

The Founding Fathers and the Constitutional Struggle over Centralized Power

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Grade Level: Upper Elementary/Middle

Duration of lesson: 2-3 periods

Overview:

Very soon after the American revolutionaries completed the Articles of Confederation, they realized that the documents were inadequate to the task of unifying a diverse group of newly-independent colonies. A debate thus ensued, between the Federalist side, led by Alexander Hamilton and James Madison, and the Anti-Federalists, led by Thomas Jefferson and Patrick Henry, over exactly how much power and authority to give Congress and the other central branches of the new government. Hamilton et al argued that a strong central government would be essential to the nation's survival and prosperity, while his opponents insisted that most of the nation's power should rest within the state and local governments. By 1787, a sort of compromise was worked out that resulted in our Constitution and its first set of amendments, the Bill of Rights. The Founders were justifiably proud of their historic achievement, but unfortunately that stubborn tension between federal and state power would eventually push the nation into Civil War, and even today remains a divisive point of contention.

Related National History Standards:

Content Standards:

Era 3: Revolution and the New Nation (1754 – 1820's)

Standard 2: The impact of the American Revolution on politics, economy, and society

Standard 3: The institutions and practices of government created during the Revolution and how they were revised between 1787 and 1815 to create the foundation of the American political system based on the U.S. Constitution and the Bill of Rights

Historical Thinking Standards:

Standard 2: Historical Comprehension

A. Reconstruct the literal meaning of a historical passage.

C. Read historical narratives imaginatively.

F. Utilize visual and mathematical data presented in charts, tables, pie and bar graphs, flow charts, Venn diagrams, and other graphic organizers.

Standard 3: Historical Analysis and Interpretation

- A. Identify the author or source of the historical document or narrative.
- B. Compare and contrast differing sets of ideas, values, personalities, behaviors, and institutions.
- D. Consider multiple perspectives.
- G. Compare competing historical narratives.

Topic Background:

Too often early American history is portrayed as an inevitable march forward, with the US moving smoothly from a divided collection of independent colonies into the United States. However, nothing could be further from the truth. In the years following the Declaration of Independence, many political leaders were unsure of how to best manage the new United States of America and were openly questioning if the confederation would collapse into a state of chaos. Among the many challenges facing the United States in the early years of the Republic, the leaders had to find a way to control a new nation, large in size but small in population, pay off an immense foreign and domestic debt, and rebuild commerce that was severely disrupted by a protracted war.¹

Intertwined with these problems lay the philosophical question of how much freedom the citizens of the United States should be provided under the Articles of Confederation, which spelled out the rule by which the thirteen individual states, described in the document as a “league of friendship,” would operate. The Articles of Confederation were ratified on March 1, 1781, but proved to be less than effective as a managing document, and many leaders, including the same members of the Continental Congress who had constructed the Articles, decided to regroup and try again to build a national charter that could ultimately organize the United States into a stronger, and more unified country.

Six years after their adoption, a Constitutional Convention was convened in Philadelphia to address and correct the problems of the Articles of Confederation. Seeing that the original Articles were unworkable, the delegates changed course and set out to draft a new document that would lead the United States out of political and economic turmoil, towards a more stable environment. The Constitution of the United States, excluding the Bill of Rights, went into effect as the governing body of the United States on June 21, 1788 when New Hampshire became the ninth state to ratify it. The Bill of Rights, designed to satisfy those who felt the Constitution gave the new Federal government too much power, were adopted by the states and became law in 1791. The Constitution is still the legal, binding document upon which our country’s legal foundation rests, defining the powers, responsibilities, and limits of each branch of the US government. The debate over how to best empower the people, the state governments, and the federal government is astonishing and far deeper

¹ Philip B. Kurland and Ralph Lerner, eds., “Deficiencies of the Confederation,” in Volume One: Major Themes: The Founders’ Constitution (Indianapolis: Liberty Fund, Inc., 2000), 147.

and more divisive than most Americans would believe. The power and eloquence of the words written and spoken by the revolutionaries are amazing and fascinating to study, and here we will compare the views of Alexander Hamilton and James Madison, two Federalists, with those of George Mason and Patrick Henry, two Anti-Federalists who opposed the Constitution.

