

## LESSON 12

# Why Did the Framers Use the Virginia Plan to Create the Constitution?

### Purpose of Lesson

Both the Virginia and the New Jersey delegates to the Philadelphia Convention submitted plans to organize the new national government for the Framers' consideration. After considerable debate, the Virginia Plan was used as the basis for the new Constitution. Not all the recommendations in the plan were accepted. An understanding of both plans and the debates over them should increase your understanding of the Constitution and the continuing debates over how our government is organized.

When you finish this lesson, you should be able to explain the differences between the Virginia and the New Jersey Plans. You also should be able to explain why the Virginia Plan was used as the basis of our Constitution.

### Terms to Know

equal representation	New Jersey Plan
federal system	Virginia Plan
proportional representation	

### What was the Virginia Plan?

Many delegates came to Philadelphia convinced that the defects of the Articles were so serious it would be better not to use them as a starting point. One of these was James Madison. Before the convention, he already had drafted a plan for a new national government, which came to be called the **Virginia Plan**. While they waited for the other state delegations to arrive, the Virginia delegates had agreed to put Madison's plan forward as a basis for the convention's discussions.

The most important thing to know about the Virginia Plan is that it proposed a strong national government. Under the Articles of Confederation, the national government could act only on the states, not on the people directly. For example, the national government could request money, but only the states had the authority to raise that money through taxes.

Under the Virginia Plan, the national government would have the power to make and enforce its own laws, and to collect its own taxes. Each citizen would be governed under the authority of two governments, the national government and a state government. Both governments would get their authority from the people. The existence of two governments, national and state, each given a certain amount of authority, is what we now call a **federal system**. In addition, the Virginia Plan recommended the following:

- Three branches—**legislative, executive, and judicial**—would compose the national government. The legislative branch would be more powerful than the other branches because, among other things, it would have the power to select people to serve in the executive and judicial branches.
- The national legislature, Congress, was to have two houses. A **House of Representatives** would be elected directly by the people of each state. A **Senate** would be elected by the members of the House of Representatives from lists of persons nominated by the legislature of each state.
- The number of representatives from each state in both the House and the Senate would be based on the size of its population or the amount of its contribution to the federal treasury. This system of **proportional representation** meant that states with larger populations would have more representatives in the legislature than states with smaller populations.

The Virginia Plan gave the legislative branch of the national government the following powers:

- to make all laws that individual states were not able to make, such as laws regulating trade between two or more states
- to strike down state laws that it considered to be in violation of the national constitution or the national interest
- to call forth the armed forces of the nation against a state, if necessary, to enforce the laws passed by Congress
- to elect people to serve in the executive and judicial branches of government

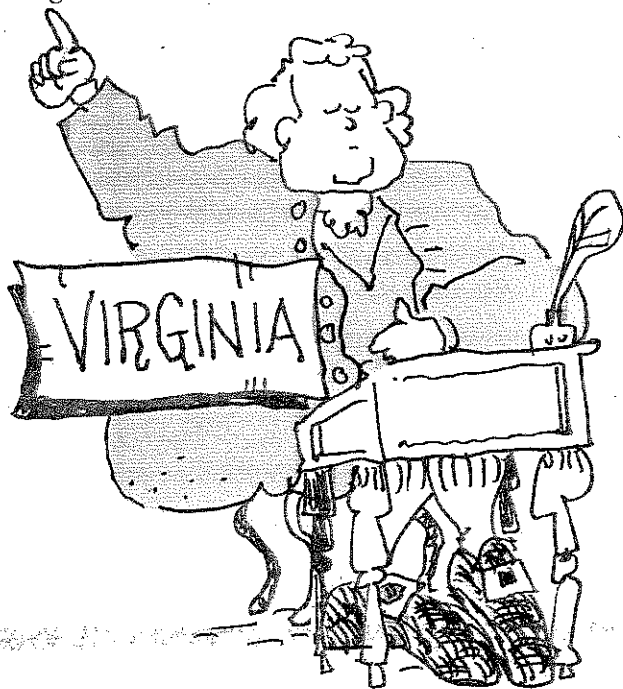
### What do you think?

