable waters[ edit ] The commerce clause provides comprehensive powers to the United States over navigable waters. These powers are critical to understanding the rights of landowners adjoining or exercising what would otherwise be riparian rights under the common law. The Commerce Clause confers a unique position upon the Government in connection with navigable waters. For this purpose they are the public property of the nation, and subject to all the requisite legislation by Congress. The Rands decision continues: Niagara Mohawk Power Corp. The proper exercise of this power is not an invasion of any private property rights in the stream or the lands underlying it, for the damage sustained does not result from taking property from riparian owners within the meaning of the Fifth Amendment but from the lawful exercise of a power to which the interests of riparian owners have always been subject. United States, U. Thus, without being constitutionally obligated to pay compensation, the United States may change the course of a navigable stream, South Carolina v. Other scholars, such as Robert H. Bork and Daniel E. Troy, argue that prior to , the Commerce Clause was rarely invoked by Congress, and thus a broad interpretation of the word "commerce" was clearly never intended by the Founders. In support of this claim, they argue that the word "commerce", as used in the Constitutional Convention and the Federalist Papers , can be substituted with either "trade" or "exchange" interchangeably while preserving the meaning of the statements. Ogden that the power to regulate interstate commerce also included the power to regulate interstate navigation: It would be a very useless power if it could not pass those lines. The wisdom and the discretion of Congress, their identity with the people, and the influence which their constituents possess at elections, are, in this, as in many other instances, as that, for example, of declaring war, the sole restraints on which they have relied, to secure them from its abuse. They are the restraints on which the people must often rely solely, in all representative governments Thus, Ogden contended, Congress could not invalidate his monopoly as long as he only transported passengers within New York. The Supreme Court, however, found that Congress could invalidate his monopoly since it was operational on an interstate channel of navigation. In its decision, the Court assumed interstate commerce required movement of the subject of regulation across state borders. The decision contains the following principles, some of which have since been altered by subsequent decisions: Commerce is "intercourse, all its branches, and is regulated by prescribing rules for carrying on that intercourse. Comprehensive as the word "among" is, it may very properly be restricted to that commerce which concerns more states than one. Georgia , 30 U. The Court provided a definition of Indian tribe that clearly made the rights of tribes far inferior to those of foreign states. In part the court said: Though the Indians are acknowledged to have an unquestionable, and, heretofore, unquestioned right to the lands they occupy, until that right shall be extinguished by a voluntary cession to our government; yet it may well be doubted whether those tribes which reside within the acknowledged boundaries of the United States can, with strict accuracy, be denominated foreign nations. They may, more correctly be denominated domestic dependent nations. They occupy a territory to which we assert a

title independent of their will, which must take effect in point of possession when their right of possession ceases. Meanwhile, they are in a state of pupillage. Their relation to the United States resembles that of a ward to his guardian. Dormant Commerce Clause jurisprudence[ edit ] Main article: Lopez , U. In this context, the Court took a formalistic approach, which distinguished between services and commerce, manufacturing and commerce, direct and indirect effects on commerce, and local and national activities. See concurring opinion of Justice Kennedy in *United States v. While*. While Congress had the power to regulate commerce, it could not regulate manufacturing, which was seen as being entirely local. *Pearson* , U. Similar decisions were issued with regard to agriculture, mining, oil production, and generation of electricity. *United States* , U. Wallace upheld a federal law the Packers and Stockyards Act regulating the Chicago meatpacking industry, because the industry was part of the interstate commerce of beef from ranchers to dinner tables. The stockyards "are but a throat through which the current [of commerce] flows," Chief Justice Taft wrote, referring to the stockyards as "great national public utilities. In *Federal Baseball Club v. National League* , U. *New York Yankees and Flood v. Kuhn* , the court excluded nonproduction-related services, such as live entertainment, from the definition of commerce: That to which it is incident, the exhibition, although made for money, would not be called trade of commerce in the commonly accepted use of those words. As it is put by defendant, personal effort not related to production is not a subject of commerce. Again in , in *Carter v. After* winning re-election in , Roosevelt proposed the Judicial Procedures Reform Bill , wherein the President could appoint an additional Justice for each sitting Justice over age Given the age of the current Justices, this allowed a Supreme Court size of up to 15 Justices. Roosevelt claimed that this was intended to lessen the load on the older Justices, rather than being an attempt to achieve a majority that would cease to strike his New Deal acts. Ultimately, there was widespread opposition to this "court packing" plan and in the end Roosevelt abandoned it. However, in what became known as " the switch in time that saved nine ", shortly after the "court packing" plan was proposed, Justice Owen Roberts joined the majority opinion in *West Coast Hotel Co.* The majority narrowly upheld a Washington state minimum wage law, abandoning prior jurisprudence, ending the *Lochner* era. This essentially marked the beginning of the end of Supreme Court opposition to the New Deal, obviating the political need for the "court packing" scheme as well. In *United States v.* The Court stated that the Tenth Amendment "is but a truism" and was not considered to be an independent limitation on Congressional power. The commerce power is not confined in its exercise to the regulation of commerce among the states. It extends to those activities intrastate which so affect interstate commerce, or the exertion of the power of Congress over it, as to make regulation of them appropriate means to the attainment of a legitimate end, the effective execution of the granted power to regulate interstate commerce. The power of Congress over interstate commerce is plenary and complete in itself, may be exercised to its utmost extent, and acknowledges no limitations other than are prescribed in the Constitution. It follows that no form of state activity can constitutionally thwart the regulatory power granted by the commerce clause to Congress. Hence, the reach of that power extends to those intrastate activities which in a substantial way interfere with or obstruct the exercise of the granted power. *Filburn* the Court upheld the Agricultural Adjustment Act of , which sought to stabilize wide fluctuations in the market price for wheat. The Court cited its recent *Wrightwood* decision and decided that "[w]hether the subject of the regulation in question was "production," "consumption," or "marketing" is, therefore, not material for purposes of deciding the question of federal power before us. Such conflicts rarely lend themselves to judicial determination. And with the wisdom, workability, or fairness, of the plan of regulation, we have nothing to do. *Lopez* decision, after nearly 60 years of leaving any restraint on the use of the Commerce Clause to political means only, that the Court again ruled that a regulation enacted under the Clause was unconstitutional. Civil rights[ edit ] The wide interpretation of the scope of the Commerce Clause continued following the passing of the Civil Rights Act of , which aimed to prevent business from discriminating against black customers. *Heart of Atlanta Motel v. Paul* , U. Another view is that the Court was compelled to define limits to address Congressional legislation which sought to use the Interstate Commerce Clause power in new and unprecedented ways. *Lopez* , the Court confronted the conviction of a 12th Grade student for carrying a concealed handgun into school in violation of the Gun-Free School Zones Act of , 18 U. The Gun-Free School Zones Act made it a federal offense for any individual

