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## Behind the Scenes of the Constitutional Convention

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### Introduction

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I have learnt to expect that it will rarely fall to the lot of imperfect man to retire from this station with the reputation and the favor which bring him into it. -Thomas Jefferson

The role of the President of the United States should not be taken lightly. In the eyes of many of my students the President is raised on a pedestal of omniscient power. He knows all, can do all, and should do everything right. While teaching US government I have asked my students if they would like to be elected president. They always say no because of the high pressure, responsibility and expectations of the job. The above quote from Thomas Jefferson's first inaugural speech hits on the fears of the Presidency my students have: you will never be the same person after your term is over.

Each year the 5th grade class at my school takes a three-day field trip to Washington, DC. This trip is something that the students look forward to since kindergarten, and often students will say to me "I have been waiting 6 years for this". The excitement of going on an overnight trip is part of the thrill but it is also because of the significance of Washington, DC. Students always ask if we will visit the White House, or meet the President, and are always amazed at the history of the different monuments and memorials. My students' screams of delight of seeing the Washington Monument in person make all my preparation worth it. This curriculum unit has prepared me to better serve my students with a deeper understanding of the Constitution, and specifically the executive branch. I hope that through this unit my students will have an even richer experience on our trip to DC.

### Rationale

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To no one Man in America belongs the Epithet of Saviour. -Abigail Adams

Today it is hard to escape the criticism that the media aims at the President. According to Abigail Adams we should not be placing all of our hope in one man. Our government is meant to be a balance of 3 branches of equal power yet I often hear people saying "can you believe Obama did...". I want to challenge this thinking in

my classroom by clarifying the powers of the Presidency and the intricacies of our government.

Some may argue that 10 and 11 year olds do not need to know the foundation of our government. They aren't old enough to vote or truly grasp the political rhetoric of today. I argue that we must prepare our students to critically think about the world around them. The more we challenge our students to analyze and reason through their opinions the better we have prepared them for a productive life. Many of the controversial issues of politics today are not appropriate for a 5th grader but the basics of our government are important to understand in order to begin to understand the political world we inhabit.

Much of what 5th graders believe about government stems from what they learn from their parents. This is not necessarily negative but my students are capable of beginning to form their own opinions about political issues. My students need the facts about the intention of the Constitution, the arguments for and against the Constitution, and what it has outlined for our government to prepare them to critically think through the opinions they hear. It will also expose them to the idea that differing opinions create discussion and there is not necessarily one "correct" opinion. For 5th graders who believe mostly what their parents tell them it is important to open mind their minds to analyze ideas from different points of view.

## Objectives

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To my students 1787 was eons ago and it seems that the government as we know it has always been this way. Through this unit I will lead my students from the Articles of Confederation, where the people formed 13 countries instead of one, through the debates and writings of the Federalists and Anti-Federalists during the Constitutional Convention. The lessons in the unit will answer the following essential questions 1. Do we need a government? 2. What were the Federalists' main arguments for the Constitution? 3. What were the Anti-Federalists' main arguments against the Constitution? 4. What are the main powers of the Presidency outlined in the Constitution? and 5. What is the purpose of checks and balances in the Constitution?

Along with establishing the foundation of the Presidency this unit will explore the idea of decision-making. Throughout the Constitutional Convention dozens of people had to come to one decision through debate and compromise. Different ideas were presented without an obvious "correct" choice. I would like my students to analyze the process of presenting a point of view on a topic. The unit will mostly use the writings of the Federalists and Anti-Federalists as primary sources of persuasive writing.

## Background Information

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### Constitutional Convention

In order to delve into the history of the making of the United States President you must first set the stage for how our Constitution came together. The convention was put together by a group of people but James Madison stands out as the face of the convention. The first task of the planners was to get George Washington to attend the convention. They felt "that Washington's presence would give it badly needed credibility and

attract others" <sup>1</sup> . Washington did not particularly want a part in this convention and needed a lot of coaxing to give in to their request. It was Shay's rebellion that helped to convince Washington of a necessary change with our government. (Shay's rebellion arose among farmers who could not pay their debts. Many would rather fight than lose their property or go to jail. "Congress, with no army and no money, was unable to stem the rebellion and looked on helplessly while a militia financed by business men finally put it down." <sup>2</sup> ) Madison's motive to invite Washington worked with newspapers displaying headlines such as "The American Fabius Arrives..." and "The hero comes...All hail! Great Man!" <sup>3</sup>

The convention met in the State House of Philadelphia, Pennsylvania. Delegates started arriving in the beginning of May but enough delegates to begin were not present until May 25, 1787. New Hampshire never sent delegates because funds to support the trip were unavailable. One of the most notable delegates was Benjamin Franklin, 81. Although he offered words of wisdom throughout the convention he stayed politically neutral throughout the debates.

To understand why the convention seemed necessary at this time we must explore the climate and problems of the country. "The government had not caused all the problems-it was simply helpless in the face of them." <sup>4</sup> The root of the issues was the states' obsession with state power. European philosophers had taught the American people that the best governments were small, close to the people, and a manageable land area. This mind-set led the Confederation Congress to become an assembly of nations instead of a government. <sup>5</sup> The Confederation Congress did not have the power or ability to pay national debts, follow national treaties, settle Western land disputes, regulate commerce, or neutralize the slave trade issue. The states were all for themselves and hardly showed any loyalty to other states. Another major issue in the country at the time was inflation and the printing of worthless paper money. This issue was dividing the nation and creating other problems such as Shay's Rebellion.

James Madison and Alexander Hamilton organized the convention with the "purpose" of discussing the trade crisis. With state loyalties a priority, a convention openly suggesting change to the government would end before it started. Madison spent the winter of 1785 at his family home, Montpelier, working out his own plans for government. <sup>6</sup> Madison was prepared to set the course of the convention from its onset.

