

# **The Second American Revolution:** **The U.S. Constitution** *1787–1788*

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**Year 1**  
**History Unit 4**  
Sourcebook

# Lesson 1: A New Nation



***How did American victory in the Revolution reshape North America?***

## **The Northwest Ordinance**

*The text below was adapted from the Archives of the House of Representatives.*

On July 13, 1787, the Continental Congress approved “An Ordinance for the Government of the Territory of the United States, North-West of the River Ohio,” by a vote of 17–1. Better known as the Northwest Ordinance, it provided a path toward statehood for the territories northwest of the Ohio River, encompassing the area that would become the future states of Illinois, Indiana, Michigan, Ohio, Wisconsin, and part of Minnesota. Drafted by Massachusetts Delegates Rufus King and Nathan Dane, the 1787 ordinance sought to revise Thomas Jefferson’s 1784 ordinance by designating the territories as one district which fell under Congress’s jurisdiction. In addition to information about real estate and estate planning, the 1787 ordinance also outlined a general process for acquiring statehood. The First Federal Congress renewed the Northwest Ordinance during its first session in August 1789. But after obtaining vast amounts of land from France with the Louisiana Purchase and from Spain with the purchase of Spanish Florida, policymakers were forced to adapt the Northwest Ordinance to suit their changing needs. Although the Northwest Ordinance remained a primary model, Congress passed a series of enabling acts that granted greater autonomy to territorial officials while providing a path to eventual statehood.

The Northwest Ordinance of 1787. Courtesy of Archives of the House of Representatives.

**Map A**  
**Free and Enslaved Populations**  
**in the United States, 1790**

Examine the maps of the “free” and “enslaved” populations in the Smithsonian Magazine article “These Maps Reveal How Slavery Expanded Across the United States.”

**Map B**  
**Population of the United States, 1790**

Examine the map of the “total population” in the Smithsonian Magazine article “These Maps Reveal How Slavery Expanded Across the United States.”

**Map C**  
**States and Territories of the United States, 1790**

The map below shows states and territories of the United States, as well as surrounding regions, in 1790.



(Golbez, Wikimedia. Multi-license with GFDL and Creative Commons CC-BY 2.5)

## Lesson 2: The Disunited States



*Illustration of Shays' Rebellion (Wikimedia)*

**Why did Daniel Shays lead a rebellion in 1786?**

## The Disunited States

Read pages 145 through 149 in the textbook *History Alive! The United States Through Industrialism and the article "The Articles of Confederation" on the History Channel website.*

### Document A

#### An Address to the People by Daniel Gray of Pelham

*Daniel Gray was the richest man in Pelham, Massachusetts, and was a strong supporter of the Regulators (followers of Daniel Shays). The following excerpt was written by Gray, published in 1786 in the Hampshire Gazette.*

We think it proper to inform you of some of the primary causes of the recent uprisings of the people, and also of their present movement.

1. The present expensive mode of collecting debts while many Americans face a great shortage of cash will fill our jails, and therefore make employable people incapable of being useful either to themselves or the community.
2. The monies raised by taxes being used to pay off debts accumulated by the government during the war.
3. A **suspension** [*halting*] of the **Writ of Habeas Corpus** [*lawful imprisonment*], because of which individuals may now be arrested and detained without **due process** [*rights to fair treatment in the judicial system*], and are thus subject to an unjust punishment, normally being jailed within the nation.
4. The unlimited power granted to Justices of the Peace, sheriffs, deputy-sheriffs, and police, protecting them from the judgment of the courts even if rioters die by their hands, perhaps wholly motivated by a principle of revenge, hatred and envy.

Per Order,  
DANIEL GRAY, Chairman of a Com. for the above purpose.

*Grey, Daniel. 1786. Courtesy of ShaysRebellion.stcc.edu, Springfield Technical Community College.*

## **Document B**

### **Regarding Ginseng Root**

*The following excerpt was adapted from a letter written to John Williams of Deerfield by Charles Sigourney of Boston in 1784.*

Since your Mr. Upham was with me, I have asked about the Ginseng Root and find that a large amount has already been shipped from the Southern States to almost every market in Europe. For this reason, I am convinced yours will sell for much less than you expect, but I wish this may not be the case.

I understand you may depend on the ginseng earning enough profit from its sale to pay off your debt with me. Unfortunately, I am certain it will not pay one half of it. Moreover, I find I have much larger debts I myself must pay since the war's end, for an amount larger than I previously thought and which is far beyond my ability to pay.

I must therefore call upon everyone to repay their debts as soon as possible, otherwise I likely cannot leave the Country this Season. I beg you will do to all that is in your power to assist me at this particular moment. Be informed that if the state of things were not so very difficult, I would not be so pressing. I will wait in expectation of your kind assistance.

Charles Sigourney

*Grey, Daniel. 1786. Courtesy of ShaysRebellion.stcc.edu, Springfield Technical Community College.*

## **Document C**

### **Excerpt from the Journal of Park Holland**

*In the following excerpt, Captain Park Holland recounts the actions of the Regulators. Like many of the men who were fighting, Captain Park Holland was also a veteran of the revolution.*

After the war, the money, especially that held in the hands of the poor, was soon spent and many of them were in great debt, as much as their credit would allow. To add to this, there was a large tax increase that was generally unpaid.

Sometime in the year 1786, the shortage of Money became quite alarming and those who were most in debt began to hold Town & County meetings so as to be in agreement and decided on plans. They seemed to conclude that it was best to stop the Massachusetts Courts of Common Pleas, for there was a very unusual number of lawsuits being brought before their Court for unpaid debts and taxes.

The Regulators chose Capt. Daniel Shays, the Commander in Chief and other officers of different grades to lead them. The General Court was now readying in Boston and finding that all legal proceedings had come to a stop, as the Mob was growing by the day and all law & government seemed to be unable to address the situation. The General Court thus thought it necessary and with haste to raise an Army of enough force to put down the Rioters in one bold stroke before they should gain greater strength.

*Grey, Daniel. 1786. Courtesy of ShaysRebellion.stcc.edu, Springfield Technical Community College.*

## Document D

### A Letter from Henry Lee to George Washington, 1786

*The following excerpt is adapted from a letter addressed to George Washington from Henry Lee Jr. of Virginia.*

The time is fast coming that the people of these United States must establish a permanent, capable government, or surrender to the horrors of **anarchy** [*a state of disorder and lawlessness*] and **licentiousness** [*lacking moral principles*].

The enclosed list of grievances of the so-called “Shaysites” will show you the mood of the eastern people—it is not confined to one state or to one part of a state, but is widespread across states. The worsening of their economic well-being leaves the lower classes unemployed and inactive. The actions of these classes have led to plans resulting in the disruption of order and good government—Weak and **feeble** [*lacking strength*] governments are not able to resist or calm such dangerous offenses.

