

SECTION 12
THE CONSTITUTIONAL
CONVENTION, 1787

constitution—the fundamental laws or principles by which a nation is governed, usually embodied in a written document
govern—to direct, or control, in a straight, smooth course for the good of the whole

1607

1787

2020

“The most wonderful work ever struck off at a given time by the brain and purpose of man.”

—William E. Gladstone

**The Constitution of the United States of America*

Preamble

We the People of the United States,
in Order to form a more perfect Union,
establish Justice,
ensure domestic Tranquillity,
provide for the common defense,
promote the general Welfare, and
secure the Blessings of Liberty to ourselves and our Posterity,
do ordain and establish this
Constitution for the United States of America.

“Let virtue, honor, the love of liberty...be...the soul of this constitution,
and it will become the source of great and extensive happiness to this and future generations.
Vice, ignorance, and want of vigilance will be the only enemies able to destroy it.”

—John Jay

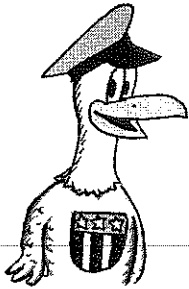
“In New England every citizen...is taught...his religion,
the history of his country,
and the leading features of its Constitution....
It is extremely rare to find a man
imperfectly acquainted with all these things,
and a person wholly ignorant of them is a phenonomenon.”

—Alexis de Tocqueville, 1830

12-1 ★ A CONVENTION OVERVIEW

"If all the delegates named for this Convention at Philadelphia are present, we will never have seen, even in Europe, an assembly more respectable for the talents, knowledge, disinterestedness, and patriotism of those who compose it."

—G.K. Otto, French Charge d'Affaires, Philadelphia, 1787



Congress, meeting in New York City, reluctantly agreed to the Annapolis proposal. It called for a Federal Convention in Philadelphia on May 14, 1787, but carefully stated that the meeting was "for the sole...purpose of revising the Articles of Confederation."

Now—would the states agree to send delegates? Those undecided did so when they learned that George Washington would be a delegate, for the whole country trusted the beloved Revolutionary War hero. The *Pennsylvania Herald* wrote:

"If the plan is not a good one, it is impossible that either General Washington or Dr. Franklin would have recommended it."

So it seemed to all the states except Rhode Island which, protective of its state's rights, refused to participate.

And so, 12 states sent 55 delegates to meet at Philadelphia's State House, now called Independence Hall, where eleven years earlier, in 1776, the Declaration of Independence had been adopted. Disregarding Congress' mandate to revise the old Articles of Confederation—based on state sovereignty—they emerged after four months with something new: a Constitution based on national sovereignty, the framework for a federal republic. Thirty-nine of the delegates, or framers, signed the Constitution of the United States "to form a more perfect Union...and secure the Blessings of Liberty to ourselves and our Posterity."

WHO WERE THESE FRAMERS—THESE EXTRAORDINARY MEN OF REASON AND CREATIVITY?

THE 39 FRAMERS

WHO SIGNED THE CONSTITUTION OF THE UNITED STATES

NEW HAMPSHIRE: John Langdon, Nicholas Gilman

MASSACHUSETTS: Nathaniel Gorham, Rufus King

CONNECTICUT: William Samuel Johnson, Roger Sherman

NEW YORK: Alexander Hamilton

NEW JERSEY: William Livingston, David Brearley, William Paterson, Jonathan Dayton

PENNSYLVANIA: Benjamin Franklin, Thomas Mifflin, Robert Morris, George Clymer, Thomas FitzSimons, Jared Ingersoll, James Wilson, Gouverneur Morris

DELAWARE: George Read, Gunning Bedford, Jr., John Dickinson, Richard Bassett, Jacob Broom

MARYLAND: James McHenry, Daniel of St. Thomas Jenifer, Daniel Carroll

VIRGINIA: George Washington (president of the convention) James Madison, John Blair

NORTH CAROLINA: William Blount, Richard Dobbs Spaight, Hugh Williamson

SOUTH CAROLINA: John Rutledge, Charles Cotesworth Pinckney, Charles Pinkney, Pierce Butler

GEORGIA: William Few, Abraham Baldwin

12-2 ★ JAMES MADISON: FATHER OF THE U.S. CONSTITUTION, 1751-1826

“Knowledge will forever govern ignorance; and a people who mean to be their own governors must arm themselves with the power which knowledge gives.”—James Madison



Virginia delegate James “Jemmy” Madison arrived at the convention eleven days early, armed with a plan of action. Madison—a 36-year-old bachelor, shy, short (5'4"), soft-spoken, frail, and scholarly—was a man among men. He would emerge the clear leader of the 1787 Constitutional Convention, earning the title, **Father of the United States Constitution**.

Born in 1751 in Port Conway, Virginia, the eldest of 12 children, Madison grew up near Orange on his family’s beautiful Virginia plantation Montpelier, which he later inherited. He studied at home with tutors, earned a degree in philosophy at Princeton in 1771, and then became a life-long statesman.

Madison served in the Virginia assembly (1776-77), where he and Thomas Jefferson began a 50-year friendship; the Confederation Congress (1780-83); and the U.S. Congress (1790-94).

He served his country as secretary of state (1801-09) and president (1809-17). No wonder Dolley Madison, the vivacious Philadelphian he married in 1794, called him “the great little Madison.”

Madison spent a year studying for the 1787 Convention. He was motivated by a central question:

“How can the country have a strong national government without taking freedom from the people?”

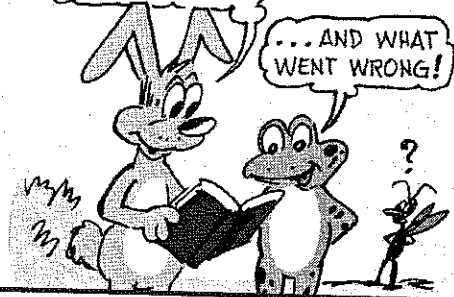
He read more than 200 books on history and philosophy (Aristotle, Voltaire, Locke, Montesquieu, Hume).