The Convention was determined to be held in secrecy which allowed the delegates to freely speak their minds, change their minds, not face political retribution, and prevented outside interference. <sup>7</sup> In Madison's favor many of the delegates who came to the convention would naturally be on his side. There were 55 delegates who attended the convention but 55 were never simultaneously present. The delegates who attended were different in many ways but also shared many commonalities. They were all well educated, wealthy (either born into it or becoming wealthy later in life), and were all looking to improve their lives and the country. Thirty of the delegates were part of the drafting of state constitutions, all but a few served in state legislatures, and forty-one served at some point in Congress. Serving in Congress exposed them to other states' points of view. <sup>8</sup> Out of the 55 delegates many stood out as intricate pieces to the debates of the convention. These men include James Madison, Alexander Hamilton, Benjamin Franklin, Roger Sherman, Gouverneur Morris, James Wilson, Elbridge Gerry, William Patterson, John Dickinson, Charles Pinckney, Edmund Randolph, and George Mason. <sup>9</sup> The men present at the convention also grew up under the British government with the mentality that it stood as "the best and freest system on earth". <sup>10</sup>

Referring to the government as federal or national created tension during the convention due to the importance to maintain separate state governments. With the use of the word national it was feared that the

state governments would be overthrown. <sup>11</sup> With the Revolutionary War fresh in their memories the delegates feared a controlling government: "What they were attempting was to discover a new kind of federalism, controlled by supreme power that was directly responsible to the people." <sup>12</sup>

## **Constitutional Convention Views on Presidency**

With the convention held in secrecy rumors of the debates began to spread around the nation. "On August 15, 1787, the delegates awoke to see hints in the Philadelphia press that they were preparing to install a monarchy and a monarch-Fredrick, Duke of York and Albany, the second son of George III of England." <sup>13</sup> The delegates expressed a great fear of allowing tyranny to rule the country. In their discussions they did not use the term "President" but instead used Chief Executive or National Executive. <sup>14</sup> They spent months discussing ideas of Presidency and revisited ideas over and over. "There was a greater range of individual opinion among the delegates on the character of the executive branch than on any other issue in the Convention". <sup>15</sup> The main issues when debating the details for the executive branch included the number of people in the executive office, election, reelection, term length, salary, veto over legislative branch, impeachment, and a council of advisors.

### *Number of Executives*

The first decision for the delegates to make was how many people to appoint to the executive office. With fears of monarchy, appointing only one person was too close to this style of government even though many of the state governments created a single executive. <sup>15</sup> However, the single executive in state government was purposely given a subordinate role to the state legislature. <sup>16</sup> Several options were presented, including three executives from different parts of the country, one with a council, one with a life term, President chosen by the people, one chosen by Congress with reelection, one chosen by Congress without reelection, and one chosen by governors. <sup>17</sup> Each idea for the executive branch came with supporters who shared their reasoning at the convention. James Wilson argued that energy, dispatch and responsibility were required of the executive and this could be accomplished most effectively by one person. <sup>14</sup> Roger Sherman did not think using the British Government as a prototype was a wise idea, supporting the idea of having more than one executive. <sup>10</sup> Edmund Randolph believed that choosing 3 executives would allow all areas of the country to be represented. <sup>18</sup> While Pierce Butler argued that plurality would lead to distraction and to each executive favoring his area of the country. <sup>18</sup> Benjamin Franklin also favored a plural executive as he felt a single could be ambitious, fond of war, or may fall ill. <sup>19</sup> In the end the states voted 7 to 3 for a single executive (New York, Delaware, and Maryland voted no). <sup>20</sup>

### *Election Process*

With a single executive established, the delegates had to decide the election process. Many delegates pushed for the legislature to choose the executive. James Wilson believed that the executive couldn't look like a monarchy but it also needed to counter balance the state legislature. <sup>21</sup> If the legislature chose the president they would bargain with each other and would be controlled by promises or expectations of the branches. <sup>22</sup> The other idea for choosing a president was through the people either directly or indirectly through electors. Many delegates did not have much faith in the people of the country to successfully choose a president. They believed they would not effectively judge characters, and would allow charismatic men to lead them astray. George Mason equated it to a blind man picking out a color. <sup>23</sup> Each idea for choosing an executive came with

its own downfall. If the legislature chose it would give them too much power, if the state legislator chose it would counteract taking away some of their power, and electors would make an uninformed choice.<sup>24</sup> Also, allowing the people to choose brought up questions of how to spread information about the candidates. The delegates concluded the people would vote based on the candidate's home state.<sup>25</sup> The concept of choosing an executive was revisited throughout the convention and sent to several committees for discussion.

The convention established the Electoral College allowing the people to indirectly choose the executive. John Dickinson helped the delegates to consider the Electoral College with the belief that "the people would not accept a president endowed with such far-reaching powers as the right to make treaties, command the armed forces, and appoint ambassadors, unless they had a role in selecting him."<sup>26</sup> In the original Electoral College the number of electors is equal to the number of representatives in Congress, the state legislature decides how to choose electors, the electors meet in their state and vote twice (one cannot be from home state), the votes are sent to the president of the Senate, majority wins and if there is a tie the Senate chooses, and the second highest is appointed Vice President.<sup>27</sup> During the convention it was also important for the delegates to find a balance of powers between the branches. In this electoral college plan the delegates felt the President would become a slave of the Senate, as no one person after Washington would gain the majority of the votes, and would secure an office for life.<sup>28</sup> Roger Sherman's revisions to the Electoral College (the House of Representatives chooses the president in the event of a tie, with one vote per state and the Senate chooses the vice president in the event of a tie) won with a vote of 10-1.<sup>29</sup> With the House of Representatives choosing it would eliminate factions forming as the Representatives are reelected more often than Senators.