knowingly to possess a firearm at a place that individual knows or has reasonable cause to believe is a school zone. The legislation posed several challenging problems for Commerce Clause jurisprudence. Education is a traditionally local government activity, and while education undoubtedly has an economic aspect, the nexus between regulating gun violence and the Commerce Clause power to regulate interstate commerce seems particularly strained. *Filburn* , the Court ruled Congress was exercising its Commerce Clause power to regulate local economic activity in ways that the States were powerless to regulate, because only the federal government could effectively control the national wheat supply. The Court reasoned that if *Wickard* could be applied to acts of gun violence, simply because crime impaired education, Congress might conclude that crime in schools substantially affects commerce, and may be regulated. Under this logic, all police power could be nationalized and local police and criminal courts eliminated on the theory that all crime affects commerce. As the majority explained: Section q is a criminal statute that by its terms has nothing to do with "commerce" or any sort of economic enterprise, however broadly one might define those terms. Section q is not an essential part of a larger regulation of economic activity, in which the regulatory scheme could be undercut unless the intrastate activity were regulated. It cannot, therefore, be sustained under our cases upholding regulations of activities that arise out of or are connected with a commercial transaction, which viewed in the aggregate, substantially affects interstate commerce. The opinion pointed out that prior decisions had identified three broad categories of activity that Congress may regulate under its commerce power. Justice Clarence Thomas , in a separate concurring opinion, argued that allowing Congress to regulate intrastate, noncommercial activity under the Commerce Clause would confer on Congress a general "police power" over the entire nation. The *Lopez* decision was clarified in *United States v. Morrison* , U. The VAWA created civil liability for the commission of a gender-based violent crime, but without any jurisdictional requirement of a connection to Interstate Commerce or commercial activity. Once again, the Court was presented with a Congressional attempt to criminalize traditional local criminal conduct. As in *Lopez*, it could not be argued that State regulation alone would be ineffective to protect the aggregate effects of local violence. The Court explained that in both *Lopez* and *Morrison* "the noneconomic, criminal nature of the conduct at issue was central to our decision. In both cases, Congress criminalized activity that was not commercial in nature without including a jurisdictional element establishing the necessary connection between the criminalized activity and Interstate Commerce.

**Chapter 4 : Philadelphia Board of Trade records**

*Though the word "slavery" does not appear in the Constitution, the issue was central to the debates over commerce and [www.nxgvision.com](http://www.nxgvision.com) "Three-Fifths Compromise" provided that three-fifths (60%) of enslaved people in each state would count toward congressional representation, increasing the number of Southern seats.*

James Madison and others met with George Washington at Mount Vernon in , to discuss commercial issues relating to Virginia and Maryland. One recommendation from that meeting was to convene a group of delegates from the states to discuss alterations of the Articles. Two ground rules would govern the convention proceedings. First, all deliberations were to be kept secret. Second, no issue was to be regarded as closed and could be revisited for debate at any time. It opened eleven days later than planned because of the slow arrival of some delegates. All of the states were represented except for Rhode Island , which declined to attend. Washington, noted for his patience and fairness, was selected as the presiding officer. In all, 55 delegates attended. Though often regarded as great sages by later generations, the delegates were largely lawyers, merchants, and planters who represented their personal and regional interests. What was remarkable, however, was the degree to which the delegates managed to subordinate those interests at crucial times in order to reach a series of compromises. Many were experienced in colonial and state government, and others had records of service in the army and in the courts. Eight had signed the Declaration of Independence and 17 were slave owners. The stated goal of the Convention "the revision of the Articles of Confederation" was quickly discarded, and attention given to more sweeping changes. Discussion turned instead to two competing concepts of how a new government should be formed, the Virginia Plan and the New Jersey Plan. The Virginia Plan was favored by the big states. It envisioned a bicameral legislature with both houses having membership proportional to population. The New Jersey plan was favored by the small states. The impasse was resolved by the Connecticut Compromise , which split the difference. The upper house Senate would have equal representation from each state. The lower house House of Representatives would allocate membership in proportion to population. Although not present in Philadelphia, Thomas Jefferson kept abreast of developments from his post in Paris and corresponded regularly with acquaintances in Congress and at the convention. One of the points he strove to make was the need for an independent executive, to attend to the details that the Congress was incapable of handling. The delegates considered whether the legislature should be elected directly by the people or by the state legislatures. The usual arguments against allowing too great an influence from an unsophisticated electorate were met by George Mason , who observed that legislatures were subject to improper pressures, and Madison, who argued that at least one of the two bodies should be elected directly. This became the compromise position. In determining the population which, in turn, would determine the number of members each state would have in the House of Representatives, the question of slaves was considered. No one suggested that slaves should vote, and the free states argued that they should not be counted at all. The slaveholding states, on the other hand, felt that free and slave should all be counted. The final compromise was the make the House depend on the free population plus three fifths of the slaves. At one point, Elbridge Gerry of Massachusetts observed to the delegates that if they admitted too many Western states, they would eventually "oppress our commerce and drain out wealth into the Western country. In response, Sherman retorted that there was no probability that the new Western states would ever outnumber the original thirteen. The finished Constitution has been referred to as a "bundle of compromises. The Framers of the Constitution had gone far beyond revising the Articles of Confederation. By conferring extensive new powers, the Convention gave the federal government full power to levy taxes, borrow money, establish uniform duties and excise taxes, coin money, fix weights and measures, grant patents and copyrights, set up post offices, and build post roads. The national government also had the power to raise and maintain an army and navy and to regulate interstate commerce. It was given the management of Indian affairs, foreign policy and war. It could pass laws for naturalizing foreigners and controlling public lands, and it could admit new states on a basis of absolute equality with the old. The power to pass all necessary and proper laws for executing these clearly defined powers, enabled the federal government to meet the needs of later generations