Many had been sent from France by his close friend Thomas Jefferson, who served as Minister to France from 1785 to 1789.



After analyzing ancient and modern governments, Madison outlined their keys to success and failure in a 41-page booklet.

OVER 2,000 YEARS AGO, DEMOCRACY REIGNED IN THE GREEK CITY STATES AND THE ROMAN REPUBLIC. MADISON TRIED TO UNDERSTAND WHAT THESE GOVERNMENTS DID RIGHT...



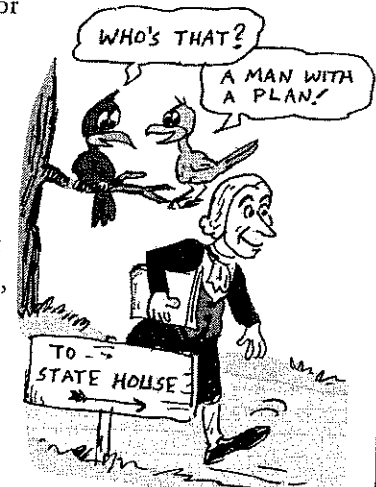
Finally, Madison created a 15-point plan of government. Arriving early in Philadelphia, he presented it to the other Virginia delegates, including Governor Edmund Randolph and George Washington, for their suggestions and endorsements.

HERE'S THE IDEA: INSTEAD OF A CONFEDERATION GOVERNMENT — A LEAGUE OF SOVEREIGN STATES, WHAT ABOUT A FEDERAL GOVERNMENT — A UNION THAT DIVIDES POWERS BETWEEN A STRONG NATIONAL GOVERNMENT AND THE STATES?



Madison’s 15-point “Virginia Plan” would provide the agenda for the entire proceedings of the Convention.

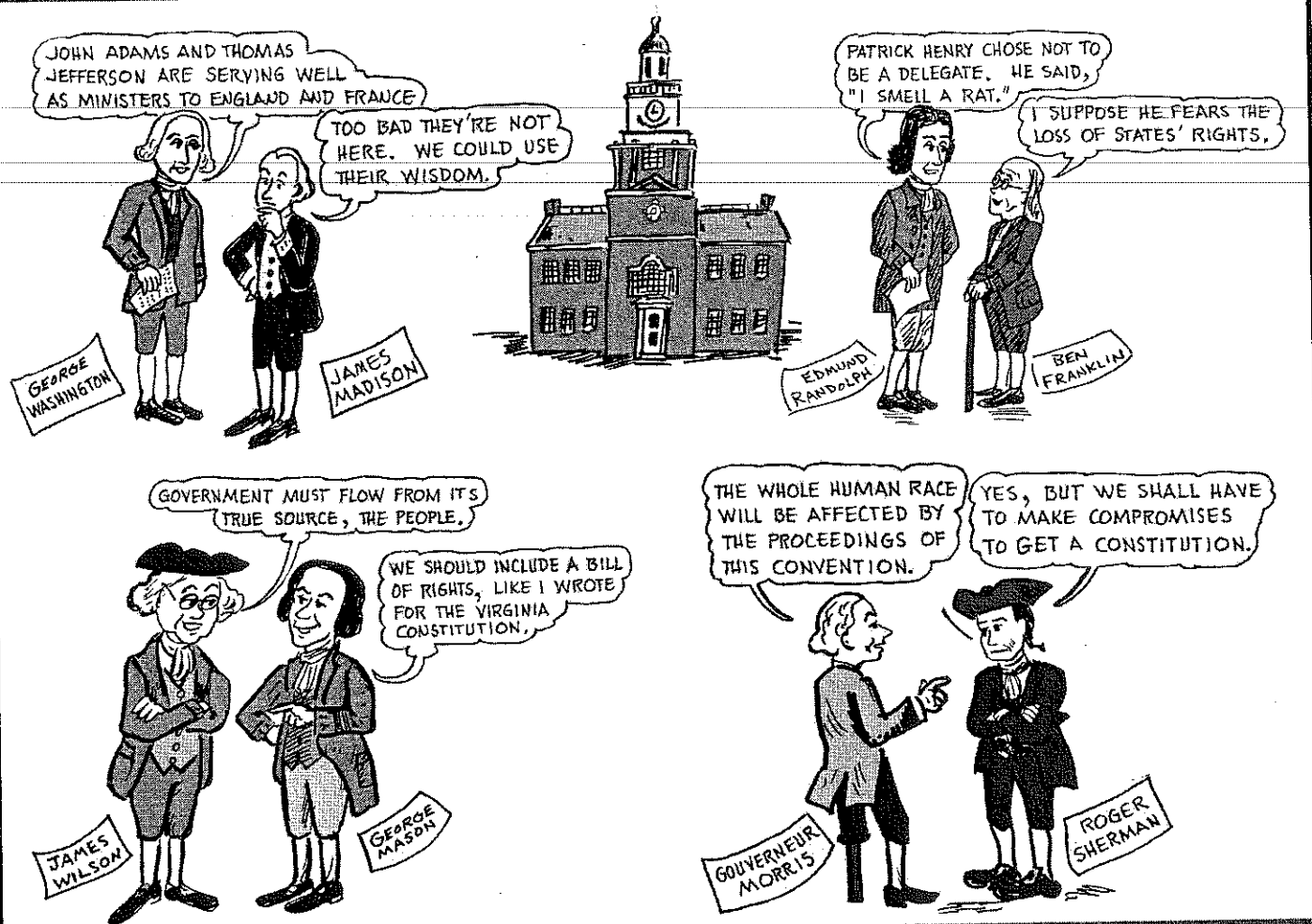
Modified by important compromises, it became the blueprint for the United States Constitution.



12-3 ★ THE DELEGATES GATHER: A REUNION OF ADVENTURERS, MAY 14-25

"There never was an assembly of men...more...devoted to...devising...a constitutional system which would best... secure the permanent liberty and happiness of their country."—James Madison

In May 1787 the delegates slowly gathered for the **FEDERAL CONVENTION** in Philadelphia, Pennsylvania, at the **STATE HOUSE**—later called **INDEPENDENCE HALL**. Here in the same room eleven years earlier, in 1776, members of the **Second Continental Congress** had signed the **Declaration of Independence**.