### *Reelection and Term Length*

Many ideas dealing with reelection and term length dominated the conversation of the delegates. Delegates thought one provided little incentive for the president to do well with no incentive of reelection.<sup>30</sup> A President up for reelection may ingratiate himself or herself with Congress to get reelected (once the electoral college was established this fear dissolved).<sup>30</sup> James Wilson proposed a six year term chosen through a lottery of legislators.<sup>24</sup> Many delegates supported a 7 year term without reelection but others argued a limit of one term would waste experience and talent.<sup>31</sup> With the creation of the Electoral College Gouverneur Morris suggested a president with a 4 year term with reelection believing the electoral college eliminated cabals forming.<sup>32</sup>

### *Salary*

The topic of a president's salary also needed a decision at the convention. Benjamin Franklin expressed strong opinions against a salary for the executive office. Using examples of Britain and Quakers he believed not offering a salary would bring more honorable men to the office.<sup>33</sup> The delegates respectively listened to Franklin's viewpoint but mostly because of his standing with the convention than out of concurrence.<sup>34</sup>

### *Executive Veto*

One of the major discussions rooted in preventing tyranny included a possible Presidential veto power over the legislative branch.<sup>35</sup> The points of views of the delegates stemmed from the actions of royal governors before the Revolution and interestingly the first three grievances in the Declaration of Independence dealt with this issue.<sup>36</sup> Benjamin Franklin believed the presidential veto, originally called the executive negative, would cause the Congress to manipulate the President.<sup>19</sup> Without a veto the legislative would be free to create laws without accountability.<sup>37</sup> Wilson argued against Franklin that a President elected in a republican

system would be different than in the monarchy they experienced. <sup>38</sup> Madison held a firm belief that the judicial branch should also be part of the veto. <sup>39</sup> A committee of the convention decided to allow the executive veto with a 2/3 overrule by Congress. <sup>40</sup> Like other issues at the convention the delegates revisited this decision several times. At one point the delegates raised the overrule to 3/4 of Congress but ultimately kept the 2/3 of Congress. <sup>41</sup>

### *Appointing Officers/Judges and Impeachment*

The Presidential role included other details to debate at the convention. Who would appoint the federal judges? Would he have a council of advisors? Is he impeachable? James Wilson argued that the executive should choose the federal judges because he believed a large group choosing would result in "intrigue, partiality, and concealment". <sup>40</sup> John Rutledge of South Carolina disagreed, arguing the people would see the government more as a monarchy with only one person choosing. <sup>40</sup> The delegates thought it necessary for the president to surround himself with a council of advisors. The original idea of a privy council included the president of the Senate, Speaker of the House, the chief justice of the Supreme Court, and the principal officers of the executive departments (foreign affairs, domestic affairs, war, marine, and finance). <sup>42</sup> Madison's idea for the council was for the men to act as a check on Presidential power however the council today serves as direct agents of the power. <sup>43</sup> The impeachability of the President was imperative to setting the tone of our government. The possibility of impeachment eliminated the reference of a monarchy as kings cannot face impeachment. <sup>44</sup> Many delegates agreed on the concept of impeachment but not the method. Dickinson argued for the states involvement in impeachment which would create a cumbersome process. <sup>45</sup> Madison and Wilson did not agree with Dickinson as his plan would not preserve the "national" feel of the Constitution. <sup>46</sup>

The decisions over defining the executive branch dominated a majority of the convention. Toward the end of the convention the delegates express exhaustion and the desire to finalize the constitution. John Rutledge urged the delegates to move on with the debates so they would not have to spend the remainder of the year in Philadelphia. <sup>47</sup> The vision of George Washington as the first President also may have influenced the executive branch's role in our government. Pierce Butler expressed this idea, "these powers would have been less extensive had not many members looked to General Washington as their first President". <sup>48</sup> During the ratifying conventions the discussion did not focus as much on the executive branch for the same reason. <sup>49</sup>

### **After the Convention**

After several months of deliberating the Constitutional Convention ended and the draft was complete. The next step required the sanction of the Confederation Congress, state governments, and the people at large. <sup>50</sup> The creation of the Constitution was quite the accomplishment but without approval the words would mean nothing. The next step was for each state to hold ratification conventions to approve or disapprove the Constitution. Nine states approval was required to put life into the Constitution. <sup>51</sup>

The Constitution was quickly printed in newspapers around the nation. <sup>52</sup> As the states held their conventions a war of words began in the newspapers to sway the state's vote. Hundreds of essays were published by the Federalists in favor of the Constitution and the Anti-Federalists against the Constitution.

### **Federalist Views on Presidency**

During the years of 1787-1788 Alexander Hamilton, James Madison, and John Jay wrote 85 essays under the

name of Publius. Published in New York newspapers, they attempted to convince the American people of the credibility of the Constitution. <sup>53</sup> The Federalists had an advantage over the Anti-Federalists as out of a 100 or so newspapers only a few actively supported the Anti-Federalist side. <sup>54</sup> The men who comprised the Federalists spent the Constitutional Convention together debating and creating a strong coherent argument. <sup>54</sup> Their arguments were normally reasoned, quiet, and intellectual in content. <sup>55</sup> The Federalist demanded a direct yes or no without debate with the idea of future amendments after ratification. <sup>56</sup> In their essays the Federalists discussed each line and paragraph of the Constitution in detail. <sup>56</sup> They empowered the people by stating that the Constitution established a democracy with power in the hands of the people versus the central or state governments. <sup>57</sup> The Federalists stood for a strong nation government which diminished the independence of the states. <sup>58</sup>

Essays 1, 51, and 68-77 focus on ideas related to the executive branch. This section includes key quotes and ideas for some of these essays which directly connect to the curriculum unit. Full text of all of the Federalist papers are accessible at this website <http://www.foundingfathers.info/federalistpapers/>.

### *No. 1*

The first essay written by Hamilton introduces the purpose of the Constitution and includes reasons for accepting the Constitution. An interesting idea addressed is the ability of men to create an effective government. "Whether societies of men are really capable or not of establishing good government from reflection and choice, or whether they are forever destined to depend for their political constitutions on accident and force". The historical context of state rights is also explored. "Among the most formidable of the obstacles which the new Constitution will have to encounter may readily be distinguished the obvious interest of a certain class of men in every State to resist all changes which may hazard a diminution of the power, emolument, and consequence of the offices they hold under the State establishments".