Is it surprising that these men have taken this path because they have become distrusting and **envious** [*resenting another for their possessions*] when they see the leaders of the Nation possessing much power, though power which is absolutely necessary to prevent evil and reward virtue. Indeed, almost every Nation we read of have drank deep of the miseries which flow from either **despotism** [*the cruel use of absolute power*] or the immorality of the people—the happy medium is hard to find.

*Lee, Henry Jr., 1786. Courtesy of National Archives*



## Lesson 3: The Road to Philadelphia



*Howard Chandler Christy's painting Scene at the Signing of the Constitution of the United States, 1940 (Wikimedia)*

**Why did Americans disagree about representation in a new national government?**

## **The Road to Philadelphia**

*Read pages 149 through 151 in the textbook History Alive! The United States Through Industrialism (Teachers Curriculum Institute, 2011).*

## Lesson 4: Safeguards Against Tyranny



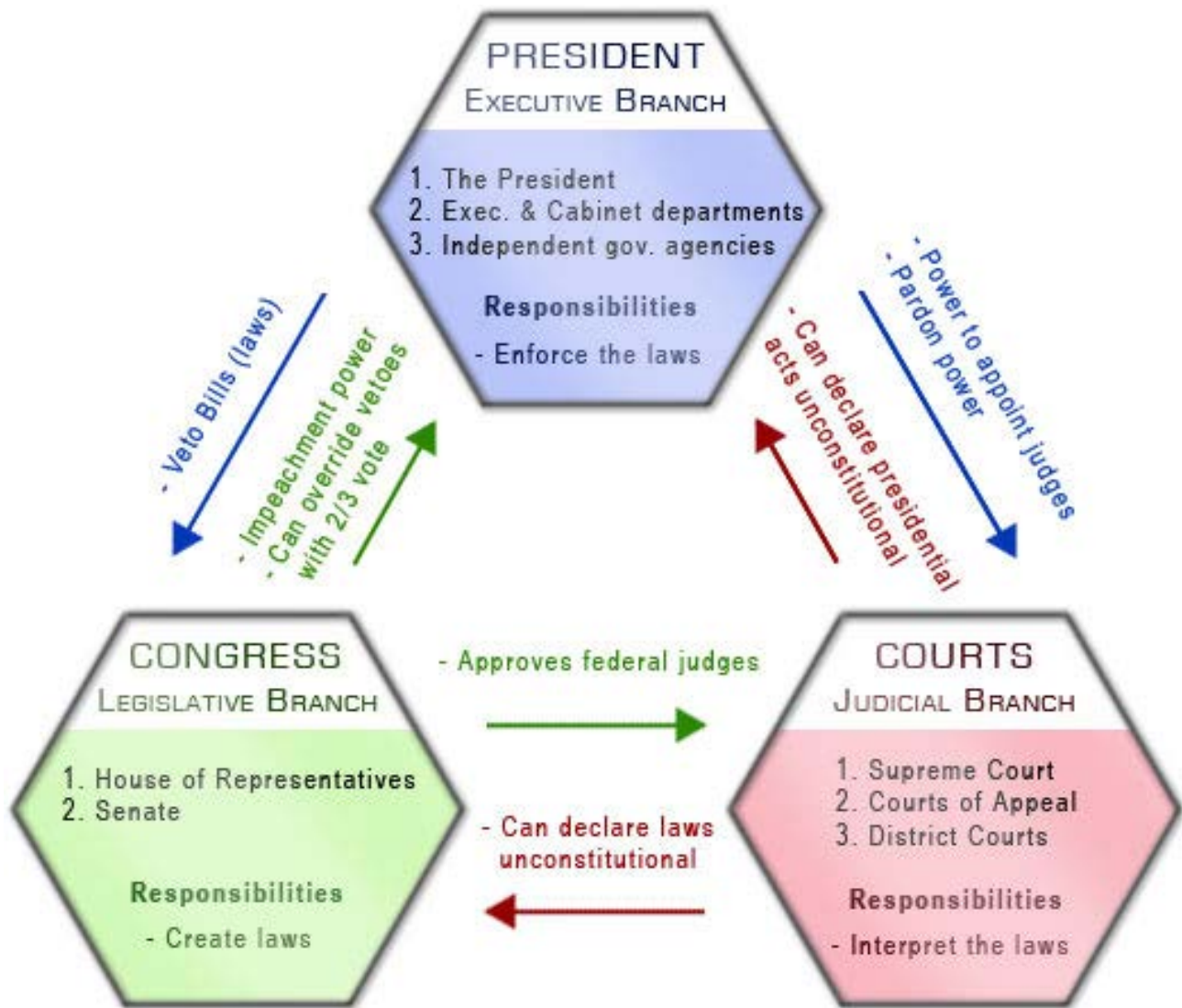
(Wikimedia)

**How did the new Constitution balance the power of the federal government?**

**Homework**  
**Creating the Constitution**

Read the article "Creating the Constitution" on the Independence Hall Association's USHistory.org website.

**Checks and Balances**



(Wikimedia)

**Document A**  
**“Federalist Paper No. 51”**

*The following excerpt is from James Madison’s “Federalist Paper No. 51,” a part of a series of essays entitled The Federalist Papers, written in support of the new Constitution and published in 1788.*

In the compound republic of America, the power surrendered by the people is first divided between two distinct governments, and the portion allotted to each is further subdivided among distinct and separate departments. Hence a double security arises to the rights of the people. The different governments will each control each other, at the same time that each will be controlled by itself.

*Courtesy of Congress.gov Resources.*

**Document B**  
**Federalism**

*The table below illustrates Madison’s idea of division of power between central and state governments, a concept known as federalism. Some powers were given exclusively to the central government, others were given exclusively to the states, and others were shared between the two.*

<b>Powers of the Central Government</b>	<b>Shared Powers</b>	<b>Powers of the States</b>
Regulate trade	Establish courts	Establish local governments
Foreign relations	Tax	Pass laws about marriage/divorce
Establish army/navy	Borrow money	Hold elections
Pass laws on immigration	Pass laws	Make schools
Print money	Enforce laws	Regulate in-state business
Declare war	Regulate education	Establish fire departments

## **Document C**

### **Separation of Powers Among Several Branches**

*The following excerpt is from James Madison's "Federalist Paper No. 48," published in 1788. The articles that follow are taken directly from the Constitution.*

The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may be justly pronounced the very definition of tyranny . . . Liberty requires that the three great departments of power should be separate and distinct.

#### **Article 1, Section 1**

All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

#### **Article 2, Section 1, Clause 1**

The executive power shall be vested in a President of the United States. He shall hold office during the term of four years, and, (serve) together with the Vice-President, chosen for the same term . . . .

#### **Article 3, Section 1**

The judicial power of the United States shall be invested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the supreme and the inferior courts, shall hold their offices during good behavior.