While all of the states ratified the Articles of Confederation in 1781, many individuals, including Alexander Hamilton, argued that the Articles did not concentrate enough power within the United States in Congress. Article IX, in fact, includes the following text, which illustrates the lack of power held by Congress:

The United States in Congress assembled shall never engage in a war, nor grant letters of marque and reprisal in time of peace, nor enter into any treaties or alliances, nor coin money, nor regulate the value thereof, nor ascertain the sums and expense necessary for the defence (sic)and welfare of the united states, or any of them, nor emit bills, nor borrow money on the credit of the united states, nor appropriate money, nor agree upon the number of vessels of war ... or the number of land or sea forces to be raised, ... **unless nine states assent to the same:** nor shall a question on any other point, except for adjourning from day to day be determined, unless by the votes of a majority of the United States in Congress assembled.

Under the Articles of Confederation, the national Congress had very limited powers and could exercise most of its governmental functions only with the approval of a majority of the individual states. Hamilton, a staunch Federalist, believed that a strong federal government was imperative and wrote on September 3, 1780 to James Duane, a New York delegate to Congress, “that Congress had never any definitive powers granted them and of course could exercise none – could do nothing more than recommend.”² And because states’ interests superseded those of the federal government, many Congressional laws were ignored by many of the states. This was particularly true when disputes arose between the states, such as interstate commerce, which the Articles provided no means to control or regulate. According to Hamilton, this inability to enforce the laws was disastrous because ultimately state’s rights could not be upheld without a strong federal entity supporting those rights. Hamilton argued that states appointed their best statesmen and politicians to their own state houses and sent their second-rate politicians to the Continental government. This prompted him to ask, in a letter to Gov. George Clinton (New York Governor and president of the state convention that ratified the Federal Constitution) on February 13, 1778, “How can the common force be exerted, if the power of collecting it be put in weak foolish and unsteady hands?” In the same letter he also stated that “it is infinitely more important to have a wise general council;

² Alexander Hamilton, “Alexander Hamilton to James Duane 3 Sept. 1780,” in Volume One: Major Themes: The Founders’ Constitution, Philip B. Kurland and Ralph Lerner, eds., (Indianapolis: Liberty Fund, Inc., 2000), 150.

otherwise, a failure of the measures of the union will overturn all your labours for the advancement of your particular good and ruin the common cause.”³

James Madison, a fellow Federalist and author of many of the most influential Federalist Papers, argued quite persuasively in Federalist Paper No. 10 that the heterogeneous and geographically dispersed United States population was precisely the best kind of population to come together under a strong federal government. In Federalist Paper No. 10, he said, “the greater number of citizens and extent of territory which may be brought within the compass of Republican (representative democracy)... renders factious combinations less to be dreaded.”⁴ This was the argument advocated by the Federalists that the more diverse the population, the less likely it was that any one faction would gain too much power to dominate the others, as the different groups would act as a check on each other. Madison also argued successfully that this new form of republican government was going to “save the revolution from its excesses.”⁵

Madison, in Federalist Paper No. 10, said “no man is allowed to be a judge in his own cause; because his interest would certainly bias his judgment, and, not improbably, corrupt his integrity.”⁶ This led the Federalists to assure the masses that they held the ultimate power because they were the ones who elected their own representatives, while at the same time believing strongly that the people could not directly govern themselves. In the Federalist conception of good government, the masses choose representatives from among the social elite in the country to act in their best interests.

While Hamilton, Madison, and John Jay believed strongly in the Federalist ideal, there were many other Americans who saw the need for a strong central government as the antithesis of American freedom and a direct challenge to the individual liberty that the American Revolutionaries fought so hard to ensure. Many people, including Thomas Jefferson, argued that the whole idea of a strong federal government seemed very similar to a monarchy or aristocracy. The strongest proponents of this view included Jefferson, George Mason, and Patrick Henry, who were all from Virginia and were all outspoken anti-Federalists, completely opposed to the views of Hamilton and the Federalists.