### *No. 51*

The 51st essay written either by Hamilton or Madison focuses on the importance of setting up a system of checks and balances. An intriguing quote from the essay prompts discussion on the purpose of government. "It may be a reflection on human nature, that such devices should be necessary to control the abuses of government. But what is government itself, but the greatest of all reflections on human nature? If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary." Along with the idea of human nature the government itself needs a way of protecting itself from corruption. "In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself." Two points of view on the executive veto are included as well. "An absolute negative on the legislature appears, at first view, to be the natural defense with which the executive magistrate should be armed. But perhaps it would be neither altogether safe nor alone sufficient. On ordinary occasions it might not be exerted with the requisite firmness, and on extraordinary occasions it might be perfidiously abused."

### *No. 68*

The 68th essay by Hamilton focuses on the key topic of electing a president. The following quote provides reasoning for the Electoral College. "It was equally desirable, that the immediate election should be made by men most capable of analyzing the qualities adapted to the station, and acting under circumstances favorable

to deliberation, and to a judicious combination of all the reasons and inducements which were proper to govern their choice." The quote above provides an interesting question, who are the "men most capable"?

#### *No. 69*

The 69th essay written by Hamilton addresses the issue of a single executive. He clearly shows the differences in the King's powers with the executive powers, as well as comparing the similarities with state governors. It lays out the specific powers and limitations of the presidency. He explores each power of the Presidency and argues against its similarities to a King.

#### *No. 70*

The 70th essay by Hamilton addresses the benefits of a single executive. "Wherever two or more persons are engaged in any common enterprise or pursuit, there is always danger of difference of opinion." This quote offers a different view on the expression "two heads are better than one". "But one of the weightiest objections to a plurality in the Executive, and which lies as much against the last as the first plan, is, that it tends to conceal faults and destroy responsibility." This quote lends itself to a discussion of responsibility and the implications of making a decision alone versus as a team.

#### *No. 71*

The 71st essay by Hamilton explains the reasoning for the length of the President's term. "It is a general principle of human nature, that a man will be interested in whatever he possesses, in proportion to the firmness or precariousness of the tenure by which he holds it; will be less attached to what he holds by a momentary or uncertain title, than to what he enjoys by a durable or certain title; and, of course, will be willing to risk more for the sake of the one, than for the sake of the other." This quote brings up the concepts of effort and work ethic. Should the length of term matter to the President?

#### *No. 72*

The 72nd essay by Hamilton describes in detail why a President should be eligible for reelection. He argues that if he did not have the possibility for reelection he would have less reason to demonstrate good behavior. He may also abuse powers for his own ambitions. With a President only serving one term he would never build his experience to the benefit of the country. The constant changing of a President would lead to instability and may pull a President out of office while in the middle of emergencies such as war. "Would it promote the peace of the community, or the stability of the government to have half a dozen men who had had credit enough to be raised to the seat of the supreme magistracy, wandering among the people like discontented ghosts, and sighing for a place which they were destined never more to possess?"

#### *No. 73*

The 73rd essay written by Hamilton discusses the purpose of the executive veto. "It not only serves as a shield to the Executive, but it furnishes an additional security against the enactment of improper laws." This reasoning highlights the convention theme of preventing a tyranny and creating a system of equal power.

### **Anti-Federalist Views on Presidency**

During the years of 1787-1789 views against the constitution were expressed through newspapers and speeches to convince people not to ratify the document. Most people who wrote these essays used a



pseudonym.<sup>59</sup> The arguments of the Anti-Federalists were not as strong due to the fact that the representatives were geographically dispersed.<sup>60</sup> This caused the writers to create arguments in isolation so they never formed a unified opposition.<sup>60</sup> The arguments of the Anti-Federalists focused on people's fear instead of reason.<sup>61</sup> The Anti-Federalists expressed that the Constitution ratification process was happening too fast and would certainly establish a permanent aristocracy.<sup>62</sup> They also argued that the power of the government was too far from the people and states.<sup>63</sup> The powers outlined for Congress also concerned the Anti-Federalists as they were vague and included a small number of representatives.<sup>63</sup> George Mason, a leader of the Anti-Federalists also argued that the executive and Senate together created too much power over the country.<sup>64</sup> The largest argument against the Constitution was the absence of a bill of rights.<sup>63</sup> Without the bill of rights many felt that the government would have the ability to do anything they chose.

Essays 1, 51, 67-77, and Cato V focus on ideas related to the executive branch. This section includes key quotes and ideas for some of these essays which directly connect to the curriculum unit. Full text of the Anti-Federalist papers are accessible at this website <http://www.thevrwc.org/antifederalist/index.html>.

### *No. 1*

Essay 1 signed A Federalist introduces an overall argument against the Constitution. An overall theme in the article is limiting the freedom of the people. "I had rather be a free citizen of the small republic of Massachusetts, than an oppressed subject of the great American empire." It also attacks the secrecy of the constitutional convention stating the people's insufficient opportunity to examine the document. He also criticizes the delegates' position in society. "These consist generally, of the NOBLE order of C[incinnatu]s, holders of public securities, men of great wealth and expectations of public office, B[an]k[er]s and L[aw]y[er]s: these with their train of dependents form the Aristocratick combination."

### *No. 67*

The 67th essay written under the name Cato overviews the major problems dealing with the office of Presidency. A major theme is relating the Presidency to a king, tapping into the fear of the people. "It may be here remarked with deference, that the construction of the first paragraph of the first section of the second article is vague and inexplicit...this inexplicitness perhaps may lead to an establishment for life." In evaluating the veto Cato argues the President holds too much power over legislature. "If he approves of it he is to sign it, if he disapproves he is to return it with objections, which in many cases will amount to a complete negative; and in this view he will have a great share in the power of making peace, coining money, etc., and all the various objects of legislation, expressed or implied in this Constitution."

### *No. 68*

The 68th paper is a speech by William Grayson against the method of choosing a president. He begins the speech with a comparison to other countries. In response to our executive branch he says, "This quadrennial power cannot be justified by ancient history. There is hardly an instance where a republic trusted its executive so long with much power; nor is it warranted by modern republics." He also outlines a sample vote using the Electoral College from his time period and argues that certain states will have the sole say in electing the President. "I presume the seven Eastern States will always elect him."