*Courtesy of Congress.gov Resources.*

## **Document D**

### **Checks and Balances**

*The following is another excerpt from James Madison’s “Federalist Paper No. 51,” published in 1788. The diagram that follows illustrates the relationship between the three branches of government as defined in the Constitution.*

The constant aim is to divide and arrange the several offices in such a manner as that they may be a check on the other . . . . The three branches should not be so far separated as to have no constitutional control over each other.

*Courtesy of Congress.gov Resources.*

## **Document E**

### **Article 2, Section 2**

*For many delegates at the Constitutional Convention, the idea of one person serving as the chief executive of the federal government brought to mind unhappy memories of King George III. Below is an excerpt from James Madison’s notes, describing the debate between delegates Wilson and Randolph, and an article from the Constitution describing executive power.*

Mr. Wilson preferred a single [executive], as giving most energy and responsibility to the office. He did not consider the British Monarch as a proper guide in defining Executive powers. Many powers given to the monarch in Britain would be Legislative here. The only powers he considered strictly Executive were those of executing the laws, and appointing officers, approved by the Legislature . . . .

Mr. Wilson said that unity in the Executive would be the best safeguard against tyranny, instead of being what Randolph called the beginning of monarchy. He said we were not governed by the British Model, which was inapplicable to this Country.

### **Article 2, Section 2 (Presidential Power)**

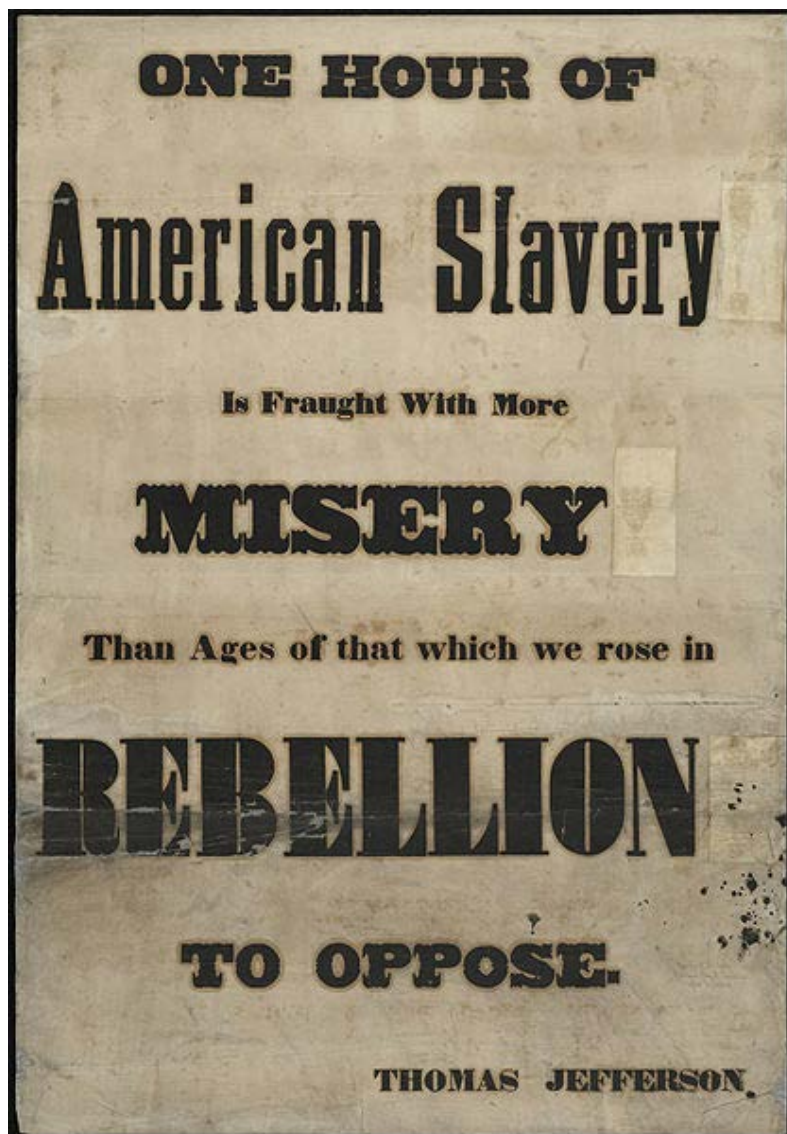
The President shall be commander in chief of the Army and Navy of the United States, and of the militia of the states, when called into the service of the United States; he may require the opinion of officers of the executive departments, upon any subject relating to the duties of their offices . . . .

He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present [agree]; and he shall nominate and appoint ambassadors, judges of the Supreme Court, and all other officers.

*Madison, James, 1787. Courtesy of Press-pubs.uchicago.edu, University of Chicago Press Books Division.*

*Courtesy of Congress.gov Resources.*

## Lesson 5: Slavery and the Constitution



*Thomas Jefferson's anti-slavery broadside, 1800  
(Boston Public Library, Wikimedia)*

**Why did the framers protect  
slavery in the Constitution?**



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## Homework

### Slavery and the Constitution

*The following essay was written by historian Steven Mintz and published by the Gilder Lehrman Institute of American History.*

On the 200th anniversary of the ratification of the United States Constitution, Thurgood Marshall, the first African American to sit on the Supreme Court, said that the Constitution was “defective from the start.” He pointed out that the framers had left out a majority of Americans when they wrote the phrase “We the People.” While some members of the Constitutional Convention voiced “**eloquent** [*persuasive*] objections” to slavery, Marshall said they “consented to a document which laid a foundation for the tragic events which were to follow.”

The word “slave” does not appear in the Constitution. The framers consciously avoided the word, recognizing that it would taint the document. Nevertheless, slavery received important protections in the Constitution. The notorious three-fifths clause—which counted three-fifths of a state’s slave population toward seats for representation—gave the South extra representation in the House of Representatives and extra votes in the Electoral College. Under this measure a single slaveholder with one hundred slaves counted as the equivalent of sixty-one free people. The Constitution also prohibited Congress from outlawing the Atlantic slave trade for twenty years. A fugitive slave clause required the return of runaway slaves to their owners. The Constitution gave the federal government the power to put down domestic rebellions, including slave insurrections.

Many framers of the Constitution believed that concessions on slavery were the price for the support of southern delegates for a strong central government. They were convinced that if the Constitution restricted the slave trade, South Carolina and Georgia would refuse to join the Union. But by sidestepping the slavery issue, the framers left the seeds for future conflict. After the convention approved the compromise, Madison wrote, “It seems now to be pretty well understood that the real difference of interests lies not between the large and small but between the northern and southern states. The institution of slavery and its consequences form the line of discrimination.”

Of the 55 delegates to the Constitutional Convention, about 25 owned slaves. Many of the framers held moral questions about slavery. Some, including Benjamin Franklin (a former slaveholder) and Alexander Hamilton (who was born in a slave colony in the British West Indies), became members of antislavery societies.