Most of the 55 white male delegates knew and respected one another through shared adventures.

- 3—had been in the Stamp Act Congress, 1765.
- 8—had signed the Declaration of Independence; 2, the Articles of Confederation.
- 42—had served in the First and/or Second Continental Congresses, 1774-1781, and/or the Confederation Congress, 1781-87.
- 30—were Revolutionary War veterans.
- 2—would be U.S. presidents (George Washington and James Madison); 1, a vice-president (Elbridge Gerry).
- 7—had been governors; 9 would be governors.
- 8—were judges; 2 would be chief justices of the Supreme Court.
- 2—were college presidents (Princeton and Columbia); 29 were college-educated.
- 34—had practiced law; 20 had helped write their state constitutions.
- 18—had worked or studied abroad; many were fluent in Latin, French, and other languages.
- 8—were born outside the United States but all within the British Empire.

Most were prosperous lawyers, businessmen, or plantation owners.

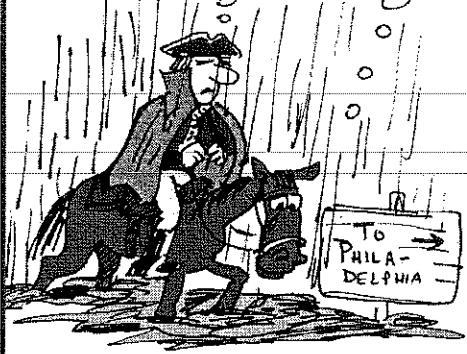
And they were young—average age, 42. Most were in their 30s—Madison, 36; Hamilton, 32. Washington was 55. Benjamin Franklin, 81, was said to have the mind of a 25-year-old.

12-4 ★ THE CONVENTION BEGINS, MAY 25, 1787

“This example of changing the constitution by assembling the wise men of the state, instead of assembling armies, will be worth as much to the world as the former examples we have given it.”—Thomas Jefferson

Madison's Virginia Plan had to wait a few days because spring rains and muddy roads delayed many delegates.

MAYBE THE ARTICLES OF CONFEDERATION AREN'T SO BAD...

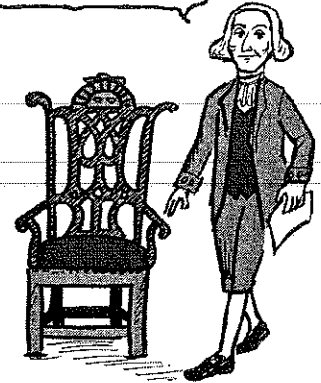


The Convention officially began two weeks late on Friday, May 25, 1787, with a quorum of seven states.

During its hot, 4-month schedule of 6-hour meetings, six days a week, 13 of the 55 delegates withdrew for personal or policy reasons. The Convention rarely drew more than 30 to 35 delegates at a time.

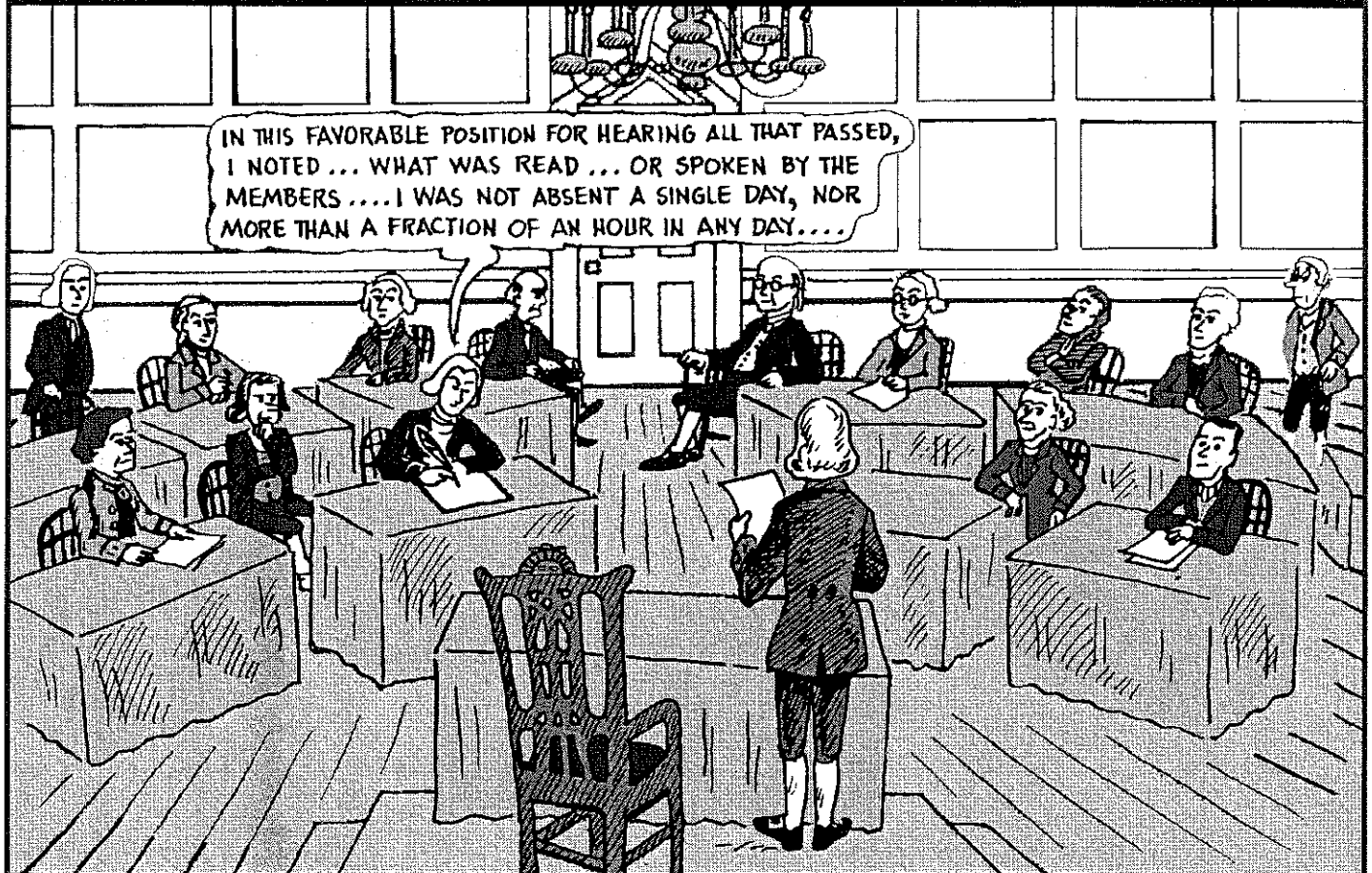
The first day: George Washington, unanimously elected president of the Convention, took his presiding chair, saying...