1. What are the advantages and disadvantages of having two houses of Congress? Explain what position you would take on this question.
2. Why do you suppose the Virginia Plan gave Congress the power to strike down laws made by state legislatures? What arguments could you make for or against giving Congress this power?
3. In what ways does the Virginia Plan correct what the Framers perceived to be weaknesses in the Articles of Confederation?

### How did the Framers react to the Virginia Plan?

There was considerable debate among the Framers over the Virginia Plan. In the early weeks of the convention, as specific features of the plan were discussed, a major disagreement over representation became apparent.

- The larger states wanted both houses of the national legislature to be based on proportional representation. They argued that a government that both acted on and represented the people should give equal voting power to equal numbers of people.
- The smaller states wanted **equal representation**—equal voting power for each state. Their position was based on their fear that unless they had an equal voice, as they did under the Articles of Confederation, the larger states would dominate them.

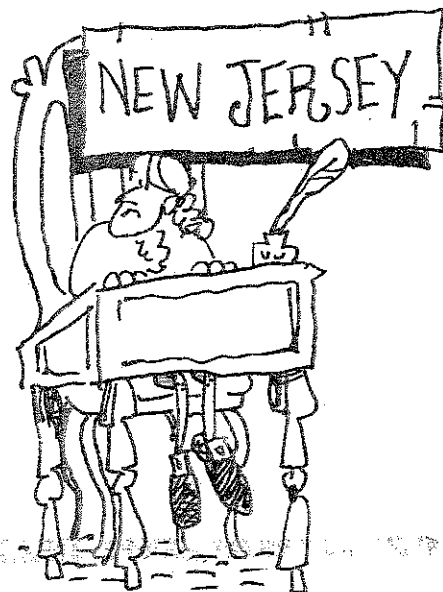


By mid-June this disagreement had created a crisis for the convention. The delegates from the small states, led by **William Paterson** of New Jersey, asked for time to come up with an alternative to the Virginia Plan.

### What was the New Jersey Plan?

On June 15, Paterson presented the small states' plan, which has become known as the **New Jersey Plan**. The small states did not wish to create a national government in which they had little power. They argued that the best and safest thing to do would be to keep the framework of the Articles of Confederation, as they had been asked to do. The following are some of the main parts of the plan.

1. **Legislative branch.** Congress would have only one house, as in the Confederation, and it would be given the following increased powers:
  - **Taxes.** The national government would be given the power to levy import duties and a stamp tax to raise money for its operations, together with the power to collect money from the states if they refused to pay.
  - **Trade.** Congress would be given the power to regulate trade among the states and with other nations.
  - **Control over the states.** The laws and treaties made by Congress would be considered the supreme law of the land. No state could make laws that were contrary to them.



*Why were delegates from small states suspicious of the Virginia Plan?*

2. **Executive branch.** This branch would be made up of several persons appointed by Congress. They would have the power to administer national laws, appoint other executive officials, and direct all military operations.
3. **Judicial branch.** A supreme court would be appointed by the officials of the executive branch. It would have the power to decide cases involving treaties, trade among the states or with other nations, and the collection of taxes.

### Critical Thinking Exercise

#### DEVELOPING AND DEFENDING POSITIONS

The Virginia and New Jersey Plans each had certain benefits and costs. Understanding these is helpful in making intelligent decisions about which is the better plan. Work in small groups to identify and describe the benefits and costs of each plan and list them on a chart similar to the one below. Select the plan that your group thinks would make a better government. Be prepared to explain and defend the reasons for your decision.

Virginia Plan		New Jersey Plan	
Benefits	Costs	Benefits	Costs

#### Why was the Virginia Plan used?

The New Jersey Plan continued the system of government existing under the Articles of Confederation. In this system, the national government represented and acted upon the states rather than directly representing and acting upon the people. The New Jersey Plan did contain useful suggestions to solve some weaknesses of the Articles of Confederation. By the time the New Jersey Plan was presented, after two weeks of debate on the Virginia Plan, many delegates had become convinced that the national government needed new powers and a new organization for exercising those powers.