### *No. 69*

The 69th essay written by Richard Henry Lee, A Federal Farmer explains his opinion on the length of a president's term and reelection. In order to avoid corruption he believes a limited monarchy would fit our country best. "A man who must, at all events, thus leave his office, will have but few or no temptations to fill its dependent offices with his tools, or any particular set of men; whereas the man constantly looking forward to his future elections, and perhaps, to the aggrandizement of his family, will have every inducement before him to fill all places with his own props and dependents."

*No. 70*

The 70th essay written under the name Old Whig warns of the danger in the Constitution's definition of the executive branch. "I shall despair of any happiness in the United States until this office is either reduced to a lower pitch of power, or made perpetual and hereditary." He outlines different scenarios that may arise and the fact that after George Washington no one will properly use the power. "I would therefore advise my countrymen seriously to ask themselves this question: Whether they are prepared to receive a king? If they are, to say so at once, and make the kingly office hereditary; to frame a constitution that should set bounds to his power, and, as far as possible, secure the liberty of the subject."

*No. 71*

The 71st essay includes two parts written under the names Agrippa and A Customer exploring the idea of a 4 year term. Agrippa presents his own idea for the Presidential term. "The president shall be chosen annually and shall serve but one year, and shall be chosen successively from the different states, changing every year." A Customer has a direct issue with Article 3; Section 1 due to its wording which he believes leaves too much open for interpretation. "Here is no declaration that a new one shall be chosen at the expiration of that time." He feels that after the 4 year term Congress could appoint anyone to fill the position without holding an election.

*No. 72*

The 72nd essay written under the name Republicus criticizes the idea of the Electoral College. He advocates for placing control of the government into the hands of the people. "Is it then become necessary, that a free people should first resign their right of suffrage into other hands besides their own, and then, secondly, that they to whom they resign it should be compelled to choose men, whose persons, characters, manners, or principles they know nothing of?" "I can think of but one source of right to government, or any branch of it-and that is THE PEOPLE. They, and only they, have a right to determine whether they will make laws, or execute them, or do both in a collective body, or by a delegated authority."

*No. 73*

The 73rd essay written under the name William Penn evaluates the separation of powers and the veto. In order to protect the freedom of the people it is necessary to have clear separations between the branches. "Liberty therefore can only subsist, where the powers of government are properly divided, and where the different jurisdictions are inviolably kept distinct and separate." He explains the danger in connecting the legislative and executive branches. "The first and most natural division of the powers of government is into the legislative and executive branches. These two should never be suffered to have the least share of each other's jurisdiction, or to intermeddle with it in any manner. For whichever of the two divides its power with the other, will certainly be subordinate to it; and if they both have a share of each other's authority, they will be in fact but one body. Their interest as well as their powers will be the same, and they will combine together

against the people." William Penn uses examples of the state constitutions stating that they have made clear separation of powers, so why wouldn't the US Constitution?

#### *No. 74*

The 74th essay written under the name Philadelphiensis builds an argument explaining how the President will serve as a military king. He uses strong language to attack the delegates of the convention. "A conspiracy against the freedom of America, both deep and dangerous, has been formed by an infernal junta of demagogues." He also claims that any assurance of the President not being a king is only an illusion. "There is not a tincture of democracy in the proposed constitution, except the nominal elections of the president general and the illustrious Congress be supposed to have some color of that nature. But this is a mere deception, invented to gull the people into its adoption."

#### *Cato V*

In this essay Cato explains his overall view on the Constitution focusing on elections, length of terms, and the amount of representation. In reference to the single executive he comments, "The world is too full of examples, which prove that to live by one man's will became the cause of all men's misery." He also believes that the document's language is vague and inexplicit. Questioning the people's acceptance he poses the following question, "Whence is it therefore, that you are about to precipitate yourselves into a sea of uncertainty, and adopt a system so vague, and which has discarded so many of your valuable rights. — Is it because you do not believe that an American can be a tyrant? If this be the case you rest on a weak basis; Americans are like other men in similar situations, when the manners and opinions of the community are changed by the causes I mentioned before, and your political compact inexplicit, your posterity will find that great power connected with ambition, luxury, and flattery, will as readily produce a Caesar, Caligula, Nero, and Domitian in America, as the same causes did in the Roman empire."

### **Presidency Based on the Constitution**

The Constitution has 7 articles with a varying number of sections in each. Article II outlines the executive branch, however Article I also includes powers of the executive branch in connection with legislature.

#### *Article I*

Section 7 outlines the veto power of the President explaining any bill passed in Congress must be signed by the President within 10 days (if not it automatically passes). The President may send it back with a veto and explanation of why he is against the bill.

#### *Article II*

Section 1 states the President serves a 4 year term with the Vice President and outlines the guidelines for the Electoral College (also see amendment 12). It also states the President must be a natural born citizen, at least 35 years, and a resident of the US for at least 14 years. It goes on to explain the process for replacing the President and Vice President in death, resignation, or removal of office (also see amendment 25). The section also explains the salary for the President will not change during his term. He also must take an oath before entering his office.

Section 2 defines many of the powers of the executive branch. The President is the Commander in Chief, may request opinions of Officers in executive departments, he may pardon except in cases of impeachment, make

treaties with 2/3 of Senators approval, appoints officers with Senate, and fill vacancies in the Senate until the next session.

Section 3 explains the executive branches responsibilities to the legislative branch. He must give a state of the union address to the Congress, recommend ideas to them, convene the Congress, and set time limits. It also states that the President will receive Ambassadors and other public Ministers, and execute all laws.

Section 4 states that the President, Vice President and Officers of the United States are eligible of impeachment due to treason, bribery, or other high crimes and misdemeanors.

## Strategies

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### Journaling

Throughout the activities students will partake in many discussions. Journaling will serve as a place for students to think through their ideas before sharing. The journal entries will revolve around our analysis of the Federalist and Anti-Federalist papers. The students will be asked to look at different ideas from both points of view and develop their own opinions on the Presidential concepts. Through journaling the students will also gather ideas that can serve as a resource in the debate (more to come on this).