LET US RAISE A STANDARD TO WHICH THE WISE AND HONEST CAN REPAIR.... THE EVENT IS IN THE HANDS OF GOD.



On Monday, May 28, 1787, the delegates got down to business. Luckily for us, James Madison decided to sit up front and record for posterity every word said.

His journal, *Notes of Debates in the Federal Convention of 1787* (published in 1840, four years after his death), offers you a ringside seat at the Convention—next to him.



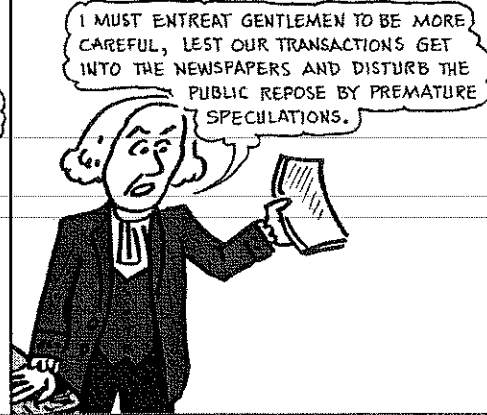
The delegates were old hands at running an effective meeting. Their rules of procedure included:

1. SECRECY

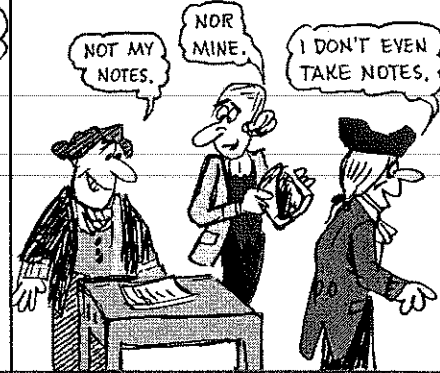
Delegates could not tell anyone about the proceedings until the Convention ended. This allowed them to speak freely and experiment with ideas.



Amazingly there were no leaks—perhaps because of an early scolding by George Washington, when he discovered a delegate's lost notes.



Washington threw the notes on a table, saying, "Let him who owns it take it," and stalked out. No one moved to recover the notes—to this day!



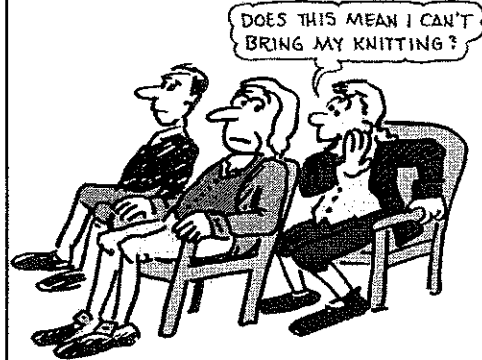
2. FLEXIBILITY

No votes were final until the last day, so delegates could change their minds freely. Every issue could be re-voted if anyone wished. More than 569 votes eventually were taken.



3. COURTESY

"Every member, rising to speak, shall address the President; and whilst he shall be speaking, none shall pass between them, or hold discourse or read a book, pamphlet, or paper...."



After the convention a member would remark in amazement:

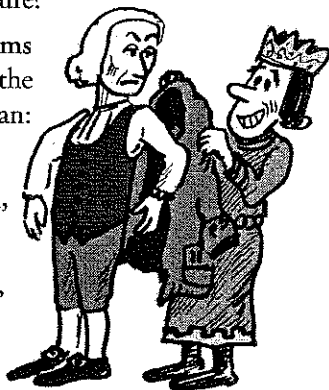


Yet, quite often the convention debates grew fierce and tempers short.

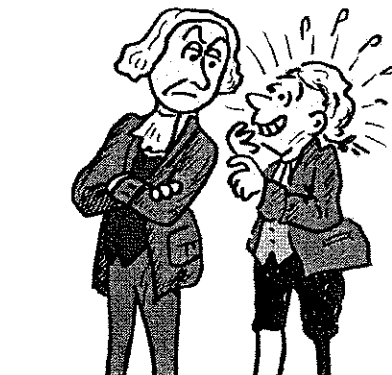
Of course, who *would* misbehave with the dignified, respected Washington seated on the platform, influencing the delegates with his slightest expression of pain or pleasure?

As John Adams once said of the regal Virginian:

"Next to Washington, a king would look like a valet."



Well, jovial Gouverneur Morris boasted one night that he was not intimidated by Washington. He bet Alexander Hamilton and other friends that he would dare greet Washington with a slap on the back. The next day, more sober, he merely put his hand on Washington's shoulder, then regretted that!