and of a greatly expanded body politic. On the final day, Benjamin Franklin acknowledged that there were parts of the proposed constitution that were not to his liking, but also noted that he had been obliged at times in his life to change what he had considered to be a settled opinion. He urged all the delegates to lay aside any reservations they felt and sign the document with him. At the end of three and a half months, 38 of the 55 delegates signed the document and adjourned to the City Tavern for libations and a final dinner. The Constitution was conveyed to the Congress, which, in turn, decided to pass the matter along to the states for ratification.

**Chapter 5 : The Constitutional Convention**

*To address the problems of interstate trade barriers and the ability to enter into trade agreements, it included the Commerce Clause, which grants Congress the power "to regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes."*

In May, 55 delegates came to Philadelphia, and the Constitutional Convention began. Debates erupted over representation in Congress, over slavery, and over the new executive branch. The debates continued through four hot and muggy months. But eventually the delegates reached compromises, and on September 17, they produced the U. Constitution, replacing the Articles with the governing document that has functioned effectively for more than years. In in the midst of the Revolutionary War, the 13 states had agreed to establish a new central government under the Articles of Confederation and Perpetual Union. The Articles created a confederation of states: No other branch of government existed: And the Congress had no power to regulate trade or to levy and collect taxes. By , debts from the Revolutionary War were piling up, and many states had fallen behind in paying what they owed. States were imposing tariffs on each other and fighting over borders. Britain was angry because pre-war debts were not being paid, and it was refusing to honor the treaty that had ended the war the Paris Treaty of George Washington was elected the presiding officer. And without the careful notes taken by James Madison, who attended every session and carefully transcribed the proceedings, today we would know little about how the Constitution came into being. Before the convention officially began, Madison and the other delegates from Virginia had drafted a plan—the Virginia Plan—for correcting the Articles of Confederation. Their plan went well beyond amendments and corrections and actually laid out a completely new instrument of government. The plan provided for three separate branches of government: The legislative branch would have two houses, with the first house to be elected by the people of each state, and the second by the first house from a list created by the state legislatures. Representation in Congress The general outline of the Virginia plan was well received. But the question arose over how to elect the members of the two houses of Congress. For half the summer, the convention debated this issue. Some delegates strongly opposed having the people elect the lower house. Roger Sherman of Connecticut distrusted the notion of democracy. Should all the states have the same number of votes as they did under the Articles of Confederation where each state had one vote? This issue blocked the proceedings for many weeks. David Brearley of New Jersey said that representation based on population was unfair and unjust. Some delegates began to leave in protest, and a sense of gloom settled over the statehouse. Intense debates lasted for two more weeks. Finally, the delegates came together and on July 16 agreed to the Connecticut compromise. Representation in the lower house would be chosen by the people. Each state would have one representative for every 40, inhabitants later changed to one for every 30, Also each state would have at least one representative even if it did not have 40, inhabitants. Each state would have two members in the Senate, chosen by the state legislature. The small states were jubilant, and the large states uncomfortable. But from then on, things moved more smoothly. Giving Power to the President After arriving at a compromise on electing the legislature, the convention addressed the other parts of the Virginia Plan. The plan called for a national executive but did not say how long the executive should serve. Sherman was against enabling any one man to stop the will of the whole. No man could be found so far above all the rest in wisdom. They came to a quick decision that the executive should have the power to veto legislation subject to a two-thirds override in both houses of the legislature. But they could not easily agree on how the executive should be elected. Delegates proposed many different methods for electing the president. One alternative was direct election by the people, but this drew controversy. Some delegates did not trust the judgment of the common man. Others thought it was simply impractical in a country with many rural communities spread out over a huge area. George Mason of Virginia said: The extent of the Country renders it impossible that the people can have the requisite capacity to judge of the respective pretensions of the Candidates. Another alternative was to have the president chosen, either by the national or state legislatures. Delegates voted more than 60 times before the method was chosen. The person with the most votes would become president. Two more questions about the

president also provoked intense debate: And should limits be placed on the number of terms the president could serve? Underlying this debate was a fear of a monarchy, or of a despot, taking over the country. The convention finally decided on a four-year term, with no limit on how many times the president could be re-elected. Stopping the Slave Trade A deep disagreement arose over slavery. The economy of many of the Southern states depended almost entirely on agricultural products produced by slaves. To protect their economy, the Southern states insisted on two proposals. One was to ban Congress from taxing exports to protect their agricultural exports. The second proposal was to forbid Congress from banning the importation of slaves. Opponents of the ban on exports objected on economic grounds. They worked out a compromise with the Southern states. They agreed that Congress could not tax exports and that no law could be passed to ban the slave trade until And in a final concession to the South, the delegates approved a fugitive slave clause. Why No Bill of Rights? The delegates had been meeting for almost four months when the Committee of Style presented a final draft of the Constitution on September The draft contained a new provision, requiring trial by jury in criminal cases tried in the new federal court system. Trial by jury was considered one of many basic rights, and George Mason stood up and proposed including a full bill of rights, listing the basic individual rights that the government could not violate. Eldridge Gerry agreed and moved for a committee to prepare a bill of rights. Mason seconded his motion, but it was defeated, by a vote of 10 to 0. Each state had one vote, and only 10 states were represented for that vote. It is not clear why the motion failed. Eight states already had constitutions that included a bill of rights, so one might have been drafted quickly. When the Constitution was being ratified by the states, many people opposed the Constitution just because it did not contain a bill of rights. In Massachusetts, and in six other states, the ratifying conventions recommended adding a bill of rights to the Constitution. And soon after the first Congress convened in, it responded to the request of the seven states and approved 10 constitutional amendments drafted by James Madison that became the Bill of Rights. In fact, it provoked controversy in many states. But by July , nine states had ratified it, and it went into effect. Elections were held, and on March 4, , the first Congress and president, George Washington, took office under the new U. Compromises had been necessary at every point, and in some cases produced unforeseen results. But the Constitution succeeded beyond even the hopes of its strongest advocates. As Benjamin Rush wrote, after a celebration in Philadelphia: We have become a nation. What were the Articles of Confederation? What problems did the Articles have? Why do you think the delegates voted to keep their discussions secret? Do you think they should have? What was the Virginia Plan? How did it differ from the Articles of Confederation? What were the major debates over the Constitution? What compromises were reached in each? If you had been a delegate, would you have agreed to each of these compromises? One of the major compromises in the Constitutional Convention was between the small states and big states. The small states wanted each state to have the same number of representatives in Congress. The big states wanted representation based on population. The compromise was to have one house of Congress the House of Representatives base its representation on population with each state having at least one representative and for each state to have two senators in other house the Senate regardless of population. This compromise has worked for more than years. But critics claim that the Senate is undemocratic because it gives each state two senators regardless of population. Imagine that your group is a commission asked to make recommendations on the Senate. Discuss what the advantages are to having the Senate as it is.

**Chapter 6 : The Commerce Clause - The Commerce Clause**

*Commerce clause, provision of the U.S. Constitution (Article I, Section 8) that authorizes Congress "to regulate Commerce with foreign Nations, and among the several States, and with Indian Tribes."*

Historical context[ edit ] Before the Constitution was drafted, the nearly 4 million inhabitants [4] of the 13 newly independent states were governed under the Articles of Confederation and Perpetual Union , created by the Second Continental Congress , first proposed in , adopted by the Second Continental Congress in and only finally unanimously ratified by the Original Thirteen States by It soon became evident to nearly all that the chronically underfunded Confederation government, as originally organized, was inadequate for managing the various conflicts that arose among the states. James Madison suggested that state governments should appoint commissioners "to take into consideration the trade of the United States; to examine the relative situation and trade of said states; to consider how far a uniform system in their commercial regulations may be necessary to their common interests and permanent harmony". A political conflict between Boston merchants and rural farmers over issues including tax debts had broken out into an open rebellion. This rebellion was led by a former Revolutionary War captain, Daniel Shays , a small farmer with tax debts, who had never received payment for his service in the Continental Army. The rebellion took months for Massachusetts to put down completely, and some desired a federal army that would be able to put down such insurrections. In September , at the Annapolis Convention , delegates from five states called for a Constitutional Convention in order to discuss possible improvements to the Articles of Confederation. Rhode Island, fearing that the Convention would work to its disadvantage, boycotted the Convention and, when the Constitution was put to the states during the next year of controversial debates, initially refused to ratify it, waiting until May to become the thirteenth, a year after the new federal government commenced. New Hampshire delegates would not join the Convention until more than halfway through the proceedings, on July While waiting for the other delegates, the Virginia delegation produced the Virginia Plan , which was designed and written by James Madison. On May 25, the delegations convened in the Pennsylvania State House. George Washington was unanimously elected president of the Convention, [13] and it was agreed that the discussions and votes would be kept secret until the conclusion of the meeting. Most commonly, they referred to the history of England , in particular the Glorious Revolution often simply called "The Revolution" , classical history mainly the Roman Republic and the leagues of Greek city-states , and recent precedents from Holland and Germany. Outside the Convention in Philadelphia, there was a national convening of the Society of the Cincinnati. Washington was said to be embarrassed. The "old republican" delegates like Elbridge Gerry MA found anything military or hereditary anathema. The Presbyterian Synod of Philadelphia and New York convention was meeting to redefine its Confession, dropping the faith requirement for civil authority to prohibit false worship. Merchants of Providence, Rhode Island, petitioned for consideration, though their Assembly had not sent a delegation. He carried grants of five million acres to parcel out among The Ohio Company and "speculators", including some who were attending the Convention. Most importantly, they agreed that the Convention should go beyond its mandate merely to amend the Articles of Confederation , and instead should produce a new constitution outright. While some delegates thought this illegal, the Articles of Confederation were closer to a treaty between sovereign states than they were to a national constitution, so the genuine legal problems were limited. Once this was done, they began modifying it. During the deliberations, few raised serious objections to the planned bicameral congress, nor the separate executive function , nor the separate judicial function. The main exceptions to this were the dysfunctional Confederation Congress and the unicameral Pennsylvania legislature , which was seen as quickly vacillating between partisan extremes after each election. Since America had no native hereditary aristocracy , the character of this upper house was designed to protect the interests of this wealthy elite, the "minority of the opulent," against the interests of the lower classes, who constituted the majority of the population. An agrarian law would soon take place. If these observations be just, our government ought to secure the permanent interests of the country against innovation. Landholders ought to have a share in the government, to support these invaluable interests, and to balance and check the other. They