### Multi-Media

By nature the topic of the Constitution does not always thrill my students. To help liven the lessons up multiple types of resources will be used. These will include video clips, written text, books, comics, and art. Using a variety of sources will keep my students attention and create more meaningful lessons.

### Graphic Organizers

During the activities the students will be receiving a wealth of information. In order to keep this valuable information accessible the students will be given various organizers for certain activities.

One will be for the analysis of the Constitution, Federalist, and Anti-Federalist papers. The chart will have four columns with the headings Constitutional Idea, Federalist View, Anti-Federalist View, and My Idea.

Another organizer will show the Checks and Balances that exist in the Constitution. It will display 3 circles (one for each branch) and an arrow going to and from between the Legislative and Executive, the Executive and Judicial, and the Judicial and Legislative. On the lines of the arrow the students will explain the balance of power between the branches.

The last organizer will be used during the debate. This planning sheet will serve as the outline and guide during the debate. The organizer will have 5 sections including 1. Introduction (grab attention, provide background) 2. Argument One (thesis for reason, evidence from documents, connect thesis and evidence) 3. Argument Two 4. Argument Three 5. Rebuttal (identify argument opposite side used, counterattack with evidence from documents) 6. Concluding Statement (restate main idea with insight).

## Debate

Bringing debate into the classroom allows students to practice a variety of skills. They must prepare in writing their arguments, refine their public speaking skills, and collaborate with peers. The debate in this unit will follow the following time limits; Introduction 2 minutes, Arguments 3 minutes each, Rebuttal 3 minutes, and Concluding Statement 1 minute for a total of 30 minutes per debate. The teams will alternate turns and they will flip a coin to determine who will begin. There will be a visible timer for the students so they can keep track of their time. The teacher will serve as the moderator during the debate. If possible using a podium for each team adds meaning to the debate process as well as inviting another class in to watch the debate.

## Classroom Activities

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### 1. Activate Prior Knowledge

Students will need to be placed in heterogeneous groups of 4. The following 4 questions will be assigned to each group, 1. Why do we have a government? 2. What power do you think our president has? 3. If you could change anything in our country what would it be and why? 4. What does the phrase Checks and Balances mean to you in connection with our government?. Each person will be assigned a question to write on the top of his/her notebook paper. The students will be given 5 minutes to respond to the question. After 5 minutes they will pass their notebook to someone in their group. They will then be given 3 minutes to read the new question and the response already given. They will then be given 5 more minutes to respond to the new question. This process will repeat until everyone in the group has answered all 4 questions.

As a whole group take time to discuss these questions and any common themes students noticed as they read each other's responses. Next display a copy of the Constitution and ask students to share their initial thoughts as they look at the document. Explain to students that this document outlines our government.

### 2. Background on Convention

Explain to students that before the creation of the Constitution our country followed the Articles of Confederation. Describe to the students the idea of state loyalty and the lack of accountability under the Articles of Confederation. Have students watch "Liberty Kids #40: We the People" (link below under student websites). While watching, students should respond to the following questions in their journal, 1. What events lead to the Convention? 2. What were some major issues at the Convention?. After the video discuss the responses students recorded in their journal offering more insight into the Convention (see background information above). The following two quotes from the video can also be used as journal prompts or discussion points "United we stand, divided we fall" George Washington, and "The Convention is held in secrecy so delegates can change their minds without fear of public embarrassment" James Madison.

Use the following links, <http://teachingamericanhistory.org/convention/christy/>, [http://www.archives.gov/exhibits/charters/charters\\_mural\\_constitution\\_b.html](http://www.archives.gov/exhibits/charters/charters_mural_constitution_b.html), to explore the scene of the Constitutional Convention. Using the paintings to discuss symbolism and other insight the students notice. The paintings may also be compared and contrasted leading to more discussion of the Convention. I also suggest reading the background information on the painting and artist included on the first link before having this discussion with students.

### **3. Introduction to the Constitution**

As a whole group read Article 2 of the Constitution discussing main ideas and summarizing the main points (see background information above). Have students in charge of the question "What powers do you think our president has?" from Activity 1 take out their journal entry. Use these ideas to compare with the actual powers described in the Constitution.

In groups of 2-3 have students read pg. 53-64 from "The United States Constitution: A Graphic Adaptation". While reading have students record any questions that arise. After everyone has finished reading discuss as a whole group the questions recorded in the groups.

Lastly, discuss with students the system of Checks and Balances set up in the Constitution and complete the graphic organizer described above with them.

### **4. Analysis of the Constitution, Federalist Views, and Anti-Federalist Views**

The following activity contains the bulk of the unit and will last over several days. The students will use the chart graphic organizer as described in the strategies above.

Before beginning the analysis of the Federalist and Anti-Federalist papers use pages 85-87 of "The United States Constitution: A Graphic Adaptation" to lead a discussion on the ratification process and the role of these essays during the process.

Analysis of the Federalist and Anti-Federalist papers will be split up into 3 main categories, 1. Number of Executives and Term Length, 2. Election and Reelection, and 3. Executive Veto Power. For each category I have identified which essays to use (see background information above) and journal prompts. For each category first fill in the Constitutional Idea column using the Constitution as a reference on the graphic organizer described above. Use the quotes suggested above for the essay references to discuss the views of each side and to complete the graphic organizer. For the last column, My Idea, allow students to write which idea they agree with or create their own idea for the category. Take time to discuss student ideas and responses. This activity also lends itself to share with students the debates that occurred during the Convention (see background information above).

#### *Number of Executives and Term Length*

Federalist Paper References: 69, 70, 71

Anti-Federalist References: 69, 70, 71, 74, Cato V

Journal Prompts: Does making a decision alone or with a team require more personal responsibility? Explain. How does the length of a President's term affect his/her work ethic?

#### *Election and Reelection*

Federalist Paper References: 68, 72

Anti-Federalist Paper References: 51, 68, 69, 71, 72, Cato V

Journal Prompts: What qualities make someone capable of serving as President? Explain. How do you think the

idea of reelection effects a President's decisions in his/her 1st term?

*Executive Veto Power*

Federalist Paper References: 51, 73

Anti-Federalist Paper References: 67, 73

Journal Prompts: Describe a time an adult "vetoed" an idea you had or something you wanted. Do you think this was fair? Why or why not?