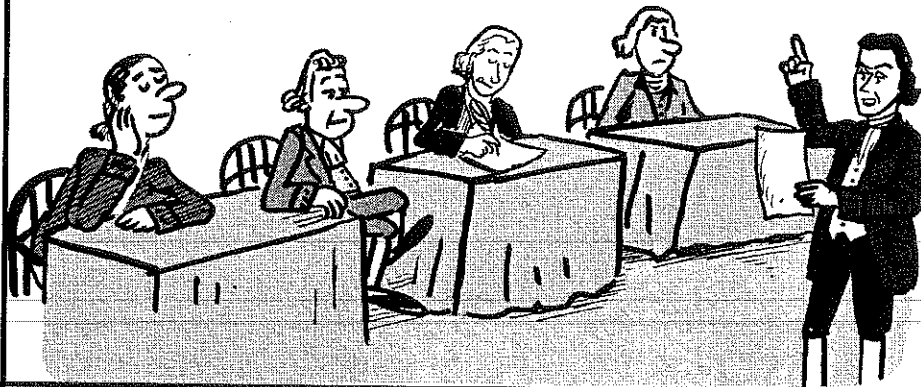


THE GREAT MAN TURNED AND LOOKED AT ME, AND I WISHED THE EARTH HAD YAWNED AND SWALLOWED ME UP.



VIRGINIA PLAN

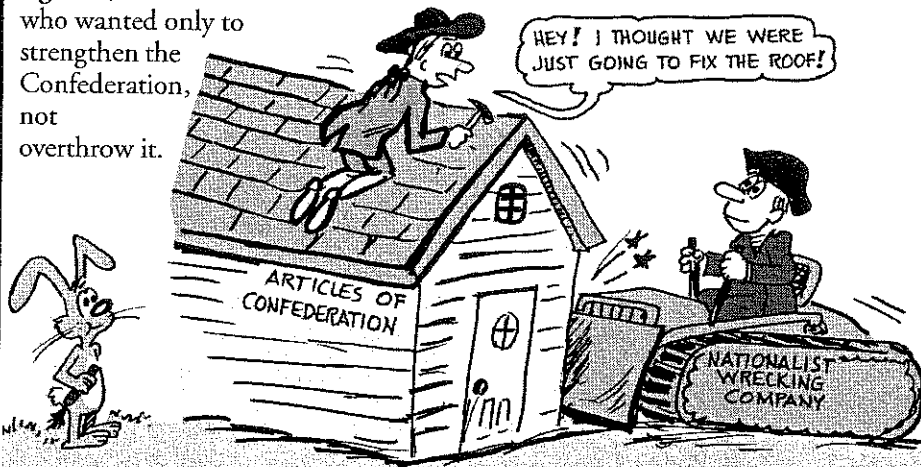
On Tuesday, May 29, Virginia Governor Edmund Randolph presented the bold, 15-point Virginia Plan, outlining a national republican government with THREE BRANCHES:



- 1) EXECUTIVE
- 2) JUDICIARY
- 3) LEGISLATIVE, with population determining the number of members in both houses of the legislature.

The Virginia Plan caused shock waves!

Most delegates favored strengthening the central government by giving it powers to tax and control commerce. But they were divided between large-state "nationalists," who wanted even greater central powers, and small-state "states' righters," who wanted only to strengthen the Confederation, not overthrow it.



NEW JERSEY PLAN

William Paterson of New Jersey presented the small states' New Jersey Plan, which called for merely strengthening the Articles of Confederation, thus retaining state sovereignty.

Gunning Bedford of Delaware challenged the large-state delegates:

I DO NOT, GENTLEMEN, TRUST YOU. WILL YOU CRUSH THE SMALL STATES?



Alexander Hamilton's Plan

Then, out of the blue, Alexander Hamilton of New York presented a third plan that—to everyone's surprise—was modeled on the British government, which he admired.

THE PRESIDENT AND SENATORS SHOULD BE ELECTED FOR LIFE.

SOUNDS LIKE A MONARCHY! DOES HAMILTON WANT AN AMERICAN KING?

HAMILTON'S PLAN GIVES SO MUCH POWER TO THE FEDERAL GOVERNMENT, IT MAKES THE VIRGINIA PLAN SEEM MILD BY COMPARISON.



LATER, HAMILTON WAS OFTEN ACCUSED OF WANTING A MONARCHY, BUT HE DENIED IT.



The delegates listened politely to Hamilton for six hours, then without comment began to debate the Virginia and New Jersey Plans.

AFTER MY 6-HOUR SPEECH THEY POLITELY IGNORED MY PLAN!

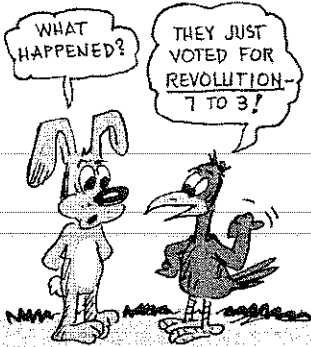
I WOULDN'T HAVE BEEN SO POLITE.



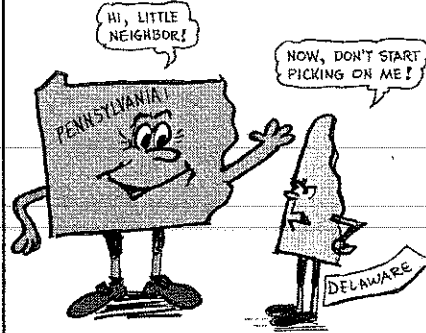
NATIONAL VS. STATE SOVEREIGNTY

Virginia Plan vs. New Jersey Plan:
The delegates voted 7 to 3 for the **Virginia Plan.**

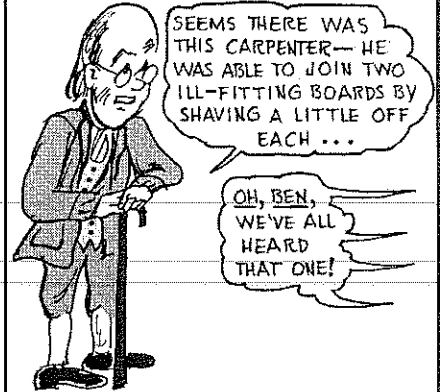
They realized this meant a revolutionary overthrow of the Confederation—and state sovereignty.



But the small states objected to the Virginia Plan's population-based legislature. They said the large states would have more people, thus more members and votes in Congress, thus more power than the small states.



Things were at a stalemate. Benjamin Franklin urged the two sides to **compromise**, each giving in a little.