On August 21, 1787, a bitter debate broke out over a South Carolina proposal to prohibit the federal government from regulating the Atlantic slave trade. Luther Martin of Maryland, a slaveholder, said that the slave trade should be subject to federal regulation since the entire nation would be responsible for suppressing slave revolts. He also considered the slave trade contrary to America’s republican ideals. “It is inconsistent with the principles of the Revolution,” he said, “and dishonorable to the American character to have such a feature in the constitution.”

John Rutledge of South Carolina responded forcefully. “Religion and humanity have nothing to do with this question,” he insisted. Unless regulation of the slave trade was left to the states, the southernmost states “shall not be parties to the union.” A Virginia delegate, George Mason, who owned hundreds of slaves, spoke out against slavery in ringing terms: “Every master of slaves is born a petty tyrant. They bring the judgment of heaven on a country.”

Oliver Ellsworth of Connecticut accused slaveholders from Maryland and Virginia of hypocrisy. They could afford to oppose the slave trade, he claimed, because “slaves multiply so fast in Virginia and Maryland that it is cheaper to raise than import them, whilst in the sickly rice swamps [of South Carolina

and Georgia] foreign supplies are necessary.” Ellsworth suggested that ending the slave trade would benefit slaveholders in the Chesapeake region, since the demand for enslaved labor in other parts of the South would increase the price of enslaved people once the external supply was cut off.

The controversy over the Atlantic slave trade was ultimately settled by compromise. In exchange for a 20-year ban on any restrictions on the Atlantic slave trade, southern delegates agreed to remove a clause restricting the national government’s power to enact laws requiring goods to be shipped on American vessels (which benefited northeastern shipbuilders and sailors). The same day this agreement was reached, the convention adopted the fugitive slave clause, requiring the return of runaway slaves to their owners.

Was the Constitution a proslavery document, as abolitionist William Lloyd Garrison claimed when he burned the document in 1854 and called it “a **covenant** [*contract*] with death and an agreement with Hell”? This question still provokes controversy. If the Constitution temporarily strengthened slavery, it also created a central government powerful enough to eventually abolish the institution.

*Mintz, Steven, Historical Context: The Constitution and Slavery. (The Gilder Lehrman Institute of American History)*

## Document A

### The Constitution's "Slavery Clauses"

*Toward the end of the Constitutional Convention, Charles Pinckney of South Carolina remarked that "some provision should be included in favor of property in slaves." He and his fellow South Carolinian Pierce Butler moved "to require fugitive slaves and servants to be delivered [back to their slavers] like criminals." The motion was eventually renewed as a formal addition to what would become Article IV. It passed unanimously and without debate. The resulting clause, known as the Fugitive Slave Clause, is the closest of the so-called Slave Clauses (including Article I, Section 2, Clause 3; and Article I, Section 9, Clause 1) to recognizing slavery as a protected institution.*

*The excerpts below are the "slavery clauses" in the Constitution.*

### The "Three-Fifths Compromise"

#### Article I, Section 2, Clause 3

Representatives shall be apportioned among the states, according to their respective numbers, which shall be determined by adding the whole number of free persons, excluding Indians not taxed, and three-fifths of all other persons. The actual **enumeration** [*census, or population count*] shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct.

### Prohibitions on Banning the Slave Trade

#### Article I, Section 9, Clause 1

The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be **prohibited** [*forbade*] by the Congress prior to the Year one thousand eight hundred and eight . . . .

### Fugitive Slave Clause

#### Article IV, Section 2, Clause 3

No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due.

*Courtesy of Fugitive Slave Clause, The Heritage Guide to The Constitution.*

## Document B

### Opinions on Slavery

*The debate over slavery signaled a growing division among white Americans. Below are the perspectives of various delegates and their ultimate conclusion on the role of slavery in the Union.*

**Mr. Rutledge** (delegate from South Carolina): Religion and humanity have nothing to do with this question. The true question at present is whether the Southern states shall or shall not be a part of the Union. If the Northern states think about their interest, they will not oppose the increase of slaves because they will profit by selling the goods that slaves produce.

**Mr. Ellsworth** (delegate from Connecticut): Let every state do what it pleases. The morality or wisdom of slavery are decisions belonging to the states themselves. What enriches a part enriches the whole.

**Mr. Williamson** (delegate from North Carolina): Southern states could not be members of the Union if the slave trade ended. It is wrong to force anything that is not absolutely necessary, and which any state must disagree to.

**Benjamin Franklin** (delegate from Pennsylvania): I agree to this Constitution with all its faults because I think a federal (national) government necessary for us. When you assemble a large group of men, you will inevitably find that they will disagree with each other about their local interests, and their selfish views. We have to accept some of these disagreements in order to build a national government.

*Courtesy of Stanford History Education Group*

## **Document C**

### **Frederick Douglass: The Constitution and Slavery**

*The issue of slavery and the Constitution remained unresolved long after the Philadelphia Convention. As slavery continued to grow and spread throughout the United States, tensions grew over whether the Constitution allowed this growth. In the excerpt below, antislavery leader Frederick Douglass, a former slave, discusses the relationship between the Constitution and slavery in an essay written in 1849, more than 60 years after the Philadelphia Convention and the original debates of the delegates.*

The Constitution of the United States, standing alone, without reference to the opinions of the men who framed and adopted it, or to the universal practice of the nation under it, from the time of its adoption until now, is not a pro-slavery instrument.

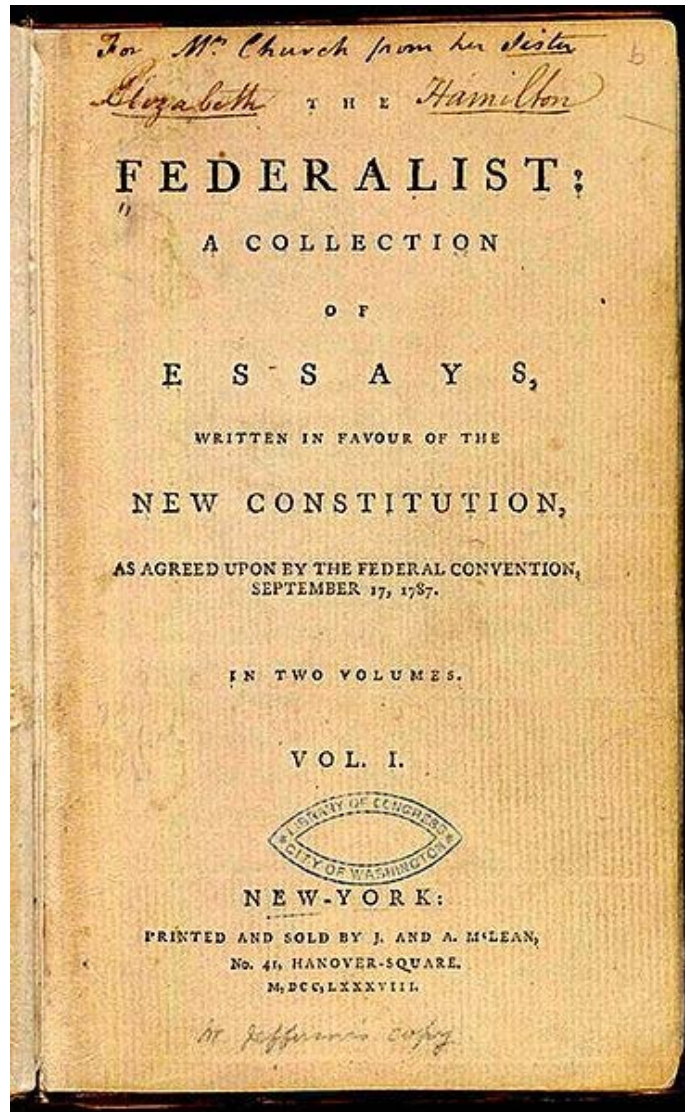
Had the Constitution dropped down from the sky, upon a land uncursed by slavery, and without an interpreter so cunningly is it framed, that no one would have imagined that it allowed slavery. But having a human origin we find no difficulty in understanding its meaning in all the parts which we relate to slavery.

