

## 1.5

### **Ratification of the United States Constitution**

#### **Explain the ongoing impact of political negotiation and compromise at the Constitutional Convention on the development of the constitutional system.**

The weaknesses emanating from the Articles of Confederation emboldened the elite in the respective colonies to give good government another attempt. Meeting in Philadelphia in the summer of 1787 delegates recommended a new government charter. This government would address imminent needs. The central government would be stronger. The United States Constitution, the result of these efforts, was ratified in 1788. A new government was in place by 1789. The process was easier said than done. As we will see representative democracy relies upon meaningful deliberation and compromise. In the summer of 1787 compromise was essential if a new constitution was to be ratified.

Compromise is never easy. In political deliberations there are distorting influences, such as media and money. Conflicting mindsets make negotiations problematic. Compromise often requires the surrender of principles. The middle ground may in fact be rotten. Nevertheless, as British statesman Edmund Burke said, "All government is founded on compromise and barter." This could not be truer than in the summer of 1787 in Philadelphia. At stake was nothing less than our experiment in self-government. A functioning representative democracy would require changes to the Articles of Confederation but could we overcome our differences and divisions?

A stronger union would be a challenge to build due to the many differences found in our original 13 states. There was a gap between the interests of large states and small states. Profound political and economic issues divided Northern States from Southern States. Most noticeably, free States and slave States clashed over the future vision of America. If a new constitution were to be ratified the delegates would need to tread carefully through these political, economic and regional divisions. Without compromise a new constitution, a stronger functioning central government, would never have been ratified.

Roger Sherman, a delegate from Connecticut, provided the opening salvo when he proposed early on a bicameral legislature. He suggested proportional representation in a House of Representatives, but equal state representation in a Senate. His Connecticut Compromise attempted to address the fundamental issues facing large and small states, that being equal representation in the new government. This "Great Compromise" ultimately passed and led to the ratification of the new constitution.

A more difficult issue would be what some have called "the snake" of slavery. Although the word "slavery" did not appear in the original U.S. Constitution, the document ultimately ratified included certain implicit protections of that "the peculiar institution."

Slavery was both recognized and sanctioned by the original U.S. Constitution. As some have noted the compromise to do so must be seen in the greater context of both representation and sovereignty. The Articles of Confederation gave clear advantages to state sovereignty and thus to slavery. By returning greater sovereignty back to a stronger central government state prerogative would be weakened. Southern States would need to be compensated. Three constitutional provisions appear to do just that. In no small way these must be seen as critical compromises to ensure ratification of the new constitution. The original constitution, similar to the Articles, included a three-fifths formula when counting slaves for the purpose of apportioning representation and calculating taxation. A clause was also inserted to allow for the importation of slaves for at least another twenty years, until 1807. The new constitution also included strong language that protected owners when pursuing their "fugitive labor." Together these provisions have made what some have called a pro-slavery Constitution. Yet to others these clauses must be seen in the greater context of constitutional compromise.

The compromises necessary to secure ratification of the Constitution left some matters unresolved. Perhaps it is for this reason that an escape hatch was included in the original constitution. Article V allowed for amendments to be added later. Proposed amendments could be offered by a two-thirds vote from either the U.S. Congress or from national conventions. Proposed amendments could be ratified by three-fourths of the states. Although formal amendments have been rare, unresolved disputes continue to generate discussion and debate throughout our political institutions.

Compromises made in the summer of 1787 not only addressed political, economic and regional divisions, they made possible the continuation of representative democracy, as we know it. Even today when we debate such issues as the continued use of the Electoral College we are reminded of compromises at the time of our founding. Our ability to compromise is the sine qua non of effective self-government.

After the 55 delegates to the Federal Constitutional Convention signed on to their recommendations in 1787 the work of nation building was far from over. George Washington referred to the next step as "the judgment seat." The people must approve. The plan to reboot American government was contingent upon the ratifying conventions in the 13 States. Nine would be needed to implement the new social contract. It would be a mistake to think that the ratifying conventions held in the 13 respective states were a private matter. Certainly, elite opinion played a disproportionate role in determining the outcomes, however, a broad national debate reverberated throughout a wide range of mediums. Any witness of this period would have recognized, as some have noted, the unleashing of a "festive" political culture. Discussion over the issues raised by the new constitution could be found in "newspapers, taverns, coffeehouses and over dinner tables." The process of ratification witnessed unprecedented levels of political activity and voter interest.

Seemingly every clause had friends and foes. Where was a bill of rights? The new document was godless as it prohibited any kind of religious test. Many feared the Senate citing its lack of true representation. Would the regulation of interstate

commerce interfere with the lucrative cotton trade in the south? Who or what would check the certain abuse of the necessary and proper clause? The president appeared monarchy like. Many thought the new government was no longer a republic but an aristocracy. Many in the north were dismayed at the Constitution's implicit sanctioning of slavery. And no republic in history allowed for the creation of a permanent standing army. But most alarming, and debated most vociferously was the clear consolidation of power in a central government.

Federalists argued for the merits of this consolidation of power while the Anti-Federalists raised serious objections. In the New York ratifying convention Federalist Alexander Hamilton argued:

*It has been asserted that the interests, habits, and manners of the thirteen states are different; and hence it is inferred that no general free government can suit them. This diversity of habits, &c., has been a favorite theme with those who are disposed for a division of our empire, and, like many other popular objections, seems to be founded on fallacy. I acknowledge that the local interests of the states are in some degree various, and that there is some difference in the manners and habits. But this I will presume to affirm, that, from New Hampshire to Georgia, the people of America are as uniform in their interests and manners as those of any established in Europe.*

In the Virginia ratifying convention Anti-Federalist Patrick Henry argued:

*This Constitution is said to have beautiful features; but when I come to examine these features, sir, they appear to me horribly frightful. Among other deformities, it has an awful squinting; it squints towards monarchy; and does not this raise indignation in the [heart]of every true American?*

The centerpiece of contention over a strong central government then as it is now continue to focus on how much power should be given to a central government? The issues raised in the ratification debate are reflected in ongoing philosophical disagreements about democracy and government power, even today.

Debating the ills of big government continues to be an American pastime. A narrative of federal aggrandizement has clearly characterized the story of American government since our founding. Nevertheless, many continue to raise objections to a strong central government. Tensions continue to exist between the role of the central government, the powers of state governments and the rights of individuals. The issues we debate today are similar to those waged at the ratifying conventions over 200 years ago. Here are just a few examples:

In their attempt to keep us safe and secure following the attacks on September 11 has our national government compromised our individual liberties?

By mandating certain educational goals, procedures and outcomes has our central government become an obtrusive player in an arena that has been traditionally reserved for state and local governments?

Have we seen the growth of an imperial presidency?

Has “the night watchman state” turned into “a nanny state” whereby federal regulations and protocols now dictate more and more of our daily private choices?

Throughout American history we were taught the benefits of a limited government. Government was not a solution but a problem. We were even told, “the era of big government is over.” If there is one lesson we have learned, however, from the ratification debates it is this: in time we will need a stronger central government and that time seemingly is still now.