LARGE STATE—SMALL STATE COMPROMISE

Roger Sherman of Connecticut offered a compromise:

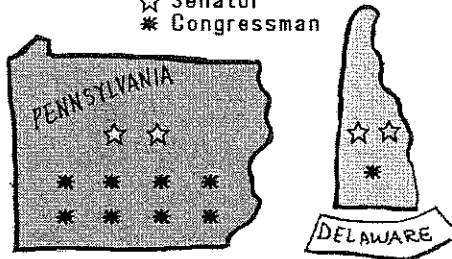
WE COULD BASE MEMBERSHIP IN THE HOUSE OF REPRESENTATIVES ON POPULATION AND IN THE SENATE ON EQUALITY, WITH EACH STATE ALLOWED 2 SENATORS. TINY DELAWARE WOULD HAVE SENATE VOTES EQUAL TO BIG PENNSYLVANIA.



This Connecticut Compromise, (including the House of Representatives' power to originate money bills), along with the North-South compromises described below, passed 5-4 as the **Great Compromise.**

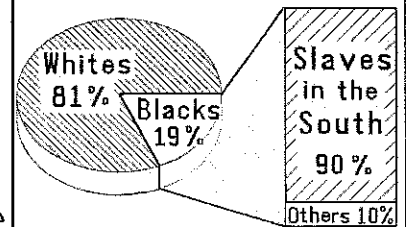
Here's how Sherman's plan would work in the case of Pennsylvania (pop. 434,373) and Delaware (pop. 59,096):

☆ Senator
* Congressman



By **compromising**—each side “shaving” some demands in order to reach agreement—the Convention was saved: a valuable lesson!

Solution to this conflict raised a new one—between Northern and Southern states: how to count the slave population in apportioning members of the House of Representatives.



ESTIMATED U.S. POPULATION, 1790*

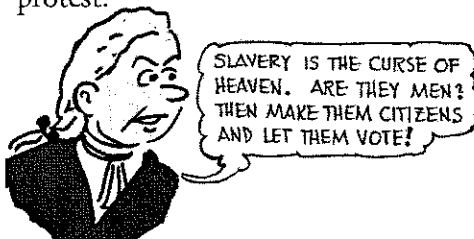
*These figures are from the 1790 U.S. census, which shows 757,181 African-Americans in a total population of 3,929,625.

NORTH-SOUTH COMPROMISES

Southern delegates wanted slaves to count as people so as to have more congressmen representing their states.

Northern delegates called this 1) unfair and 2) inconsistent because slaves were considered property.

Gouverneur Morris voiced a moral protest:



1. THREE-FIFTHS COMPROMISE

The delegates compromised in a strange way: a slave would count as 3/5 person in determining House representation and direct taxes (taxes owed by states to the federal government).



2. SLAVE TRADE COMPROMISE

Prohibition of slave imports would be delayed for 20 years, but until then (1807) slaveholders could be taxed up to \$10.00 per imported slave.

Thus, the Constitution implicitly recognized slavery. However, in 1807 Congress abolished slave importation, and in 1865 the 13th Amendment to the Constitution abolished slavery. (*The word “slave” is never used in the Constitution. Instead, phrases such as “other persons” and “such persons” refer to slaves.)

AN IRONY: Several of the delegates were against slavery (including Washington, Madison, Hamilton, Franklin, and Mason). But they had to choose between having a constitution and ending slavery. Why? South Carolina and Georgia would not join the new nation without slavery.

As Abraham Lincoln said seven decades later, the word slavery was "hid away in the Constitution, just as an afflicted man hides away a ...cancer, which he dares not cut out at once, lest he bleed to death."



THE DELEGATES CHOSE TO HAVE AN IMPERFECT CONSTITUTION RATHER THAN NONE AT ALL. WHAT WOULD YOU HAVE DONE?

If avoiding the slavery question allowed for a constitution, it also threatened to destroy the constitution 70 years later with the Civil War.

THIS INFERNAL SLAVE TRAFFIC WILL BRING THE JUDGMENT OF HEAVEN ON A COUNTRY. PROVIDENCE PUNISHES NATIONAL SINS WITH NATIONAL CALAMITIES.

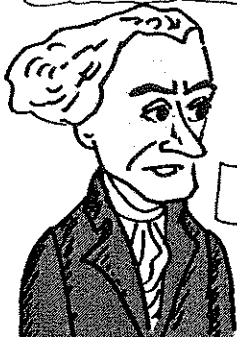
George Mason, author of the Virginia Bill of Rights, warned:



LEGISLATIVE COMPROMISE

Who should elect the legislators?

NOT THE PEOPLE! THEY CAN BE DUPED BY DEMAGOGUES! THE EVILS WE EXPERIENCE FLOW FROM THE EXCESS OF DEMOCRACY. HAMILTON, SHERMAN, AND G. MORRIS AGREE.



ELBRIDGE GERRY

I DISAGREE. A FREE GOVERNMENT MUST HAVE LEGISLATORS ELECTED BY THE PEOPLE AND ACCOUNTABLE TO THE PEOPLE. GEORGE MASON AND OTHERS THINK SO, TOO.



JAMES MADISON

THE COMPROMISE :

THE HOUSE OF REPRESENTATIVES WOULD BE ELECTED DIRECTLY BY THE PEOPLE. THE SENATE WOULD BE ELECTED BY THE STATE LEGISLATORS.

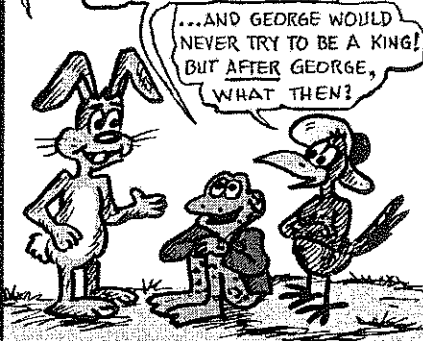
(IN 1913 THE 17TH AMENDMENT PROVIDED FOR DIRECT ELECTION OF SENATORS BY THE PEOPLE.)