Slavery existed before the Constitution, in the very States by whom it was made and adopted. Slaveholders took a large share in making it. It was made in view of the existence of slavery, and in a manner well calculated to aid and strengthen that horrible crime . . . .

One thing is certain about the slavery clauses of the Constitution. It is this—that under it, the slave system has enjoyed a large and domineering representation in Congress, which has given laws to the whole Union in regard to slavery, ever since the formation of the government.

*Douglass, Frederick. The Constitution and Slavery. Courtesy of TeachingAmericanHistory.org.*

## Lessons 6–8: Federalists and Antifederalists



The Federalist Papers were a series of essays written in favor of the new Constitution. (America's Library.gov, Wikimedia)

**To what extent did the new Constitution protect the rights of Americans?**

## Homework Ratification

*The following text was adapted from the official website of the U.S. government, [whitehouse.gov](http://whitehouse.gov).*

With the details and language of the Constitution decided, the Convention got down to the work of actually setting the Constitution to paper. It is written in the hand of a delegate from Pennsylvania, Gouverneur Morris, whose job allowed him some reign over the actual punctuation of a few clauses in the Constitution. He is also credited with the famous preamble, quoted at the top of this page. On September 17, 1787, 39 of the 55 delegates signed the new document, with many of those who refused to sign objecting to the lack of a bill of rights. At least one delegate refused to sign because the Constitution codified and protected slavery and the slave trade.

The process set out in the Constitution for its ratification provided for much popular debate in the states. The Constitution would take effect once it had been ratified by nine of the thirteen state legislatures—unanimity was not required. During the debate over the Constitution, two factions emerged: the Federalists, who supported adoption, and the Anti-Federalists, who opposed it.

James Madison, Alexander Hamilton, and John Jay set out an eloquent defense of the new Constitution in what came to be called the Federalist Papers. Published anonymously in the newspapers *The Independent Journal* and *The New York Packet* under the name Publius between October 1787 and August 1788, the 85 articles that comprise the Federalist Papers remain to this day an invaluable resource for understanding some of the framers' intentions for the Constitution. The most famous of the articles are No. 10, which warns of the dangers of factions and advocates a large republic, and No. 51, which explains the structure of the Constitution, its checks and balances, and how it protects the rights of the people.

The states proceeded to begin ratification, with some debating more intensely than others. Delaware was the first state to ratify, on December 7, 1787. After New Hampshire became the ninth state to ratify, on June 22, 1788, the Confederation Congress established March 9, 1789, as the date to begin operating under the Constitution. By this time, all the states except North Carolina and Rhode Island had ratified—the Ocean State was the last to ratify on May 29, 1790.

*Courtesy of [Whitehouse.gov](http://Whitehouse.gov)*

## Document A Anti-Federalists: The Power of the Elite

*The following excerpt is from Melancton Smith and was written during ratification debates on June 21, 1788.*

Representatives should be a true picture of the people. They should understand the people's circumstances and their troubles. Therefore, the number of representatives should be so large that both rich and poor people will choose to be representatives.

If the number of representatives is small, the position will be too competitive. Ordinary people will not attempt to run for office. A middle-class yeoman [*farmer*] will never be chosen. So, the government will fall into the hands of the few and the rich. This will be a government of oppression. The rich consider themselves above the common people, entitled to more respect. They believe they have the right to get anything they want.

*Smith, Melancton. June 21, 1788. Courtesy of Stanford History Education Group.*

**Document B**  
**Federalist No. 10**

*The following excerpt, "The Same Subject Continued: The Union as a Safeguard Against Domestic Faction and Insurrection," was authored by James Madison and published on November 23, 1787, in the New York Packet.*

A republic, by which I mean a government in which elected officials represent the common people, protects the good of the public and the private rights of the people against the danger of self-interested groups. At the same time, it preserves the spirit and the form of government by the people.

In contrast, it may be concluded that a pure democracy, by which I mean a society consisting of rule of government by a powerful majority, can provide no protection against the dangers of an all-powerful majority which **imposes** [*forces*] its will on the people.

A republic solves this by magnifying the people's views, by passing the people's views through an elected body of citizens, whose wisdom can best serve the true interest of their country, and whose patriotism and love of justice will guard against surrendering the country's interest to temporary or only partially considered issues. Under a republic, it may be the case that the public voice, spoken by the representatives of the people, will better serve the public good than if voiced by the people themselves.

*Courtesy of Congress.gov Resources.*

**Document C**  
**Federalist No. 75**

*The following text was adapted from a speech by Federalist leader Alexander Hamilton, delivered on June 21, 1788.*

The Antifederalists seem to think that a pure democracy would be the perfect government. Experience has shown that this idea is false. The ancient democracies of Greece were characterized by tyranny and run by mobs. The Antifederalists also argue that a large representation is necessary to understand the interests of the people. This is not true. Why can't someone understand 50 people as well as he understands 20 people? The new constitution does not make a rich man more eligible for an elected office than a poor person. I also think it's dangerous to assume that men become more wicked as they gain wealth and education. Look at all the people in a community, the rich and the poor, the educated and the ignorant. Which group has higher moral standards? Both groups engage in immoral or wicked behavior. But it would seem to me that the behavior of the wealthy is less wicked and sinful.

*Courtesy of Congress.gov Resources.*

## **Document D**

### **Rights and Representation**

*The following excerpt was adapted from a speech by Thomas Tredwell, an Anti-Federalist, speaking at the Ratifying Convention for New York State on July 2, 1788.*

In this Constitution, sir, we find no security for the rights of individuals, no security for the existence of our state governments. There is no bill of rights, no proper restriction of power; our lives, our property, and our consciences, are left wholly at the mercy of the legislature, and the powers of the judiciary goes wholly unrestricted.