Patrick Henry was a member of the Virginia House of Burgesses before the Revolution and was an outspoken critic of King George III of England. His distaste for monarchy and all other forms of despotic rule, such as that exercised by Parliament, led Henry and other members of the Virginia House of Burgesses to challenge, and finally subvert, British rule. The revolutionaries transferred the governance of the people to the Continental Association, a conglomeration of

³ Ibid., 150.

⁴ James Madison, “Federalist No. 10,” in George W. Carey and James McClellan, eds., The Federalist: The Gideon Edition, (Indianapolis: Liberty Fund, Inc., 2001), 47.

⁵ Gordon S. Wood, The American Revolution: A History (New York: Modern Library Ed., 2003), 164.

⁶ James Madison, “Federalist No. 10,” in George W. Carey and James McClellan, eds., The Federalist: The Gideon Edition, (Liberty Fund, Inc., 2001), 44.

local committees that were given the responsibility to rule themselves, even before the outbreak of the American Revolution. To be sure, Patrick Henry spoke out against a strong federal government and believed in the natural right of men to rule themselves through local representation in small legislatures within the various colonies. In a speech delivered at the Virginia Ratifying Convention on June 5, 1788 concerning the pending ratification of the Constitution, Henry said, "Here is a revolution as radical as that which separated us from Great Britain. It is as radical, if in this transition our rights and privileges are endangered, and the sovereignty of the States be relinquished: And cannot we plainly see that this is actually the case?"⁷ In fact, Henry believed that many of the Federalists were focusing solely on the need for a strong federal government in order to secure financial gain for some members of the new United States of America, including merchants and land speculators. In his same speech to the Virginia Ratifying Convention, he went on to say, "You are not to inquire how your trade may be increased, nor how you are to become a great and powerful people, but how your liberties can be secured; for liberty ought to be the direct end of your Government."⁸ While the passage of the Constitution demonstrated that thinkers like Henry were in the minority, they were a sizable and vocal minority. Their opposition would lead to the Federalist Papers, in which those in favor of the new government would try to explain their views to win over those opposed to the Constitution. Eventually enough of them were convinced to allow ratification and the new Constitution was eventually adopted by all thirteen original states in 1789.

George Mason was a wealthy farmer and legislator from Virginia who was instrumental in constructing the Constitution and adding the Bill of Rights. Mason frequently spoke out against the British Monarchy and believed in the rights of individuals and their ability to govern themselves through reason and the application of natural rights. He was therefore against a strong central government, believing it to be monarchist at worst and an elite aristocracy at best. George Mason wrote Virginia's Bill of Rights in 1776 to outline the rights that he thought all individuals should have, no matter what kind of government they lived under. And in speaking to the Virginia Ratifying Convention in June of 1788, he said, "Is it supposed that one National Government will suit so extensive a country, embracing so many climates, and containing inhabitants so very different in manners, habits, and customs? It is ascertained by history, that there never was a Government, over a very extensive country, without destroying the liberties of the people."⁹ George Mason was one of the most outspoken critics of the Constitution, and he favored amending the existing Articles of

⁷ Gordon S. Wood, The American Revolution: A History (New York: Modern Library Ed., 2003), 164.

⁸ Patrick Henry, "Virginia Ratifying Convention 4-12 June 1788," in Volume One: Major Themes: The Founders' Constitution, Philip B. Kurland and Ralph Lerner, eds. (Indianapolis: Liberty Fund, Inc., 2000), 288.

⁹ *Ibid.*, 288.

Confederation. In fact, even though George Mason attended the Philadelphia Constitutional Convention, he never signed the document. Instead, he became instrumental in developing and including the Bill of Rights in the Constitution.