EXECUTIVE COMPROMISE

Who should elect the president?

DECIDING TO HAVE A STRONG PRESIDENT WAS HARD FOR AMERICANS, WHO WERE FED UP WITH DESPOTIC KINGS. BUT EVERYONE KNEW WASHINGTON WOULD PROBABLY BE THE FIRST PRESIDENT, ...AND GEORGE WOULD NEVER TRY TO BE A KING! BUT AFTER GEORGE, WHAT THEN?



THE PEOPLE SHOULD VOTE FOR THE PRESIDENT.



JAMES WILSON

NO, TOO MANY PEOPLE ARE UNEDUCATED. THIS WOULD BE AS UNNATURAL AS ASKING A BLIND MAN TO CHOOSE COLORS, PASSION AND DEMAGOGUERY WOULD PREVAIL, OVER REASON!



GEORGE MASON

It took 60 ballots to decide who should elect the president.

The compromise:



The president would be elected indirectly by the people through an

Electoral College made up of electors chosen by each state—the number being equal to the number of its congressmen. The candidate with most votes would be president; the one with the next highest votes would be vice president. (This was changed in 1804 by the 12th Amendment, which stated that the vice president would be elected on a separate ballot.)

12-8 ★ THREE IMPORTANT QUESTIONS

SHOULD THERE BE RELIGIOUS REQUIREMENTS FOR PUBLIC OFFICE?—NO

"Among the most inestimable of our blessings is that...of liberty to worship our Creator in the way we think most agreeable in His will; a liberty deemed in other countries incompatible with good government and yet proved by our experience to be its best support... The rights of conscience we never submitted [to government]. We are answerable for them to our God."—Thomas Jefferson

Eleven states did have religious requirements.

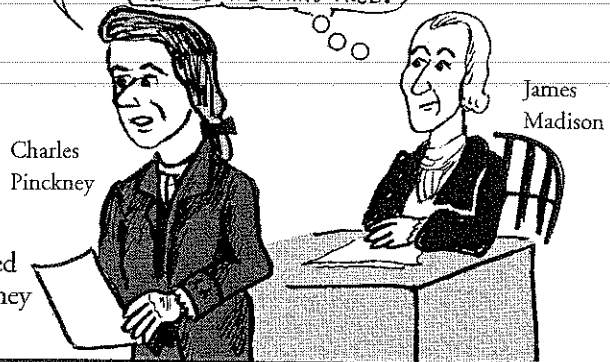
States: To hold office one must:
 Massachusetts and Maine—be a Christian
 NH, NJ, NC, SC, and GA—be a Protestant Christian
 Pennsylvania—believe in God and the Bible
 Delaware—believe in the Christian Trinity

This meant that the 2,000 Jews and 25,000 Catholics in America—plus people of other faiths or of non-faith—did not qualify for public office in most states.

The delegates rejected the states' practice. Determined that government must not violate people's freedom to believe as they chose, they voted unanimously for Charles Pinckney's proposal.

NO RELIGIOUS TEST SHALL EVER BE REQUIRED AS A QUALIFICATION TO ANY OFFICE OR PUBLIC TRUST UNDER THE AUTHORITY OF THE UNITED STATES.

IT IS IMPOSSIBLE TO MAKE LAWS FOR THE HUMAN MIND. AS JEFFERSON SAID: ALMIGHTY GOD HATH CREATED THE MIND FREE.



WHO SHOULD DECLARE WAR? — CONGRESS

THE PRESIDENT, OF COURSE. HE WILL NOT MAKE WAR WITHOUT THE NATION'S SUPPORT.

WHAT? I NEVER EXPECTED TO HEAR IN A REPUBLIC A MOTION TO EMPOWER THE EXECUTIVE ALONE TO DECLARE WAR.

I AM AGAINST GIVING THE POWER OF WAR TO THE EXECUTIVE, BECAUSE HE IS NOT SAFELY TO BE TRUSTED WITH IT... I AM FOR CLOGGING RATHER THAN FACILITATING WAR.



THE COMPROMISE: CONGRESS HAS THE POWER TO DECLARE WAR; THE PRESIDENT HAS THE POWER TO REPEL SUDDEN ATTACKS.



SHOULD THERE BE A STANDING ARMY—YES

"If we desire to secure peace...it must be known that we are at all times ready for war." — George Washington

Americans were suspicious of standing armies in peacetime. They remembered Britain's "peacetime" army that had fired upon them at Lexington.

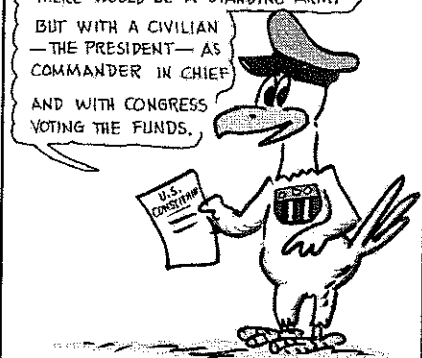
But Washington's aside comment in response to Elbridge Gerry gave another perspective.

AN ARMY IS DANGEROUS IN PEACETIME. I PROPOSE NO MORE THAN 3,000 TROOPS IN PEACETIME.

THEN I PROPOSE THAT NO ARMY INVADE THE U.S. WITH MORE THAN 3,000 TROOPS!



THE COMPROMISE: THERE WOULD BE A STANDING ARMY BUT WITH A CIVILIAN — THE PRESIDENT — AS COMMANDER IN CHIEF AND WITH CONGRESS VOTING THE FUNDS.



July 24-August 7

Most of the delegates took a 10-day break while a 5-man **Committee of Detail** drafted a report of the Convention's resolves.

THINK I'LL GO FISHING.



George Washington revisited Valley Forge, 20 miles from Philadelphia.

COMMITTEE OF DETAIL

The **Committee of Detail** consulted important documents on government, including the Magna Carta; colonial charters; the Albany Plan of Union; state constitutions; the Articles of Confederation; and a Native American document: **THE GREAT LAW OF PEACE**, the Iroquois Confederacy's 200-year-old constitution.