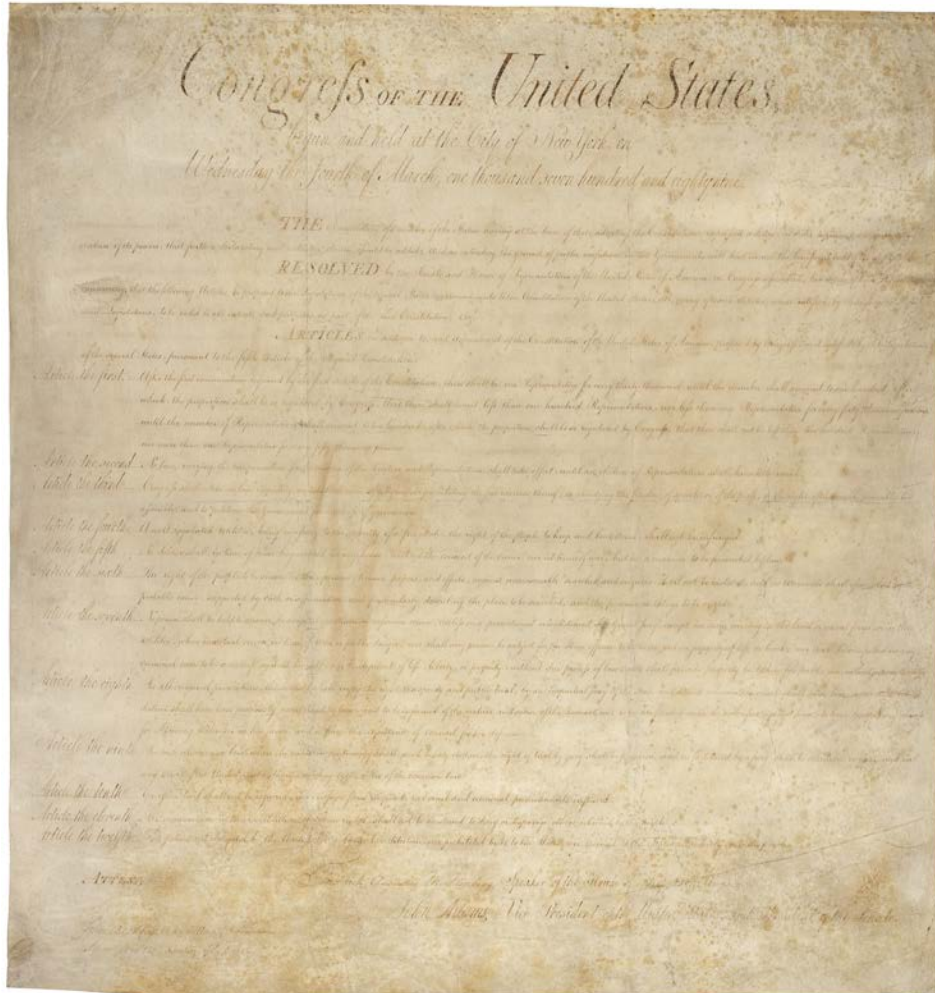
*The following excerpt was written by an Anti-Federalist and published in Letters from the Federal Farmer to the Republican, I, on October 8, 1787.*

[The proposed Constitution] leaves the powers of government, and the representation of the people, so unnaturally divided between the federal and state governments. The instability of our [current] laws increases my wishes for firm and steady government, but I cannot consent to government which, in my opinion, is not calculated equally to preserve the rights of all orders of men in the community.

*Tredwell, Thomas. July 2, 1788. Courtesy of The Gilder Lehrman Institute of American History*



# Lesson 9: Bill of Rights



The Bill of Rights (Wikimedia)

## How does the Bill of Rights protect individual and state rights?

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**Homework**  
**The Bill of Rights**

*Read page 184 from the textbook History Alive! The United States Through Industrialism (Teachers Curriculum Institute, 2011).*

**Group 1: The First Amendment**  
**Document A**  
**The First Amendment**

*The First Amendment covered five essential freedoms: religion, speech, the press, assembly, and the right to petition. These basic freedoms are the foundation of the Bill of Rights.*

Congress shall make no law regarding the establishment of religion, or prohibiting the free exercise; or **abridging** [*reducing*] the freedom of speech, or of the press; or the right of the people peaceably to **assemble** [*gather*], and to **petition** [*request*] the government for a **redress** [*remedy*] of **grievances** [*complaints*].

*Courtesy of GovInfo.gov.*

**Document B**  
**First Amendment Right: Freedom of Religion**

*According to the First Amendment, there can be no official religion of the United States. The government cannot favor or bias one religion or religious group over another, through law or decree. Known as the separation of church and state, the government cannot financially support religious institutions nor create laws based on religious beliefs only.*

*Furthermore, this means that people are free to practice any religion they choose. Even so, this does not mean they can violate laws because of their religion. A person cannot harm another person based on religious beliefs.*

Congress shall make no law regarding the establishment of religion, or prohibiting its the free exercise.

*Courtesy of GovInfo.gov.*

**Document C**  
**The Rights to Free Speech and Free Press**

*Freedom of speech and freedom of the press, known as the right of free expression, protect the right of Americans to speak or publish without fear of punishment from the government. The founders believed that a free press was essential to protect democracy, as newspapers and other media outlets needed the right to criticize or call out the government when necessary. Furthermore, a free press serves to inform citizens about issues in their society.*

*However, free expression has its limits. The press cannot spread false, damaging information about people nor can it publish information that would be dangerous in a time of war. As for freedom of speech, while people can speak freely in public places, they cannot speak in such a way that might cause danger. The Supreme Court ruled, for example, "The most stringent protection of free speech would not protect a man in falsely shouting fire in a theater and causing a panic." Below is the text of the second part of the First Amendment.*

[Congress shall make no law] **abridging** [*reducing*] the freedom of speech, or of the press.

*Courtesy of GovInfo.gov.*

**Document D**  
**The Right to Assemble and Petition**

*The final two rights protected in the First Amendment are the rights to peaceably assemble and to petition the government. To peaceably assemble means to gather in public places with groups of people, to hold meetings, protest, parade, etc. As long as such gatherings are peaceful and do not, without permission, block streets, they are protected by the Constitution. Should a public speaker tell its audience to commit violence, he or she can be arrested, for this is not protected by the First Amendment. Below is the text of the third part of the First Amendment.*

[Congress shall make no law limiting] the right of the people peaceably to **assemble** [*gather*], and to **petition** [*request*] the government for a **redress** [*remedy*] of **grievances** [*complaints*].

*Courtesy of GovInfo.gov.*

**Group 2: The Second, Third, and Fourth Amendments**  
**Document A**  
**Second Amendment: The Right to Bear Arms**

*The Second Amendment has been hotly debated since its adoption to the Constitution. Americans feared the power of a standing army following the revolution. Following the war, Americans instead established civilian armies in the states, known as militias. Therefore, some people argue that it protects the right of a state militia, and the civilians in that militia, to have arms. Many other Americans believe that the Second Amendment ensures that any American may possess a gun for his or her own self-defense. Below is the Second Amendment.*

A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be **infringed** [*limited*].