It is instructive to read the actual text from the Constitution and compare it directly to the text of the Articles of Confederation. Indeed, it seems that a radical revolution did take place between March of 1781, when the Articles went into effect, and March of 1789, when the Constitution became the supreme law of the country. In stark contrast to Article IX of the Articles of Confederation, the Constitution states in Article I, Section 8 that:

The Congress shall have the Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; ... To Declare War, grant Letters of Marque and Reprisal, To raise and support Armies.

And Section 10 of Article I states that:

No State shall enter into any Treaty, Alliance, or Confederation; ... coin Money, ... No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, ... lay any Duty of Tonnage, keep Troops, or Ships of War in peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War.

While the subject of early American government can easily appear dull and confusing, especially if presented improperly, by focusing classroom instruction on the actual debate surrounding the creation and ratification of the founding documents, teachers can motivate students to gain real historical perspective and understand the “various forces which were present at the time and influenced the ways events unfolded.”¹⁰ In 1787, there was no guarantee that America was going to survive and thrive, and by analyzing the primary source documents related to the debate about the future of America’s government, students will come to appreciate the contingencies at play in those early years.

Annotated Bibliography:

Kurland, Philip B. The Founders’ Constitution. Volume 1. Indianapolis: Liberty Fund, Inc., 2000.

¹⁰ National Center for History, “Contents of Historical Thinking Standards for Grades 5-12,” National Center for History in the Schools (1996) <http://nchs.ucla.edu/standards/thinking5-12-2.html> [accessed July 8, 2005].

This is a collection of primary source documents and commentary relating to the US Constitution. It serves as a valuable source of information about the less well known influences on the US Constitution, including the Massachusetts state constitution.

Madison, James. "The Federalist No. 10: The same Subject continued." The Federalist Papers: The Gideon Edition. Edited by George W. Carey and James McClellan. Indianapolis: Liberty Fund, Inc., 2001: 42-49.

Initially published as a series of newspaper articles, the Federalist Papers laid out the arguments in favor of the new Constitution proposed to replace the Articles of Confederation. These form the basis for any serious discussion about the roots of American government and the ideas behind it.

Wood, Gordon S. The American Revolution: A History. New York: Modern Library, 2003.

In this single volume history of the American Revolutionary War Wood brings a lifetime of study to the subject of the politics and economic causes of the American Revolution. This is an ideal overview of the war as a whole and its place in American history.

Vocabulary:

- Anti-Federalist:** One of party opposed to a federative government; -- applied particularly to the party which opposed the adoption of the constitution of the United States.
- Confederation:** An association of sovereign states, usually created by treaty but often later adopting a common constitution. Confederations tend to be established for dealing with critical issues, such as defense, foreign affairs, foreign trade, and a common currency, with the central government being required to provide support for all members.
- Democracy:** The term democracy indicates a form of government where all the state's decisions are exercised directly or indirectly by a majority of its citizenry through a fair elective process. When these factors are met a government can be classified as such.
- Federalist:** The people who wanted the federal Constitution ratified were called "federalists." People that were opposed to the Constitution were, generally speaking, opposed to the States

uniting under a federal government. In the Federalist Papers, the author even explains the difference between a "federal" government and a "national" government.

- Liberty:** Personal freedom from servitude or confinement or oppression.
- Ratify:** The process of adopting an international treaty, or a constitution or other nationally binding document (such as an amendment to a constitution) by the agreement of multiple subnational entities.
- Revolution:** A drastic and far-reaching change in ways of thinking and behaving.
- Representative:** An advocate who represents someone else's policy or purpose.
- Republic:** A form of government based on a constitution, in which decisions are made by elected or appointed officials in a democratic manner.

Teaching Procedures:

Materials Needed:

- 4 equal sets of index cards with either the name James Madison, George Mason, Alexander Hamilton, or Patrick Henry written on them.
 - Resource Books which provide information about James Madison, George Mason, Alexander Hamilton, and Patrick Henry.
 - Dictionaries
 - Video camera to capture the final oral debate (optional)
1. Present the following situation/task to the class in the form of a journal writing assignment:

“The teacher is the king/queen of this class. The students have a revolution and break free from the teacher’s rule. The students send the teacher to the office and are then left alone to operate and manage the class. The students must be able to pass the MSA test in March. How do you think the students should organize themselves so that they will all be able to continue learning? You must create groups to manage (govern) different parts of the class. For example, you could put a few people in charge of the paper, pencils, and pencil sharpener and you could put a few people in charge of using the blackboard, etc. You must include everyone in the class

in your government. You must also decide who will have the most power and who will have the least power.”