ought to be so constituted as to protect the minority of the opulent against the majority. The Senate, therefore, ought to be this body; and to answer these purposes, they ought to have permanency and stability. Convention delegate Elbridge Gerry of Massachusetts observed that "the great mercantile interest and of stockholders, is not provided for in any mode of election-they will however be better represented if the State legislatures choose the second branch. The delegates also agreed with Madison that the executive function had to be independent of the legislature. In their aversion to kingly power, American legislatures had created state governments where the executive was beholden to the legislature, and by the late s this was widely seen as being a source of paralysis. Furthermore, in the English tradition, judges were seen as being agents of the King and his court, who represented him throughout his realm. At the Convention, some sided with Madison that the legislature should choose judges, while others believed the president should choose judges. A compromise was eventually reached that the president should choose judges and the Senate confirm them. Few agreed with Madison that the legislature should be able to invalidate state laws, so the idea was dropped. While most thought there should be some mechanism to invalidate bad laws by congress, few agreed with Madison that a board of the executive and judges should decide on this. Instead, the power was given solely to the executive in the form of the veto. Many also thought this would be useful to protect the executive, whom many worried might become beholden to an imperial legislature. The first are the rich and well born, the other the mass of the people. The voice of the people has been said to be the voice of God; and however generally this maxim has been quoted and believed, it is not true in fact. The people are turbulent and changing; they seldom judge or determine right. Give therefore to the first class a distinct, permanent share in the government. They will check the unsteadiness of the second, and as they cannot receive any advantage by a change, they therefore will ever maintain good government. Can a democratic assembly, who annually revolve in the mass of the people, be supposed steadily to pursue the public good? Nothing but a permanent body can check the imprudence of democracy. Their turbulent and uncontroled disposition requires checks. A minority wanted it to be apportioned so that all states would have equal weight, though this was never seriously considered. Most wanted it apportioned in accordance with some mixture of property and population. Most accepted the desire among the slave states to count slaves as part of the population, although their servile status was raised as a major objection against this. The Three-Fifths Compromise assessing population by adding the number of free persons to three-fifths of "all other persons" slaves was agreed to without serious dispute. That the lower house was to be elected directly by the voters was also accepted without major dispute. Few agreed with Madison that its members should be elected by the lower house. James Wilson suggested election by popular vote versus election by state legislature, but his proposal was shot down 10â€”1 by the delegates. Local papers even said little about the meeting of the Convention. Front side of the Virginia Plan Besides the problems of direct election, the new Constitution was seen as such a radical break with the old system, by which delegates were elected to the Confederation Congress by state legislatures, that the Convention agreed to retain this method of electing senators to make the constitutional change less radical. The large states, fearing a diminution of their influence in the legislature under this plan, opposed this proposal. Unable to reach agreement, the delegates decided to leave this issue for further consideration later during the meeting. Many wished to limit the power of the executive and thus supported the proposal to divide the executive power between three persons. Another issue concerned the election of the president. Few agreed with Madison that the executive should be elected by the legislature. There was widespread concern with direct election, because information diffused so slowly in the late 18th century, and because of concerns that people would only vote for candidates from their state or region. A vocal minority wanted the national executive to be chosen by the governors of the states. At the time, before the formation of modern political parties , there was widespread concern that candidates would routinely fail to secure a majority of electors in the electoral college. The method of resolving this problem therefore was a contested issue. Most thought that the house should then choose the president, since it most closely reflected the will of the people. This caused dissension among delegates from smaller states, who realized that this would put their states at a disadvantage. To resolve this dispute, the Convention agreed that the house would elect the president if no candidate had an electoral college majority, but that each state delegation would vote as a bloc, rather than individually. In its report to