*Courtesy of GovInfo.gov.*

**Document B**  
**Third Amendment: Quartering Troops in Homes**

*In the years leading up to the American Revolution, the colonists had been forced to welcome British soldiers in their homes. This “quartering” of soldiers was one of the major grievances that led to the revolution, as the colonists did not want to be forced to house soldiers without their consent. The Third Amendment ensures that the government respects the privacy of the home of American citizens. Below is the text of the Third Amendment.*

No soldier shall, in time of peace be **quartered** [*stationed*] in any house, without the consent of the owner, nor in time of war, but in a manner to be determined by law.

*Courtesy of GovInfo.gov.*

**Document C**  
**Fourth Amendment: Searches and Seizures**

*The Fourth Amendment ensures that the government cannot conduct “unreasonable searches and seizures” of citizens or their property. This Amendment especially protects against the abuse of power by police. Police must have a warrant, which is a court order issued by a judge, that proves that the police have a reason for such an action. Before arresting a person or searching someone’s home, police must show a judge that there is good reason for such action. While there are some exceptions to whether or not a warrant is necessary, there must always be a good reason for the search. Below is the text of the Fourth Amendment.*

The right of the people to be secure in their persons, houses, papers, and **effects** [*belongings*] against unreasonable searches and **seizures** [*taking by force*] shall not be violated, and no permissions shall be given for searches or seizures without **probable cause** [*reasonable grounds*], supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

*Courtesy of GovInfo.gov.*

**Group 3: The Fifth, Sixth, Seventh, and Eighth Amendments**  
**Document A**  
**Fifth Amendment: Legal Rights**

*The Fifth Amendment protects the legal rights of citizens in the American justice system. Known today as Miranda Rights, these rights ensure that citizens have a fair trial. These rights include the right to remain silent and to have an attorney; the right to remain silent, in particular, protects a person from making themselves sound guilty before they have entered the legal process. This amendment ensures that there is a sound and fair legal process for all citizens convicted of a crime. The text of the Fifth Amendment is adapted below.*

No person shall be held to answer for a **capital crime** [a crime eligible for the death penalty], or otherwise infamous crime, unless in the presence of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person charged with the same offense to be twice put in jeopardy of life or limb; nor shall be forced in any criminal case to testify against himself, nor be deprived of life, liberty, or property, without **due process of law** [fair treatment under the law]; nor shall private property be taken for public use, without fair payment.

*Courtesy of GovInfo.gov.*

**Document B**  
**Sixth Amendment: Criminal Trial Rights**

*Like the Fifth Amendment, the Sixth Amendment also deals with the legal process. Specifically, the Sixth Amendment discusses the fair trial rights of people accused of crimes. Protections such as speedy trials ensure someone is not in jail for too long before a trial, while public trials ensure that the court system is held accountable by the public. The rights of the Sixth Amendment ensure that no person is denied a fair trial, regardless of any other circumstances, such as wealth or location. Below is the text of the Sixth Amendment.*

In all criminal **prosecutions** [proceedings against someone with respect to a criminal charge], the accused person shall enjoy the right to a speedy and public trial by an **impartial** [unbiased] jury of the state and district where the crime has been committed, which district shall have been previously decided by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to be able to gather witnesses in his favor, and to have the assistance of a lawyer for his defense.

*Courtesy of GovInfo.gov.*

**Document C**  
**Seventh Amendment: Civil Trial Rights**

*The Constitution also protects Americans in non-criminal trials, known as civil trials; civil trials decide disagreements between people or businesses. Below is the text of the Seventh Amendment, which focuses on rights in civil trials.*

In suits at **common law** [*decisions made in court*], where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact that has been examined by a jury shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.

*Courtesy of GovInfo.gov.*

**Document D**  
**Eighth Amendment: Bail and Punishments**

*Lastly, the Eighth Amendment focuses on protecting the accused, before and after the trial, guilty or innocent. Below is the text of the Eighth Amendment.*

Excessive **bail** [*temporary release of an accused person awaiting trial in exchange for a sum of money*] shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

*Courtesy of GovInfo.gov.*

## Group 4: The Ninth and Tenth Amendments

### Document A

#### Ninth Amendment: Rights Retained by the People

*Opponents of the Bill of Rights argued that listing the rights of the people implied that rights not included must be left out. As a result, the framers added the Nine Amendment to ensure that the people have rights beyond those listed in the Constitution. Below is the text of the Ninth Amendment.*

The **enumeration** [*listing*] in the Constitution of certain rights shall not be interpreted to deny or **disparage** [*belittle*] other rights entitled to the people.

*Courtesy of GovInfo.gov.*

### Document B

#### Tenth Amendment: Powers Reserved to the States

*Many Americans feared that the Constitution took too much power from the states. As a result, the framers added the Tenth Amendment as the final amendment to ensure the states maintained their autonomy. Known as the Reserved Powers Clause, the Ninth Amendment ensures that the states have all powers not explicitly given to the federal government or prohibited to them in the Constitution. Many of the powers we today associate with the states, such as establishing schools or making roads, are reserved powers.*

The powers not **delegated** [*entrusted*] to the United States by the Constitution, nor prohibited by it to the states, are reserved for the states respectively, or to the people.

*Courtesy of GovInfo.gov.*



## Lesson 11: Whose More Perfect Union?



*John McRae's engraving This Day We Celebrate, 1876 (Library of Congress)*

**To what extent did the Constitution reflect the will of the common people?**

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## Homework

### Ordinary Americans and the Constitution

*The following text was adapted from historian Gary Nash's essay "Ordinary Americans and the Constitution" published by the Gilder Lehrman Institute of American History.*

The Constitution is so honored today that it may seem hard to believe that for a many ordinary Americans, it was not what they wished for after the Revolution. Many believed that the Constitution was the work of wealthy, elite men who meant to limit the most democratic features of the American Revolution. This is why historians are generally agreed that if the Constitution had been put before the American people for an up-and-down vote, it would not have been ratified.

### African Americans

William Lloyd Garrison, a fervent abolitionist, called the Constitution "an agreement with hell" because of the several proslavery clauses in the document and how the delegates to the convention put them there. Enslaved African Americans—about one-sixth of the nation's population in 1790—knew that well enough, for the Constitution that began with the lofty words "To create a more perfect union" did nothing to release them and their children from slavery.

This was obvious as well to free African Americans, though their fragile position in the northern and Chesapeake states made it difficult for them to criticize the Constitution once it was ratified. Some Antifederalists opposed ratification of the Constitution because of the proslavery character of the document.

### Artisans

Representing perhaps one-tenth of the population, craftsmen ranged across a great many trades, and they were not at all unified in their political views. Nonetheless, most supported the Constitution. They knew that the Articles of Confederation left the Continental Congress with no power to govern effectively. Also, they favored a shift of power from state legislatures to a federal government because it promised federal protection for the American-made goods that they produced in competition with British artisans.

Yet many artisans had concerns about the Constitution. Particularly, they feared that it would bring about an era where the democratic promise of the Revolution—both in economic and political terms—would wither away.

The artisans' economic concerns centered on equal access to money, land, and education. Artisans believed in the importance of hard labor, and they feared that the elite framers did not share these same values. If the Constitution allowed for the rise of a super-wealthy elite, the day was not far off before the small producers' dream of social justice and economic equality would be shattered.

Liberty also meant political rights. The artisans had found their voice during the Revolution, no longer following the command of wealthy leaders and instead coming to play important positions during the boycott of British goods. They had insisted that they should have the right to vote, be allowed to run for office, and given respect for their service to the community. All of this seemed at risk as the ratification debates engaged the public. Many artisans did not own property, and as a result, did not have the right to vote; the Constitution did not guarantee universal voting rights.

## Small Farmers

When Amos Singletary, the rough-hewn farmer from Worcester County, Massachusetts, rose before the state's elected convention gathered in 1788 to decide on whether to ratify the Constitution, he spoke without benefit of any schooling. But standing behind the plow, he had developed a wealth of feelings and political instincts. Singletary may have appreciated the constitution an important event in establishing a democratic government, but Singletary, like most debt-ridden farmers, had just left behind the violent desperation of Shays' Rebellion.

As small agricultural producers, farmers like Singletary feared and hated the elite men who did not live by their own labor but handled money and paid low taxes in relation to their wealth. Like artisans, small farmers feared the power of the elite. As a result, small farmers, as well, feared the power of the Constitution, and many doubted whether or not it truly represented their interests.

## Women

Despite Abigail Adams's original plea for John Adams and the delegates to "remember the ladies," the Constitution did not outline any specific rights or inclusions for women. Women's voting rights instead differed state by state; in general, most women could not vote and did not have any say in their government.

*"The Constitution": History Now 13 (Fall 2007)*

## Preamble to the Constitution

*The Preamble to the Constitution is an introduction and outlines the purpose and goals of the Constitution in the new government.*

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic **Tranquility** [*peace*], provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our **Posterity** [*future generations*], do **ordain** [*rule, order*] and establish this Constitution for the United States of America.

*Courtesy of GovInfo.gov.*

## Station 1: African Americans

### Frederick Douglass: Slavery and the Constitution

*The text below, adapted from Frederick Douglass's article "Oath to Support the Constitution" published in his newspaper, The North Star, on April 5, 1850.*

Liberty and Slavery—opposite as Heaven and Hell—are both in the Constitution; and the oath to support the latter is an oath to perform that which God has made impossible. ... If we adopt the preamble, with Liberty and Justice, we must **repudiate** [*reject*] the enacting clauses, with Kidnapping and Slave holding.

*Douglass, Frederick. Oath to Support the Constitution. April 5, 1850. Courtesy of The Gilder Lehrman Institute of American History.*

### Anti-Federalists and Slavery

*The following excerpt was adapted from "A Friend to the Rights of the People: Antifederalist No. 1" and was published in Exeter Freeman's Oracle, February 8, 1788.*

According to the Constitution, the migration, or importation of such persons of the African slave trade, shall not be prohibited by Congress prior to the year eighteen hundred and eight. By this trade, thousands and millions of poor negroes have been stolen from their native country, their friends and all that is dear to them, and brought into a state of the most abject slavery and wretchedness.

By the above article, this cruel and barbarous practice will not be prohibited by Congress for another twenty years to come, and even then, it still might not cease. This, in effect, gives permission for the enslavement and making miserable of our fellow men, and is contrary to all the principles of reason, justice, **benevolence** [*kindness*] and humanity, and all the teachings of the Christian Religion. Can we then approve a Constitution that allows this bloody practice? Can we who have fought so hard for Liberty give our consent to have it taken away from others? May the powers in heaven forbid this.

*A Friend to the Rights of the People: Antifeederalist No. 1. February 8, 1788. Courtesy of The Gilder Lehrman Institute of American History.*

**Station 2: Small Farmers**  
**Amos Singletary: A Massachusetts Farmer**

*The following speech was delivered by Amos Singletary, a farmer, at the Massachusetts State Ratifying Committee in 1788.*

We argued with Great Britain ... because they claimed a right to tax us and restrict us in all cases whatever. And does not this Constitution do the same? Does it not lay all taxes? What more have we to give?

These lawyers, men of learning, and moneyed men that talk so finely and gloss over matters so smoothly, to make us poor, illiterate people swallow down the pill, expect to get into Congress themselves; they expect to be the managers of this Constitution, and get all the power and all the money into their own hands, and then they will swallow up all us little folks.

*Singletary, Amos. 1788. Courtesy of The Gilder Lehrman Institute of American History.*

### Station 3: Women William Griffith: On Female Suffrage

*The text below was written by lawyer William Griffith in "Eumenes," published in 1799 in response to the Constitution.*

It has ever been a matter of dispute upon the constitution, whether *females*, as well as males, are entitled to elect officers of government. If we were to be guided by the *letter* of the charter, it would seem to place them on the same footing in this particular; and yet, recurring to *political right* and the nature of things, a very forcible argument has been raised against the admission of *women*, to participate in the public suffrage.

The fourth article of the constitution declares, that "*All inhabitants* of this colony of full age, who are worth, etc. shall be entitled to vote for representatives, etc." Those who support the rights of women, say, that "*all inhabitants*," must mean *all women* inhabiting, as well as *all men*; whereas, it is urged on the other side, that the makers must have *meant* all *male* inhabitants, and that the expression is to be restrained, so as to arrive at the *intent* of the framers of the instrument . . . .

To my mind it is evident, that women, generally, are neither, by nature, nor habit, nor education, nor by their necessary condition in society, fitted to perform this duty with credit to themselves, or advantage to the public.

*Griffin, William. Eumenes. 1799. Courtesy of The Gilder Lehrman Institute of American History.*

### Judith Sargent Murray: On the Equality of the Sexes

*The following poem is adapted from Judith Murray's article "On the Equality of the Sexes" published in 1790.*

**They** [*men*] rob us of the power t' improve,  
And then declare we only **trifles** [*silly things*] love;  
Yet **haste** [*hurry*] the era, when the world shall know,  
That such distinctions only dwell below;  
The soul **unfetter'd** [*unrestricted*], to no sex **confined** [*limited*],  
Was for the **abodes** [*homes*] of cloudless day design'd.  
Mean time we copy their manly fires,  
Though **erudition** [*knowledge*] all their thoughts inspires,  
Yet nature with *equality* imparts  
And *noble passions*, swell even in *female hearts*.

*Murray, Judith Sargent. On the Equality of the Sexes. 1790. Courtesy of Digital.Library.UPenn.edu*