2. Have volunteers share their writing. Record general points from each shared writing on the board.

Lead students in a discussion about the recorded ideas. Identify similarities and differences among the ideas. Identify strengths and weaknesses within the ideas. Identify connections between students’ ideas and the ideas of freedom and state/federal rule.

Introduce the terms Confederation, government, democracy, and republic.

3. Identify that after the Declaration of Independence was signed, Colonists had the problem of coming up with a way of running the country. Some people wanted to stay loyal to the King of England but many other people wanted their freedom. Once they decided to be free they had to decide how to organize their new government.

Reveal that the class is going to read parts of the Articles of Confederation, which defined the first set of rules that ran the United States of America. Then they are going to determine who had more power, the states or the federal government.

Distribute copies of Resource Sheet #1, “Text from the Articles of Confederation.” Have students read the excerpts from the Articles of Confederation in an appropriate manner for your class (individually, in small groups, whole class, etc.).

4. Lead students in a discussion about the Articles of Confederation. Ask:

Who has more power according to this document, the states or the federal Congress (called the ‘United States in Congress’ in the Articles)?

Require students to cite specific passages to support their responses. Then ask:

These Articles did not work very well and many groups of people started to fight with each other. Can you see how fighting could have occurred under the rules of this document?

Again, require students to cite specific passages to support their responses.

Conclude the discussion by indicating that most of the same men who agreed on the *Articles of Confederation* decided to meet again a few years later in Philadelphia and fix its problems.

5. Distribute Resource Sheet #2, "Interpreting the Articles of Confederation," and have students complete it.

Review and share student responses using an overhead transparency.

6. Ask:

Does anybody know the name of the document that was created in Philadelphia to replace the Articles of Confederation?"

Explain that the Constitution is very different than the Articles of Confederation.

7. Divide the class into four groups using the index cards. Identify the groups as the George Masons, the James Madisons, the Alexander Hamiltons, and the Patrick Henrys. Explain that each group represents a person who was alive during the late 1700s. Tell the students that all of these men were present during the creation of the Articles of Confederation and helped decide what to say in the document. Also share that all of the men had a great deal of influence over how the Constitution was written. Explain that Madison and Hamilton were two Federalists (people who supported a strong central government) and Mason and Henry were two very vocal Anti-Federalists (people who thought the power ought to stay in the hands of the people and the individual states in which they live).
8. Have students sit with their groups, making sure the Federalists sit on one side of the room and the Anti-Federalists sit on the other side of the room.

Distribute Resource Sheet #3, "Text From The United States Constitution." Have students read the Constitution excerpts in a manner appropriate for your class. Lead students in a discussion about what they read. Identify major points in the excerpts. Identify some similarities and differences between the Articles of Confederation and the Constitution.

9. Display an overhead transparency of Resource Sheet #4, "Compare and Contrast the Articles of Confederation With The Constitution," and discuss procedures for completing it. Distribute Resource Sheet #4. Have students complete it in their "Founding Father" groups.

Have students who complete the assignment early research their founding father. Provide resources (encyclopedias, grade level narratives, internet access, etc.) available for students to use.

When all groups have completed the assignment, ask students to say which document they think their founding father supported, the Articles or the Constitution. Explain that tomorrow they will read quotes from their founding father and learn more about him.

10. Summarize the similarities and differences on an overhead transparency of Resource Sheet #4.

Explain that students will work with their groups to prepare for a mock Constitution Ratifying Convention that will be held later in the lesson. At the convention, students will play the role of their founding father and will debate if the Constitution should be ratified, or if it needs to be rewritten.