#### **4. Debate**

To organize the debate there will be 6 teams of 4. A total of 3 debates will take place using the three topics in activity 3. In each debate one team will represent the Federalist point of view and one team will represent the Anti-Federalist point of view. The students will use the graphic organizer described above and the time limits described above in their planning. To determine the point of view and topic for each group you could assign it yourself based on the group's ability and needs or you could randomly have the groups assigned a topic and point of view. The students should work collaboratively and during the debate each team member should have equal speaking time. The students should also be encouraged to dress up on the day of the debate to fit the part of the time period.

## **Classroom Materials**

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1. Notebook Paper
2. Internet Access and Projector or Interactive Board to view Liberty Kids, and Convention Paintings
3. Copy of Constitution for each student
4. Copy of pg. 53-64 from "The United States Constitution: A Graphic Adaptation" for each student
5. Copy of pg. 85-87 from "The United States Constitution: A Graphic Adaptation" for each student
6. Large timer for debate
7. Coin for debate

## **Bibliography**

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Teacher Books

Barbash, Fred. *The Founding: A Dramatic Account of the Writing of the Constitution*. New York, N.Y.: Linden Press/Simon and

Schuster, 1987. This book provides a great resource for an overview of the convention and ratification of the Constitution. The book is separated into two sections, A Critical Minute and Building a Government.

Beeman, Richard R.. *Plain, Honest Men: The Making of the American Constitution*. New York: Random House, 2009. This book provides a day by day account of the making of the Constitution in narrative form. It also includes mini biographies on the delegates and a chronology of events.

Berkin, Carol. *A Brilliant Solution: Inventing the American Constitution*. New York: Harcourt, 2002. This book discusses the major debates of the convention in an easy to read format. It also includes an appendix with the Articles of Confederation and Constitution.

Bowen, Catherine Drinker. *Miracle at Philadelphia: The Story of the Constitutional Convention, May to September 1787*. Boston: Little, Brown, 1966. This book is a narrative account of the Constitutional Convention organized by issue. Each chapter is titled by the convention issue making it easy to pinpoint what is relevant to your research.

Raphael, Ray. *Mr. President: How and Why The Founders Created a Chief Executive*. New York: Alfred A. Knopf, 2012. This book focuses on the convention's decision making involving the executive branch. It is split into three sections, Precedents, Conjuring the Office, and Field Tests.

#### Teacher Websites

"Anti-Federalist Papers." Index. <http://www.constitution.org/afp/afp.htm> (accessed July 13, 2012). This website provides background information on the Anti-Federalist papers. It also organizes the papers by author and a chart of how the Federalist and Anti-Federalist relate to one another.

"Constitution of the United States - Official." National Archives and Records Administration. <http://www.archives.gov/exhibits/charters/constitution.html> (accessed July 13, 2012). This website is a virtual copy of the United States Constitution which includes hyperlinked sections for the original parts which now have amendments.

"Federalist Papers." Founding Fathers. <http://www.foundingfathers.info/federalistpapers/> (accessed July 10, 2012). This website is a collection of the Federalist papers by author or in number order. It also includes a brief background to the papers.

#### Student Books

Burgan, Michael. *The U.S. Constitution*. New York: Children's Press, 2012. This chapter book examines the events leading up to the Constitution through the Constitution today. It includes attention grabbing pictures and interesting side bars. Mini-biographies of the delegates and a timeline are also included.

Fritz, Jean, and Tomie DePaola. *Shh! we're writing the Constitution*. New York: Putnam, 1987. This book is a narrative which tells the story of the Constitutional Convention through the ratification of the Constitution. It includes interesting stories of the delegates and side notes of the environment the delegates were experiencing.

Hennessey, Jonathan, and Aaron McConnell. *The United States Constitution: A Graphic Adaptation*. New York: Hill and Wang, 2008. This is a comic book which explains each Article of the Constitution including the Preamble. It also has a short chapter titled Federalist vs. Anti-Federalists. This comic book also includes illustrations and writing on all 27 amendments.

Ransom, Candice F.. *Who wrote the U.S. Constitution?: And Other Questions About the Constitutional Convention of 1787*. Minneapolis: Lerner Publications, 2011. Written as a chapter book this book tells the story of the Convention through the ratification of the Constitution. It includes various pictures and side bars to keep the reader's attention.



## Student Websites

"Liberty`s Kids: #40 "We the People" (1/2)- YouTube." YouTube - Broadcast Yourself.  
<http://www.youtube.com/watch?v=CNTNueTI904> (accessed July 25, 2012).

"Liberty`s Kids: #40 "We the People" (2/2)- YouTube." YouTube - Broadcast Yourself. .  
<http://www.youtube.com/watch?v=1ZoCuXJZcsg&feature=relmfu> (accessed July 25, 2012). These videos are a 23 minute cartoon which depicts the scene of the Constitutional Convention. It starts with events leading up to the Convention and includes key debates of the Convention.

"Three Branches of Government School House Rock- YouTube." YouTube - Broadcast Yourself.  
<http://www.youtube.com/watch?v=-EISWIY9bG8> (accessed July 25, 2012). This video clip is a classic 3 minute song that uses a 3 ring circus as a metaphor for the 3 branches of government.

"Congress for Kids: [Constitution]: Introduction to the Constitution." Congress for Kids - Interactive, Fun-filled Experiences About the Federal Government. [http://www.congressforkids.net/Constitution\\_index.htm](http://www.congressforkids.net/Constitution_index.htm) (accessed July 25, 2012). This website includes different sections on the Convention and after the Convention. It also includes a mini-quiz for each section.

"Congress for Kids: [Executive Branch]: The President." Congress for Kids - Interactive, Fun-filled Experiences About the Federal Government. [http://www.congressforkids.net/Executivebranch\\_president.htm](http://www.congressforkids.net/Executivebranch_president.htm) (accessed July 25, 2012). This website includes sections on the jobs of the President, impeachment, and the relationship between Congress and the President. It also includes a mini-quiz for each section.