When the vote was taken on June 19, the New Jersey Plan was supported by the delegations from New Jersey and Delaware, by a majority of the New York delegation since Hamilton was always outvoted by his two colleagues, and by half the Maryland delegation. So, the Virginia Plan continued to be the basis for the convention's discussion.

A number of major issues had not been resolved, however. Among them were two potentially explosive ones.

- How should the number of representatives from each state be determined? According to population? Many delegates still argued that each state should have an equal vote, no matter how large or small its population.
- What powers should the national government have?

There were serious disagreements among the delegates. These disagreements were so intense that the convention nearly failed.

#### Reviewing and Using the Lesson

1. Why is it said the delegates to the Philadelphia Convention ignored their instructions?
2. What was the conflict between larger and smaller states over representation in Congress? Which states favored equal representation, and which favored proportional representation? What is the difference between equal and proportional representation?
3. What were the important differences between the Virginia Plan and the New Jersey Plan? Why did the Framers decide to work with the Virginia Plan?
4. Research the history of proportional representation in the United States and explain the changes in how United States senators are now selected.

# LESSON 13

## What Powers Were Granted to the Legislative Branch?

### Purpose of Lesson

This lesson describes the basic organization of Congress. It explains why Congress was organized into two houses, why representation in the House of Representatives is based on population, and why each state selects two senators. The lesson also describes some powers of Congress as well as some limitations on its powers. It concludes with a discussion of the issues that caused disagreement between the southern and northern delegates.

When you complete this lesson, you should be able to explain how and why the present system of representation in Congress was adopted and the major powers of Congress. You should also be able to explain the major areas of contention between the northern and southern states and how they were settled.

### Terms to Know

apportioned	impeach
bills of attainder	necessary and proper clause
enumerated powers	proportional representation
equal [state]	separated powers
representation	supremacy clause
ex post facto laws	treason
fugitive slave clause	
The Great (or Connecticut)	
Compromise	

### How should the legislative branch be organized?

After agreeing to use James Madison's Virginia Plan as the starting point for discussion of a new constitution, the Framers still faced two major decisions: they had to decide what powers to give the new government and how to organize the new government.

The Framers believed that the most important role would be held by the legislative branch. That is why Article I of the Constitution deals with the legislative branch. The first debates, therefore, were about the duties and powers that should be given to Congress and how it should be organized. The Framers encountered problems in developing Article I that are still being debated today.

### What were the disagreements about representation?

Continuing the British and colonial practice of two-house legislatures, every state except Pennsylvania had a legislative branch with two houses. There also was a widespread belief that a two-house legislature would be less likely to violate the people's rights. Each house could serve as a check on the other.

The Virginia Plan's proposal to create a two-house Congress was not controversial. What was controversial in the plan was the principle of **proportional representation**. James Madison, James Wilson, Rufus King, and others who represented states with large populations, thought that the number of members in both houses should be based on the number of people they would represent. They argued that because the new government would operate directly on the people, it was only fair that a state with a larger number of people should have a greater voice, that is, more votes, in the national government.

The delegates from states with smaller populations were afraid that proportional representation would result in a national government dominated by the more populated states. They argued that each state should have the same number of representatives in Congress, **equal representation**. These delegates also were convinced that the people of their states would never approve the Constitution if it did not preserve equality among the states.

On July 2, the Framers voted on whether there should be equal representation in the upper house of Congress. The result was a tie, five states to five, with Georgia divided. Neither side seemed willing to compromise, and delegates began to fear that the convention would end in disagreement and failure.

Then a special committee, composed of one delegate from each state, was formed. This committee was responsible for developing a plan to save the situation. Some supporters of the Virginia Plan, including James Madison and James Wilson, were against giving this responsibility to a committee. Most of the Framers disagreed with them, however, and the committee went to work.

## Critical Thinking Exercise

### DEVELOPING AND DEFENDING PLANS FOR REPRESENTATION

Your class should be divided into committees of about five students each. Each committee should have some students who represent small states and some who represent large states. The task of each committee is as follows:

1. Develop a plan for how many representatives each state should be allowed to send to the Senate and to the House of Representatives. Your committee may decide, of course, that there is no need for a two-house Congress and that a single house will represent the people most effectively.
2. Select a spokesperson to present your committee's plan to the entire class. Then all members of the committee may help to defend its plan against criticisms by members of other committees.
3. Following the presentation of all the plans, each committee may revise its original plan if it wishes.