Distribute the appropriate portion of Resource Sheet #6 "Direct Quotes from Alexander Hamilton, James Madison, George Mason and Patrick Henry," to each group (the George Masons should receive the George Mason quotations, the Alexander Hamiltons should receive the Hamilton quotations, and so on). Distribute Resource Sheet #5, "Quotation Explanation Worksheet," to each student. Have students work with their groups to read/discuss the quotations on Resource Sheet #6 and use that information to complete Resource Sheet #5.

When all groups have completed the assignment, allow a representative from each group to share information learned about the group's founding father.

11. Display an overhead transparency of Resource Sheet #7, "Oral Presentation." Model completing it from the perspective of a founding father not represented by the students' groups (for example, George Washington). Explain how the information on Resource Sheets #5 & #6 can be used to complete Resource Sheet #7. Distribute Resource Sheet #7. Have students complete it from the perspective of their founding father.
12. When all students are finished, conduct the mock Constitution Ratifying Convention. Have each student stand and read his/her oral presentation (*Resource Sheet 7*).

After all students have had a chance to share, lead students in a discussion about the activity. Identify concepts learned and new questions generated. Try to answer the questions generated, or point students in the direction of appropriate resources so they can answer them on their own.

A grading rubric which assesses students' work throughout the unit is provided on Resource Sheet #8, "Mini-Unit Grading Rubric."

13. Assess student understanding by distributing and having students complete Resource Sheet #9, "Lesson Reflection Worksheet."
14. A possible extension activities is to Have individuals or groups of students investigate other people who signed the Constitution and find out if they were Federalist or Anti-Federalist. Have them support their findings by locating one primary source document that shows their actual writing and opinions.

Primary Source Annotations:

The Articles of Confederation

The Articles of Confederation can be viewed at http://www.archives.gov/national_archives_experience/charters/charters_of_freedom_4.html#. This document is used to show exactly what was written during the birth of our nation. This will allow students to see exactly what words were used to describe who had the power to govern the states during the early and mid 1780s.

The Constitution

The Constitution can be viewed at http://www.archives.gov/national_archives_experience/charters/constitution_zoom_1.html. This document is used to show students exactly what was written after the leaders of the country realized that the Articles of Confederation were not sufficient to manage the country. This document, when compared to the original Articles, details exactly how the founding fathers changed their minds on certain elements of governmental control and gave much more power to the federal government.

Federalist Papers

The Federalist Papers can be viewed at <http://thomas.loc.gov/home/histdox/fedpapers.html>. The entire purpose of *The Federalist Papers* was to gain popular support for the then-proposed Constitution. Some would call it the most significant public-relations campaign in history; it is, in fact, studied in many public relations classes as a prime example of how to conduct a successful campaign

Virginia's Declaration of Rights

This document, framed by Mason in 1776, can be viewed at http://www.archives.gov/national_archives_experience/charters/virginia_declaration_of_rights.html. It is one of the first written in America that outlines the natural rights of man and the need to protect those rights from a strong federal government. Mason was one of the most vocal Anti-Federalists and he even refused to sign the Constitution. He was also instrumental in including the Bill of Rights in the original Constitution.

Alexander Hamilton Federalist Paper no. 8

Titled, *The Consequences of Hostilities Between the States From the New York Packet*, this document can be viewed at <http://www.loc.gov/rr/news/18th/416.html>. This document is interesting because it discusses the problems of states becoming enemies and of states being unable to defend themselves against foreign invasion. Hamilton notes that if the union is preserved, it will have great advantages due to its distance from Europe.

Letter, James Madison to Thomas Jefferson, partially written in cipher with translation by Jefferson, 23 May 1789.

Housed in the Library of Congress, (James Madison Papers) <http://memory.loc.gov/mss/mcc/036/0001.jpg> Reproduction Number: A64 (color slide; page 1), this document can be translated by the students. It uses a cipher (code) that a few men used to communicate during and after the Revolution so that postmasters could not read the letters while they were in transit.