the Convention on July 5, the committee offered a compromise. The large states had opposed the Connecticut Compromise, because they felt it gave too much power to the smaller states. Stewart has called a "remarkable copy-and-paste job. As Stewart describes it, the committee "hijacked" and remade the Constitution, altering critical agreements the Convention delegates had already made, enhancing the powers of the states at the expense of the national government, and adding several far-reaching provisions that the Convention had never discussed. He argued for a federal government of limited power. The first major change, insisted on by Rutledge, was meant to sharply curtail the essentially unlimited powers to legislate "in all cases for the general interests of the Union" that the Convention only two weeks earlier had agreed to grant the Congress. Rutledge and Randolph worried that the broad powers implied in the language agreed on by the Convention would have given the national government too much power at the expense of the states. Over the course of a series of drafts, a catchall provision the " Necessary and Proper Clause " was eventually added, most likely by Wilson, a nationalist little concerned with the sovereignty of individual states, giving the Congress the broad power "to make all Laws that 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, or in any department or officer thereof. On the day the Convention had agreed to appoint the committee, Southerner Charles Cotesworth Pinckney, of South Carolina, had warned of dire consequences should the committee fail to include protections for slavery in the Southern states, or allow for taxing of Southern agricultural exports. The proposed language would bar the Congress from ever interfering with the slave trade. Even after it issued this report, the committee continued to meet off and on until early September. Further modifications and concluding debate[ edit ] Another month of discussion and relatively minor refinement followed, during which several attempts were made to alter the Rutledge draft, though few were successful. Some wanted to add property qualifications for people to hold office, while others wanted to prevent the national government from issuing paper money. One important change that did make it into the final version included the agreement between northern and southern delegates to empower Congress to end the slave trade starting in Southern and northern delegates also agreed to strengthen the Fugitive Slave Clause in exchange for removing a requirement that two-thirds of Congress agree on "navigation acts" regulations of commerce between states and foreign governments. The two-thirds requirement was favored by southern delegates, who thought Congress might pass navigation acts that would be economically harmful to slaveholders. The Committee of Detail was considering several questions related to habeas corpus, freedom of the press, and an executive council to advise the president. Two committees addressed questions related to the slave trade and the assumption of war debts. A new committee was created, the Committee on Postponed Parts, to address other questions that had been postponed. Its members, such as Madison, were delegates who had shown a greater desire for compromise and were chosen for this reason as most in the Convention wanted to finish their work and go home. They also created the office of the vice president, whose only roles were to succeed a president unable to complete a term of office, to preside over the Senate, and to cast tie-breaking votes in the Senate. The committee transferred important powers from the Senate to the president, for example the power to make treaties and appoint ambassadors. The problem had resulted from the understanding that the president would be chosen by Congress; the decision to have the president be chosen instead by an electoral college reduced the chance of the president becoming beholden to Congress, so a shorter term with eligibility for re-election became a viable option. Near the end of the Convention, Gerry, Randolph, and Mason emerged as the main force of opposition. The main objection of the three was the compromise that would allow Congress to pass "navigation acts" with a simple majority in exchange for strengthened slave provisions. Though most of their complaints did not result in changes, a couple did. Mason succeeded in adding "high crimes and misdemeanors" to the impeachment clause. Gerry also convinced the Convention to include a second method for ratification of amendments. The report out of the Committee of Detail had included only one mechanism for constitutional amendment, in which two-thirds of the states had to ask Congress to convene a convention for consideration of amendments. As the Convention was drawing to a conclusion, and delegates prepared to refer the Constitution to the Committee on Style to pen the final version, one delegate raised an objection over civil trials.

**Chapter 7 : Home - National Constitution Center**

*With the Great Compromise, Commerce Compromise, and the Three-Fifths Compromise in place, the proposed Constitution was ready to go to the states for ratification. You just finished Philadelphia Convention.*

The Constitution and Slavery The Constitution and Slavery We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. In the declaration, Jefferson expressed American grievances and explained why the colonists were breaking away. Yet at the time these words were written, more than 3 million, black Americans were slaves. Jefferson himself owned more than 600 Slaves accounted for about one-fifth of the population in the American colonies. Most of them lived in the Southern colonies, where slaves made up 40 percent of the population. Many colonists, even slave holders, hated slavery. The Southern colonies were among the richest in America. Their cash crops of tobacco, indigo, and rice depended on slave labor. This document said nothing about slavery. It left the power to regulate slavery, as well as most powers, to the individual states. After their experience with the British, the colonists distrusted a strong central government. The new national government consisted solely of a Congress in which each state had one vote. With little power to execute its laws or collect taxes, the new government proved ineffective. In May 1787, 55 delegates from 12 states met in Philadelphia. Rhode Island refused to send a delegation. Their goal was to revise the Articles of Confederation. Meeting in secret sessions, they quickly changed their goal. They would write a new Constitution. The outline of the new government was soon agreed to. It would have three branches – executive, judiciary, and a two-house legislature. A dispute arose over the legislative branch. States with large populations wanted representation in both houses of the legislature to be based on population. States with small populations wanted each state to have the same number of representatives, like under the Articles of Confederation. This argument carried on for two months. The other, the Senate, would have two members from each state. Part of this compromise included an issue that split the convention on North-South lines. Should slaves count as part of the population? Under the proposed Constitution, population would ultimately determine three matters: In after months of debate, delegates signed the new Constitution of the United States. Wikimedia Commons Only the Southern states had large numbers of slaves. This was a price the Southern states were willing to pay. They argued in favor of counting slaves. Each slave would count as three-fifths of a person. Following this compromise, another controversy erupted: What should be done about the slave trade, the importing of new slaves into the United States? Ten states had already outlawed it. Many delegates heatedly denounced it. But the three states that allowed it – Georgia and the two Carolinas – threatened to leave the convention if the trade were banned. A special committee worked out another compromise: Congress would have the power to ban the slave trade, but not until 1808. The convention voted to extend the date to 1808. A final major issue involving slavery confronted the delegates. Southern states wanted other states to return escaped slaves. The Articles of Confederation had not guaranteed this. But when Congress adopted the Northwest Ordinance, it a clause promising that slaves who escaped to the Northwest Territories would be returned to their owners. The delegates placed a similar fugitive slave clause in the Constitution. This was part of a deal with New England states. In exchange for the fugitive slave clause, the New England states got concessions on shipping and trade. These compromises on slavery had serious effects on the nation. The fugitive slave clause enforced through legislation passed in 1793 and allowed escaped slaves to be chased into the North and caught. It also resulted in the illegal kidnapping and return to slavery of thousands of free blacks. In 12 of the first 16 presidential elections, a Southern slave owner won. Extending the slave trade past brought many slaves to America. South Carolina alone imported 40,000 slaves between 1700 and 1808 when Congress overwhelmingly voted to end the trade. So many slaves entered that slavery spilled into the Louisiana territory and took root. Their main goal was to secure a new government. They feared antagonizing the South. Most of them saw slavery as a dying institution with no economic future. However, in five years the cotton gin would be invented, which made growing cotton on plantations immensely profitable, as well as slavery. The Declaration of Independence expressed lofty ideals of equality. The framers of the Constitution, intent on making a new

government, left important questions of equality and fairness to the future. It would be some time before the great republic that they founded would approach the ideals expressed in the Declaration of Independence. For Discussion and Writing What were the ideals of equality expressed in the Declaration of Independence? Why was slavery so important to the South? Do you think the framers of the Constitution could have limited or banned slavery? Why or why not? Slavery and the Making of America.

**Chapter 8 : Significance of the Commerce and Slave Trade Compromise in the U.S. Constitution**

*The subsequent Constitutional Convention took place in Philadelphia, convening in the Old Pennsylvania State House (then becoming known as Independence Hall) on May 14, Rhode Island, fearing that the Convention would work to its disadvantage, boycotted the Convention and, when the Constitution was put to the states during the next year of.*

Those with sufficient foresight saw this with ease, and were looking for a way to produce a national government that would be more than the virtually powerless government the United States currently had. So it was in September that a conference was called to discuss the state of commerce in the fledgling nation. The national government had no authority to regulate trade between and among the states. The conference was called to discuss ways to facilitate commerce and establish standard rules and regulations. The conference was called by Virginia, at the urging of one of its great minds of the time, James Madison. Madison had designs on doing more than just discussing commerce, but his hopes were dashed when he arrived at the conference. Only five of the 13 states sent any delegates at all Delaware, New Jersey, New York, Pennsylvania, and Virginia, and of those, only three Delaware, New Jersey, and Virginia had enough delegates to speak for their states. Unable to do much of anything, the people who were there sat down and talked amongst themselves. The group consisted of some of the great political minds of the time; besides Madison, Alexander Hamilton, George Read, and Edmund Randolph. Most were dissatisfied with the current system of government. The delegates decided that another conference, "with more enlarged powers" meet in Philadelphia the following summer to "take into consideration the situation of the United States, to devise such further provisions as shall appear to them necessary to render the constitution of the Federal Government adequate to the exigencies of the Union. The entire report of the Annapolis Conference is available. Congress approved the plan to hold another, more sweeping conference on February 21, The wheels were now in motion, though few had any inkling of the momentous changes that were about to come. He arrived in Philadelphia for the Convention almost two weeks early so that he could start thinking about what he wanted the Convention to accomplish. From his point of view, there were a few main problems with the Confederation. He believed that the Confederation was giving too much emphasis to state sovereignty and not enough to a national focus on consistent and fair policy and the upholding of natural rights. In a republic, the people are the ultimate power, and the people transfer that power to representatives. As in the United States today, the people would elect their representatives to govern. This was in contrast to the Confederation model of the time, when the states appointed members of Congress. His vision included separate authorities with separate responsibilities, allowing no one to control too much of the government; and a dominant national government, curbing the power of the states. They hammered out the details of what became known as the Virginia Plan. Sherman and the Connecticut Great Compromise Most of the debate in the first few weeks concerned the revision of the Virginia Plan. The Plan "corrected" the inequality that the "one state, one vote" notion inflicted upon the large states and those, like the Southern states, that hoped to be large soon. Most of the details could certainly be worked out. Issues like fugitive slaves, export taxes, and import taxes were minor, when compared to the really big issue facing the Convention: Quite frankly, the small states would never agree to a purely representational form of government. They foresaw the annexation of small, ineffective states as the populations of the large states continued to grow and their influence waned. Some, like the Delaware delegation, were instructed to leave the Convention if equal suffrage in the legislature was compromised. Large states felt the equal suffrage system to be inherently unfair, and were going to do everything they could to abolish it. Today, a conflict between the big and small states seems odd. Conflicts between states are now generally regional and regardless of size. But at the Convention, size, or anticipated size, was one big dividing line. The intensity of feelings of the two sides were surprises to the others - Madison and the Big State faction thought the inequality of equal suffrage to be so patently unfair that the small states would naturally accede. The small states, used to the status quo, were surprised at how forceful the big states were about proportionality, seeing that the Congress had operated so long under the equal suffrage rule. The subject of suffrage in the houses of the legislature proposed in the prevailing Virginia Plan came to a debate on June 9,