The entire class should then examine the plans made by all the committees and try to reach agreement on a plan.

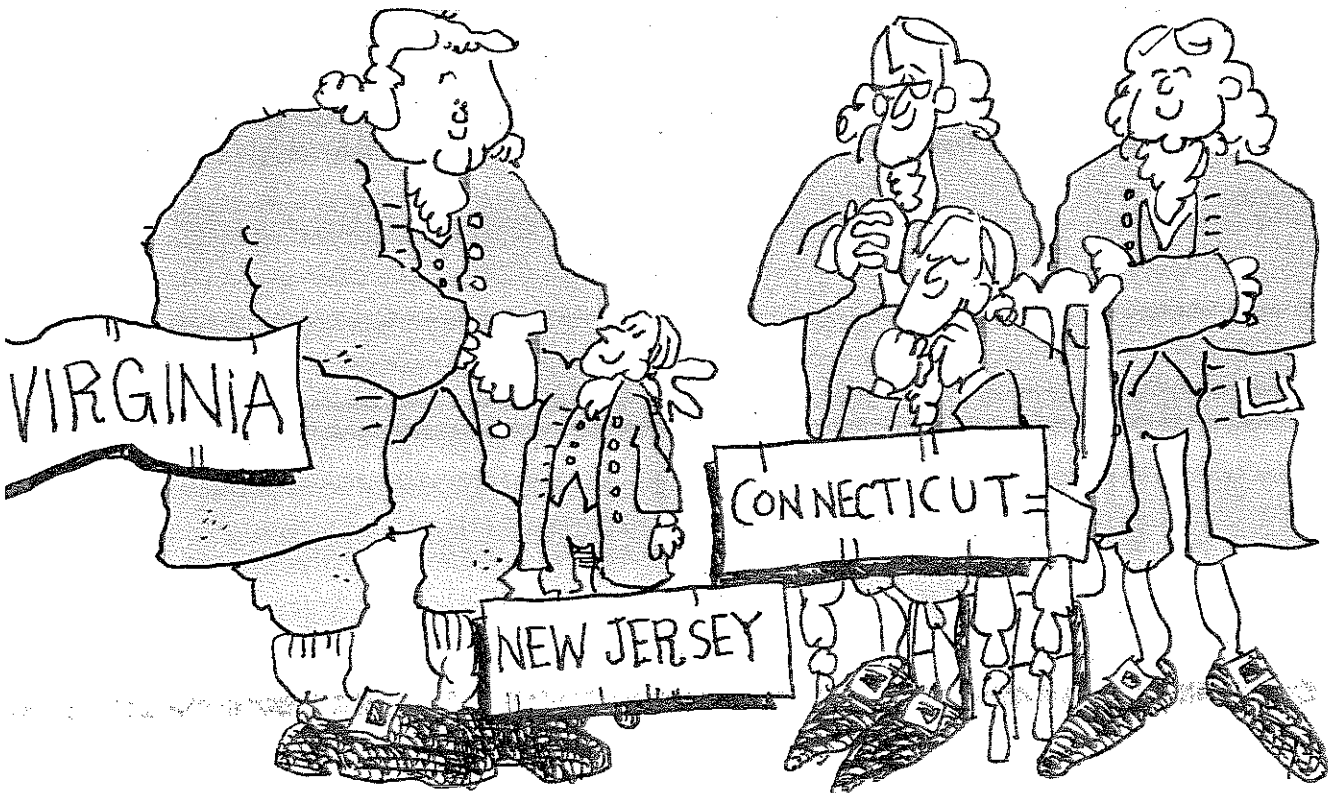
Compare the plans of the committees and the final class plan with the plan of the Framers described in the next section.

### What was the Great Compromise?

The result of the special committee's work is known as the **Connecticut Compromise** or the **Great Compromise**. The committee adopted a proposal previously suggested by Connecticut delegates Roger Sherman and Oliver Ellsworth. The Great Compromise contained the following ideas:

- The **House of Representatives** would be elected by the people on the basis of **proportional representation**.
- There would be **equal representation** of each state in the **Senate**. The legislature of each state would select two senators.
- The House of Representatives would be given the power to develop all bills for taxing and government spending. "Direct" taxes would be assigned and divided—**apportioned**—among the states by population. The Senate was limited to either accepting or rejecting these bills, but it could not change them. This provision was later changed to permit the Senate to amend tax bills developed in the House and to develop appropriation bills itself.

As in most compromises, each side gained a little and lost a little. The small states received the equal representation in the Senate that their delegates wanted



*How did the Connecticut Compromise resolve differences in the Virginia and New Jersey Plans?*

to protect their interests. Many delegates also believed that a constitution without equal representation of states in at least one house of Congress would not be approved by the smaller states. The large states gave up control of the Senate but kept their control of the House of Representatives. The House was also given important powers regarding taxation and government spending.

The result was that the more populous states would have more influence over laws to tax the people and over how the money would be spent. The larger states also would pay the larger share of any direct taxes imposed by Congress. The decisions of the House of Representatives, however, always would be subject to the check of the Senate, in which the small states had equal representation.

When the committee presented this compromise to the convention, it was bitterly fought by some members from the larger states, including Madison, Wilson, and Gouverneur Morris. They viewed the idea of state equality in the Senate as a step away from a national government, back toward the system under the Articles of Confederation. Delegates from the small states remained suspicious as well. Two delegates from New York, who had consistently voted with the smaller states, left the convention and did not return. The crisis was over when the compromise passed by one vote.

### What do you think?

1. Are there good arguments today in support of continuing to divide Congress into two bodies, a Senate and a House of Representatives? If so, what are they?
2. What contemporary issues do you know about that involve conflict over the fairness of representation in Congress?
3. Why should senators be selected for six years and members of the House of Representatives for only two years? Do you think members of the House of Representatives would more effectively represent their constituents if they could serve longer terms?

### What powers did the Constitution give to Congress?

The Framers intended the new government to be a government of **enumerated**—specifically listed—powers. They thought it was important to list the powers of each branch of government so that there would not be any confusion about what they could and could not do.

Most of the powers of Congress are listed in Article I, Section 8 of the Constitution. It includes such important matters as the power

- to lay and collect taxes
- to pay the debts and provide for the common defense and general welfare of the United States
- to regulate commerce with foreign nations, and among the several states
- to declare war
- to raise an army and navy
- to coin money

The Framers also intended the new system to be a government of **separated powers**, or, as political scientist Richard Neustadt has called it, “a government of separated institutions sharing powers.”

Each branch of the government is given powers that enable it to check the use of power by the others. In Article I, Congress was given the power

- to **impeach** the president, other executive branch officials, or members of the federal judiciary and remove them from office.



Why did the Framers make it difficult to impeach government officials?

The executive and judicial branches also have checks, or controls, on Congress. The Framers specifically gave Congress the power to make all other laws that are “necessary and proper” for carrying out the enumerated powers. This is called the **necessary and proper clause**.

## What power did the national government have over state governments and the people?

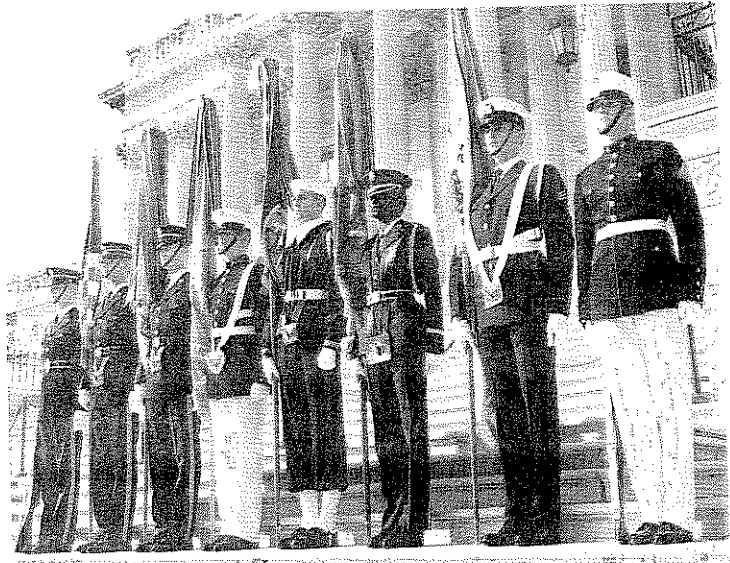
One reason the Framers agreed to meet in Philadelphia was their concern about some things that state governments were doing. They believed that some states were undermining Congress's efforts to conduct foreign relations, and they feared that, in others, individual rights might be threatened by the state governments. They also knew that the national government had no power to enforce its decisions. The Framers all agreed they had to create a national government with more power than the government had under the Articles of Confederation. They did not agree, however, about how much power the new national government should have over citizens and the state governments.

The Framers resolved their disagreements by establishing a **national government** with authority to act directly on the people in certain specific areas. The national government no longer would be dependent on the states for income or for law enforcement. The state governments, however, would keep many of the more important powers over people's daily lives. The states would keep their powers over education, family law, property regulations, and most aspects of everyday life. The people would not feel they had surrendered too much power to a distant government.

The Framers included a number of phrases in the Constitution that set forth the powers of the national government. They also included phrases that limited the power of both the national government and state governments. Some of the more important of these are listed below.

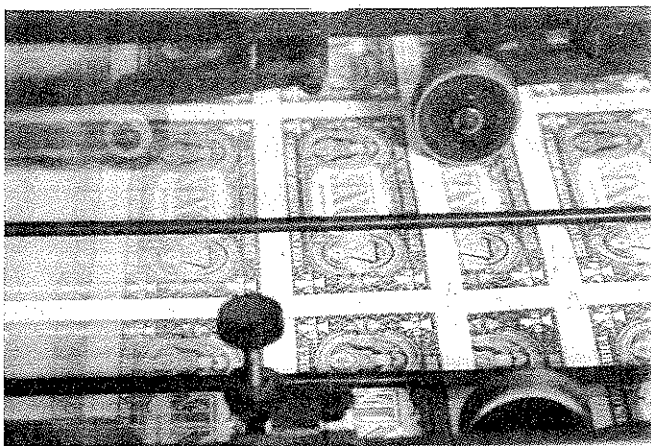
### 1. Some powers of the national government.

- The **supremacy clause** says that the Constitution and all laws and treaties approved by Congress in exercising its enumerated powers are the supreme law of the land. It also says that judges in state courts must follow the Constitution, or federal laws and treaties, if there is a conflict with state law.
- Article I, Section 8 gives Congress power to organize the militia of the states and to set a procedure for calling the militia into national service when needed.
- Article IV, Section 3 gives Congress the power to create new states.
- Article IV, Section 4 gives the national government the authority to guarantee to each state a **republican** form of government.



*Why did the Framers believe it was necessary to maintain a national armed force?*

- Article IV, Section 4 also requires the national government to protect the states from invasion or domestic violence.
- ### 2. Limits on power of the national government.
- The Constitution includes several limitations on the power of the national government.
- Article I, Section 9 prohibits the national government from
    - a. banning the slave trade before 1808
    - b. suspending the privilege of the writ of **habeas corpus** except in emergencies
    - c. passing any **ex post facto laws**, laws that make an act a crime even though it was legal at the time it was committed
    - d. passing any **bills of attainder**, laws that declare a person guilty of a crime and decrees a punishment without a judicial trial
    - e. taxing anything exported from a state
    - f. taking money from the treasury without an appropriation law
    - g. granting titles of nobility
  - Article III defines the crime of **treason** and prohibits Congress from punishing the descendants of a person convicted of treason.
  - Article VI prohibits the national government from requiring public officials to hold any particular religious beliefs.



*Why was it important to have only one monetary system for the nation?*

### 3. Limits on powers of state governments

- Article I prohibits state governments from
  - a. creating their own money
  - b. passing laws that enable people to violate contracts, such as those between creditors and debtors
  - c. making ex post facto laws or bills of attainder
  - d. entering into treaties with foreign nations or declaring war
  - e. granting titles of nobility
- Article IV prohibits states from
  - a. unfairly discriminating against citizens of other states
  - b. refusing to return fugitives from justice to the states from which they have fled

#### What issues separated the northern and southern states?

The Great Compromise had settled the disagreement between large and small states over how they would be represented in Congress. Many other issues still had to be resolved. Two of the most critical disagreements were those between the southern and northern states on the issues of slavery and regulation of commerce.

Slavery had been practiced for almost as long as there had been colonies in America. Many Framers were opposed to slavery, and some northern states had begun to take steps toward abolishing it. Still, in the south, slave labor was widely used in producing crops. Slaveholders considered their slaves to be personal property, and wanted to continue using them.

Delegates from the southern states told the convention that their states would not ratify a constitution that denied citizens the right to import and keep slaves. If the Constitution interfered with slavery, North Carolina, South Carolina, and Georgia made it clear that they

would not become part of the new nation. Some delegates from the New England states, whose shipping interests profited from the slave trade, were sympathetic to the southern position.

#### What compromises were made to persuade the southern states to sign the Constitution?

After considerable debate, the Framers agreed on a way to satisfy both northern and southern delegates. This agreement gave Congress the power to regulate commerce between the states, which the northern states wanted. The delegates defeated a southern attempt to require a two-thirds vote of both houses to pass laws regulating commerce. To satisfy the southern states, the Constitution provided that the national government would not interfere with the slave trade earlier than 1808.

The Framers also agreed that each slave would be counted as three-fifths of a person when determining how many representatives a state could send to the House of Representatives. Each slave also would be counted as three-fifths of a person when computing direct taxes. The **fugitive slave clause** of Article IV was another concession to the southern states. It provided that slaves who escaped to other states must be returned to their owners.

# \$100 REWARD!

# RANAWAY

**From the underground, living on Current River, about twelve miles above Doniphan, in Ripley County, Mo., on 2nd of March, 1860, a NEGRO MAN, about 30 years old, weighs about 160 pounds; high forehead, with a scar on it; had on brown pants and coat very much worn, and an old black wool hat; shoes size No. 11.**

**The above reward will be given to any person who may apprehend this said negro out of the State; and fifty dollars if apprehended in this State outside of Ripley county, or \$25 if taken in Ripley county.**  
**APOS TUCKER.**

*Why did the Framers give constitutional protection to slavery?*

#### Critical Thinking Exercise

#### EXAMINING NORTHERN AND SOUTHERN POSITIONS ON SLAVERY

The words "slave" and "slavery" are never used in the Constitution. Although the delegates voted to give constitutional protection to slavery, many of them were not proud of having done so. They considered it to be a necessary evil, at best, and many hoped it would go away by itself, if left alone. As we now know, this protection of slavery almost destroyed the United States.



Work in small groups to develop positions on the following questions from both a northern and southern perspective. Then develop a position on the final question.

1. What arguments could have been made for or against the Framers' decision to include the value of property, including enslaved Africans, in calculating the number of representatives a state should have? Should property in the form of enslaved Africans have been treated differently from other forms of property?
2. Should the settling of fundamental issues, such as whether to allow slavery, have been left up to each state?
3. What problems, if any, arise from trying to make judgments about positions that were taken 200 years ago?

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#### What do you think?

1. Why did northern delegates, some from states which had abolished slavery, vote for compromises which maintained the institution of slavery? Would you have done the same? Why or why not?
2. What disagreements might arise over the interpretation of the clause that says Congress has the power to make all laws necessary and proper for fulfilling its responsibilities as outlined in the Constitution. Why?

#### Reviewing and Using the Lesson

1. Why did the Framers appoint a special committee to deal with the issue of representation? How was the committee organized?
2. What was the Connecticut Compromise or Great Compromise? How did it resolve the conflict over representation?
3. What is meant by "enumerated powers"? Why did the Framers decide to specifically enumerate the powers granted to Congress?
4. What is the "necessary and proper clause"?
5. What is the "supremacy clause"?
6. How did the Framers deal with the issue of slavery? Why did they choose to take the approach they did?
7. Examine Article I, Section 8 of the Constitution. List any powers of Congress that are not included that you believe should be.