## Appendix

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North Carolina Essential Standards: Social Studies

*5.H.2 Understand the role of prominent figures in shaping the United States.*

5.H.2.1 Summarize the contributions of the "Founding Fathers" to the development of our country.

*5.C&G.1 Understand the development, structure and function of government in the United States.*

5.C&G.1.2 Summarize the organizational structures and powers of the United States government (legislative, judicial and executive branches of government).

5.C&G.1.3 Analyze historical documents that shaped the foundation of the United States government.

Through discussing the Constitutional Convention the students will understand the role of the "Founding Fathers". The Federalist and Anti-Federalist papers serve as primary sources that helped to spread the news of our Constitution during the ratification process. The students' analysis of Article II of the Constitution will lay the foundation for understanding our 3 branches of government.

North Carolina Common Core: Writing

1. Write opinion pieces on topics or texts, supporting a point of view with reasons and information.

- a. Introduce a topic or text clearly, state an opinion, and create an organizational structure in which ideas are logically grouped to support the writer's purpose.
- b. Provide logically ordered reasons that are supported by facts and details.
- c. Link opinion and reasons using words, phrases, and clauses (e.g. consequently, specifically)
- d. Provide a concluding statement or section related to the opinion presented.

Through responding to journal entries and preparing for a debate topic the students will utilize these skills and strategies.

## Endnotes

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<sup>1</sup> Fred Barbash, "The Founding", 19.

<sup>2</sup> Fred Barbash, "The Founding", 38.

<sup>3</sup> Fred Barbash, "The Founding", 25.

<sup>4</sup> Fred Barbash, "The Founding", 31.

<sup>5</sup> Fred Barbash, "The Founding", 33.

<sup>6</sup> Fred Barbash, "The Founding", 21.

<sup>7</sup> Fred Barbash, "The Founding", 53.

<sup>8</sup> Fred Barbash, "The Founding", 43-47.

<sup>9</sup> Carol Berkin, "A Brilliant Solution", 51.

<sup>10</sup> Catherine Drinker Bowen, "Miracle at Philadelphia", 57.

<sup>11</sup> Catherine Drinker Bowen, "Miracle at Philadelphia", 41.

<sup>12</sup> Catherine Drinker Bowen, "Miracle at Philadelphia", 43.

<sup>13</sup> Fred Barbash, "The Founding", 172.

<sup>14</sup> Catherine Drinker Bowen, "Miracle at Philadelphia", 55.

<sup>15</sup> Catherine Drinker Bowen, "Miracle at Philadelphia", 62.

<sup>16</sup> Richard R. Beeman, "Plain, Honest Men", 125.

- 17 Fred Barbash, "The Founding", 175.
- 18 Catherine Drinker Bowen, "Miracle at Philadelphia", 59.
- 19 Catherine Drinker Bowen, "Miracle at Philadelphia", 60.
- 20 Catherine Drinker Bowen, "Miracle at Philadelphia", 62.
- 21 Fred Barbash, "The Founding", 176.
- 22 Fred Barbash, "The Founding", 177.
- 23 Carol Berkin, "A Brilliant Solution", 121.
- 24 Carol Berkin, "A Brilliant Solution", 125-126.
- 25 Carol Berkin, "A Brilliant Solution", 127-128.
- 26 Carol Berkin, "A Brilliant Solution", 139.
- 27 Carol Berkin, "A Brilliant Solution", 136-138.
- 28 Carol Berkin, "A Brilliant Solution", 142-143.
- 29 Carol Berkin, "A Brilliant Solution", 144.
- 30 Fred Barbash, "The Founding", 179.
- 31 Carol Berkin, "A Brilliant Solution", 123.
- 32 Carol Berkin, "A Brilliant Solution", 140-141.
- 33 Catherine Drinker Bowen, "Miracle at Philadelphia", 61.
- 34 Ray Raphael, "Mr. President", 61.
- 35 Carol Berkin, "A Brilliant Solution", 120.
- 36 Richard R. Beeman, "Plain, Honest Men", 137.
- 37 Carol Berkin, "A Brilliant Solution", 123.
- 38 Richard R. Beeman, "Plain, Honest Men", 139.
- 39 Richard R. Beeman, "Plain, Honest Men", 140.
- 40 Catherine Drinker Bowen, "Miracle at Philadelphia", 65.

- 41 Carol Berkin, "A Brilliant Solution", 133.
- 42 Carol Berkin, "A Brilliant Solution", 134.
- 43 Richard R. Beeman, "Plain, Honest Men", 306.
- 44 Catherine Drinker Bowen, "Miracle at Philadelphia", 190.
- 45 Richard R. Beeman, "Plain, Honest Men", 141.
- 46 Richard R. Beeman, "Plain, Honest Men", 142.
- 47 Richard R. Beeman, "Plain, Honest Men", 297.
- 48 Catherine Drinker Bowen, "Miracle at Philadelphia", 191.
- 49 Carol Berkin, "A Brilliant Solution", 178.
- 50 Richard R. Beeman, "Plain, Honest Men", 370.
- 51 Carol Berkin, "A Brilliant Solution", 169.
- 52 Richard R. Beeman, "Plain, Honest Men", 371.
- 53 <http://www.foundingfathers.info/federalistpapers/>
- 54 Richard R. Beeman, "Plain, Honest Men", 374.
- 55 Catherine Drinker Bowen, "Miracle at Philadelphia", 268.
- 56 Richard R. Beeman, "Plain, Honest Men", 378, 388.
- 57 Richard R. Beeman, "Plain, Honest Men", 380-381.
- 58 Carol Berkin, "A Brilliant Solution", 175.
- 59 <http://www.constitution.org/afp/afp.htm>
- 60 Richard R. Beeman, "Plain, Honest Men", 410.
- 61 Catherine Drinker Bowen, "Miracle at Philadelphia", 271-272.
- 62 Richard R. Beeman, "Plain, Honest Men", 377.
- 63 Richard R. Beeman, "Plain, Honest Men", 408-409.
- 64 Richard R. Beeman, "Plain, Honest Men", 372.

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