Threats to dissolve the Convention, and, indeed, the Union, flew from one side of the issue to the other. Fortunately, when the convention adjourned that day, it did so on a Saturday evening, allowing heads to cool and deals to be made that Sunday for presentation to the Convention on Monday. On June 11, Roger Sherman of Connecticut rose on the floor and proposed: In his time, he was a leader, respected by political friend and foe alike. His opinion carried weight. He had advanced an idea such as this as far back as 1780, when it was considered too radical to be taken seriously. For several weeks, and through the debate on the New Jersey Plan, his idea lay dormant until June 27 and June 28, 1787, when Marylander Luther Martin rose to speak in favor of the Compromise - his speech, long, rambling, and generally disagreeable, seemed to sound the death knell for the idea. Representation in the lower House of Congress was firmly cemented. The small states were firm in the desire for equal suffrage in the Senate. The debates continued and the big states eventually deferred to the small ones: He wanted nothing more than to put an end to the rebellions and disorder that had arisen from the current state of the national government. He feared that smaller states like his own would be overtaken by the larger ones without specific protections. It is no wonder, then, that Paterson and many of his small-state colleagues could not stomach the Virginia Plan. In the current Confederation, each state was perfectly equal - all had one vote on all matters in Congress. In the Virginia Plan, everything was proportionate to population. New Jersey, New Hampshire, Maryland, Delaware, Connecticut, and even New York felt they had to fear any attempt by the large states of Virginia, Pennsylvania, and Massachusetts to take away equal suffrage. They also feared the Southern states, because of the general belief historically proven wrong that they would soon grow to Pennsylvanian-sized populations. After the Virginia plan was introduced, Paterson asked for an adjournment to contemplate the Plan. On June 14 and 15, 1787, a small-state caucus met to hammer out a response to the Virginia Plan. The current Congress was maintained, but granted new powers - for example, the Congress could set taxes and force their collection. An executive, elected by Congress, was created - the Plan allowed for a multi-person executive. The executives served a single term and were subject to recall based on the request of state governors. A judiciary appointed by the executives, with life-terms of service. Laws set by the Congress took precedence over state law.

**Chapter 9 : Constitutional Convention convenes in Philadelphia - HISTORY**

*This page includes an essay on the history of the Constitution, images, documents, links to Madison's Bill of Rights, a listing of the rights (included rejected rights), questions for discussion, images, and other materials on the Bill of Rights.*

Interpretation The Commerce Clause by: Although the form of each government differed, most tended to elevate the legislature above the executive and judiciary, and made the legislature as responsive to majoritarian sentiments as possible. State legislatures began enacting laws to relieve debtors who were numerous of their debts, which undermined the rights of creditors who were few and the credit market. States also erected an assortment of trade barriers to protect their own businesses from competing firms in neighboring states. And, because state legislatures controlled their own commerce, the federal Congress was unable to enter into credible trade agreements with foreign powers to open markets for American goods, in part, by threatening to restrict foreign access to the American market. The result of all this was a nationwide economic downturn that, rightly or not, was blamed on ruinous policies enacted by democratically-elected legislatures. In , political dissatisfaction with the economic situation led to a convention convened in Philadelphia to remedy this state of affairs. The new Constitution it proposed, addressed debtor relief laws with the Contracts Clause of Article I, Section 10, which barred states from "impairing the obligation of contracts. The international commerce power also gave Congress the power to abolish the slave trade with other nations, which it did effective on January 1, , the very earliest date allowed by the Constitution. But, in the words of Chief Justice John Marshall, the "enumeration" of three distinct commerce powers in the Commerce Clause "presupposes something not enumerated, and that something, if we regard the language or the subject of the sentence, must be the exclusively internal commerce of a State. Ogden Marshall, C. So, for example, even when combined with the Necessary and Proper Clause giving Congress power to make all laws which shall be necessary and proper for carrying into execution its enumerated powers, the Commerce Clause did not give Congress power to touch slavery that was allowed by state governments within their borders. The text of the Commerce Clause raises at least three questions of interpretation: What is the meaning of "commerce"? What is the meaning of "among the several states"? And what is the meaning of "to regulate"? Some have claimed that each of these terms of the Commerce Power had, at the time of the founding, an expansive meaning in common discourse, while others claim the meaning was more limited. In addition to other pervasive evidence of the public meaning of these terms, the slavery issue helps clarify the original public meaning of these terms at the time of their enactment. Among the several states meant between one state and others, not within a state, where slavery existed as an economic activity. From the founding until today, the meaning of "commerce" has not been much changed. Perhaps its only expansion by the Supreme Court came in when the Court held that commerce included "a business such as insurance," which for a hundred years had been held to be solely a subject of internal state regulation. Darby , the "power of Congress over interstate commerce is not confined to the regulation of commerce among the states. But in McCulloch, Chief Justice Marshall insisted that "should Congress, under the pretext of executing its powers, pass laws for the accomplishment of objects not entrusted to the government; it would become the painful duty of this tribunal. Thus, the Court expanded Congress power over interstate commerce in a way that gave it power over the national economy. In the s, the Rehnquist Court treated these New Deal cases as the high water mark of congressional power. In the cases of U. Lopez and U. Morrison , the Court confined this regulatory authority to intrastate economic activity. In addition, in a concurring opinion in Gonzales v. Raich , Justice Scalia maintained that, under Lopez, "Congress may regulate even noneconomic local activity if that regulation is a necessary part of a more general regulation of interstate commerce. Sebelius , in , a majority of the justices found that a mandate to compel a person to engage in the economic activity of buying health insurance was beyond the powers of Congress under both the Commerce and Necessary and Proper Clauses. The dispute over the breadth of the meaning of "commerce" turns, in large part, on the purposes one attributes to the clause, and to the Constitution as a whole, and what one thinks is the relevance of such purposes to the meaning of the text. At Philadelphia in , the Convention resolved that Congress could "legislate in all cases.

Convention 21 Max Farrand ed. This was then translated by the Committee of Detail into the present enumeration of powers in Article I, Section 8, which was accepted as a functional equivalent by the Convention without much discussion. Proponents of an expansive reading claim that the power to regulate commerce should extend to any problem the states cannot separately solve. Those who support a narrower reading observe that the Constitution aims to constrain, as well as to empower, Congress, and the broadest reading of the Commerce power extends well beyond anything the framers imagined. As the dissenters in the health care case observed, "Article I contains no whatever-it-takes-to-solve-a-national-problem power. For contrasting views of evidence on the original public meaning of the terms in the Commerce Clause, compare Randy E. Balkin, *Living Originalism* ; Randy E.