Committee Chairman **John Rutledge** began the meeting by reading from the Iroquois Confederacy's constitution, which both he and Benjamin Franklin admired.

GENTLEMEN, THE IROQUOIS INDIANS' CONSTITUTION HAS ACHIEVED PEACE THROUGH UNION FOR OVER 200 YEARS BY ALLOWING TO EACH OF THE SIX IROQUOIS NATIONS SELF-GOVERNMENT IN INTERNAL AFFAIRS, WHILE UNITING THEM FOR EXTERNAL AFFAIRS. IT BEGINS: "WE, THE PEOPLE, TO FORM A UNION, TO ESTABLISH PEACE, EQUITY AND ORDER...."



August 7—The **Committee of Detail** submitted its report, organized into twenty-three articles. Then the delegates spent five weeks debating and revising it.

HOW LONG HAVE YOU BEEN HANGING AROUND HERE?

ALL SUMMER.... WAITING FOR THESE GUYS TO FINISH.



© Pennsylvania State House

COMMITTEE OF STYLE—THE FINAL DRAFT

September 8-12—**Gouverneur Morris** led a 5-man **Committee of Style** (including Madison and Hamilton) in writing the final draft of the constitution.

Morris, a masterly writer steeped in the cadences of Shakespeare, distilled twenty-three rambling articles into seven—each clear, concise, and eloquent.

Proud of his work, **Gouverneur Morris** commented:

HAVING REJECTED REDUNDANT AND EQUIVOCAL TERMS, I BELIEVED IT TO BE AS CLEAR AS OUR LANGUAGE WOULD PERMIT.

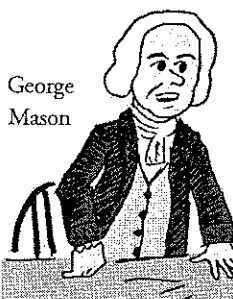


Later, **Caleb Strong** (delegate from Massachusetts) said, "For my part, I think the whole of it is expressed in the plain, common language of mankind."

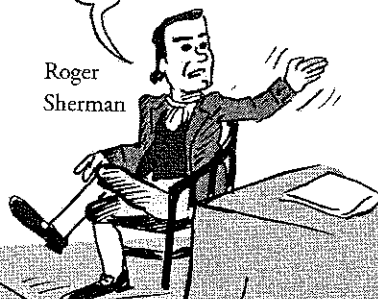
September 12-17—The delegates fine-tuned the final draft, still voting on issues until the last day. **George Mason** had a last-minute idea, but the delegates unanimously rejected it. Tired and eager to go home, most agreed with **Roger Sherman**.

I THINK THE CONSTITUTION SHOULD HAVE A BILL OF RIGHTS. I CAN WRITE ONE IN NO TIME. REMEMBER, I WROTE THE ONE FOR VIRGINIA.

A BILL OF RIGHTS IS NOT NECESSARY, BECAUSE ALL POWERS NOT GRANTED TO THE GOVERNMENT ARE RESERVED FOR THE PEOPLE. BESIDES, 8 STATE CONSTITUTIONS ALREADY CONTAIN BILLS OF RIGHTS.



George Mason



Roger Sherman

THIS ALMOST FATAL ERROR LATER WOULD CAUSE NEAR-REJECTION OF THE CONSTITUTION IN THE RATIFYING PROCESS. ONLY A PROMISE TO ADD A BILL OF RIGHTS, BY AMENDMENT, RESCUED THE CONSTITUTION. IN 1791 THE PROMISE WOULD BE FULFILLED WITH THE FIRST TEN AMENDMENTS TO THE U. S. CONSTITUTION—THE BILL OF RIGHTS.



On September 17th, the delegates gathered for a final vote on the constitution. Would it pass? Benjamin Franklin rose with a speech in his hand. Too weak to stand long, he asked James Wilson to read it for him.

Mr. President:

I confess that there are several parts of this Constitution which I do not at present approve, but I am not sure I shall never approve them. For having lived long, I have experienced many instances of being obliged by better information, or fuller consideration, to change opinions even on important subjects, which I once thought right, but found to be otherwise.

It is therefore that the older I grow, the more apt I am to doubt my own judgment, and to pay more respect to the judgment of others. Most men indeed, as well as most sects in religion, think themselves in possession of all truth, and that wherever others differ from them it is so far error...But though many persons think almost as highly of their own infallibility as of that of their sect, few express it so naturally as a certain French lady who in a dispute with her sister said, "I don't know how it happens, Sister, but I meet with nobody but myself that's always in the right."

In these sentiments, Sir, I agree to this Constitution with all its faults, if they are such....



I doubt too whether any other Convention we can obtain, may be able to make a better Constitution. For when you assemble a number of men to have the advantage of their joint wisdom, you inevitably assemble with those men all their prejudices, their passions, their errors of opinion, their local interest, and their selfish views. From such an assembly can a perfect production be expected?

It therefore astonishes me, Sir, to find this system approaching so near to perfection as it does; and I think it will astonish our enemies, who are waiting...to hear that our councils are confounded like those of the Builders of Babel....

Thus I consent, Sir, to this Constitution because I expect no better, and because I am not sure that it is not the best....On the whole, Sir, I cannot help expressing a wish that every member of the Convention who may still have objections to it would with me on this occasion doubt a little of his own infallibility, and, to make manifest our unanimity, put his name to this Instrument.

Washington then held the vote.

Each state had one vote. Every state voted "Aye," approving the Constitution by "the unanimous consent of the States present..."

Of the 42 delegates present, thirty-nine signed the document.

Three delegates chose not to sign: Mason, because it had no Bill of Rights; Randolph and Gerry, because they feared that not enough states would ratify it, and the result might be "confusion" if not "civil war."

(Later, Randolph supported the Constitution's ratification, and Gerry served under the Constitution as vice president.)

As the delegates came forward, one by one, to sign the Constitution, Benjamin Franklin looked at the sun on the president's chair and said:

