

Activity 4. Madison's Proposals in the First Congress

Student Name _____ Date _____

Reading Set A: Madison meets resistance in the House of Representatives

Directions: Read the following document and complete the questions on the assigned worksheet.

Debates in the First Congress 8 June 1789

<http://memory.loc.gov/cgi-bin/ampage?collId=llac&fileName=001/llac001.db&recNum=221>

Mr. Madison rose... This day, Mr. Speaker, is the day assigned for taking into consideration the subject of amendments to the Constitution. As I considered myself bound in honor and in duty to do what I have done on this subject, I shall proceed to bring the amendments before you as soon as possible, and advocate them until they shall be finally adopted or rejected by a Constitutional majority of this House...

Mr. Jackson. — I am of opinion we ought not to be in a hurry with respect to altering the Constitution... If I agree to alterations in the mode of administering this Government, I shall like to stand on the sure ground of experience, and not be treading air. What experience have we had of the good or bad qualities of this Constitution?... Our Constitution, sir, is like a vessel just launched, and lying at the wharf; she is untried, you can hardly discover any one of her properties... Let us, gentlemen, fit out our vessel, set up her masts, and expand her sails, and be guided by the experiment in our alterations... [B]ut if we proceed now to make alterations, we may deface a beauty, or deform a well proportioned piece of workmanship. In short, Mr. Speaker, I am not for amendments at this time... But let me ask what will be the consequence of taking up this subject? Are we going to finish it in an hour? I believe not; it will take us more than a day, a week, a month — it will take a year to complete it! And will it be doing our duty to our country, to neglect or delay putting the Government in motion, when every thing depends upon its being speedily done?... For this reason, I wish the consideration of the subject postponed until the 1st of March, 1790.

Mr. Goodhue... I believe it will be proper to attend to the subject earlier; because it is the wish of many of our constituents, that something should be added to the Constitution, to secure in a stronger manner their liberties from the inroads of power...

Mr. Burke thought amendments to the Constitution necessary, but this was not the proper time to bring them forward. He wished the Government completely organized before they entered upon this ground. The law for collecting the revenue is immediately necessary; the Treasury Department must be established; till this, and other important subjects are determined, he was against taking this up... He hoped it would be postponed for the present, and pledged himself to bring it forward hereafter, if nobody else would.

Mr. Madison... But if we continue to postpone from time to time, and refuse to let the subject come into view, it may occasion suspicions, which, though not well founded, may tend to inflame or prejudice the public mind against our decisions. They may think we are not sincere in our desire to incorporate such amendments in the Constitution as will secure those rights, which they consider as not sufficiently guarded. The applications for amendments come from a very respectable number of our constituents, and it is certainly proper for Congress to consider the subject, in order to quiet that anxiety which prevails in the public mind... I wish then to commence the consideration at the present moment; I hold it to be my duty to unfold my ideas, and explain myself to the House in some form or other without delay. I only wish to introduce the great work, and, as I said before, I do not expect it will be decided immediately; but if some step is taken in the business, it will give reason to believe that we may come to

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a final result. This will inspire a reasonable hope in the advocates for amendments, that full justice will be done to the important subject; and I have reason to believe their expectation will not be defeated...

Mr. White. — I hope the House will not spend much time on this subject, till the more pressing business is despatched; but, at the same time, I hope we shall not dismiss it altogether, because I think a majority of the people who have ratified the Constitution, did it under the expectation that Congress would, at some convenient time, examine its texture and point out where it was defective, in order that it might be judiciously amended...

Mr. Page. — My colleague [*Madison*] has done me the honor of showing me certain propositions which he has drawn up...After they are published, I think the people will wait with patience till we are at leisure to resume them. But it must be very disagreeable to them to have it postponed from time to time, in the manner it has been for six weeks past; they will be tired out by a fruitless expectation...The people will clamor for a new convention; they will not trust the House any longer. Those, therefore, who dread the assembling of a convention, will do well to acquiesce in the present motion, and lay the foundation of a most important work...

Mr. Vining...For my part, I do not see the expediency of proposing amendments. I think, sir, the most likely way to quiet the perturbation of the public mind, will be to pass salutary laws; to give permanency and stability to Constitutional regulations, founded on principles of equity and adjusted by wisdom. Although hitherto we have done nothing to tranquillize that agitation which the adoption of the Constitution threw some people into, yet the storm has abated and a calm succeeds...

Mr. Madison...If I thought I could fulfil the duty which I owe to myself and my constituents, to let the subject pass over in silence, I most certainly should not trespass upon the indulgence of this House. But I cannot do this, and am therefore compelled to beg a patient hearing to what I have to lay before you. And I do most sincerely believe, that if Congress will devote but one day to this subject, so far as to satisfy the public that we do not disregard their wishes, it will have a salutary influence on the public councils, and prepare the way for a favorable reception of our future measures...

It cannot be a secret to the gentlemen in this House, that, notwithstanding the ratification of this system of Government by eleven of the thirteen United States, in some cases unanimously, in others by large majorities; yet still there is a great number of our constituents who are dissatisfied with it; among whom are many respectable for their talents and patriotism, and respectable for the jealousy they have for their liberty, which, though mistaken in its object, is laudable in its motive. There is a great body of the people falling under this description, who at present feel much inclined to join their support to the cause of Federalism, if they were satisfied on this one point. We ought not to disregard their inclination, but, on principles of amity and moderation, conform to their wishes, and expressly declare the great rights of mankind secured under this constitution...

But perhaps there is a stronger motive than this for our going into a consideration of the subject. It is to provide those securities for liberty which are required by a part of the community; I allude in a particular manner to those two States [*North Carolina and Rhode Island*] that have not thought fit to throw themselves into the bosom of the Confederacy. It is a desirable thing, on our part as well as theirs, that a reunion should take place as soon as possible. I have no doubt, if we proceed to take those steps which would be prudent and requisite at this juncture, that in a short time we should see that disposition prevailing in those States which have not come in, that we have seen prevailing in those States which have embraced the Constitution...

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Question	Answer
Is Mr. Jackson in favor of or opposed to discussing the adoption of a bill of rights? Why?	
Is Mr. Goodhue in favor of or opposed to discussing the adoption of a bill of rights? Why?	
Is Mr. Burke in favor of or opposed to discussing the adoption of a bill of rights? Why?	
Is Mr. White in favor of or opposed to discussing the adoption of a bill of rights? Why?	
Is Mr. Page in favor of or opposed to discussing the adoption of a bill of rights? Why?	
Is Mr. Vining in favor of or opposed to discussing the adoption of a bill of rights? Why?	

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<p>Why does Madison believe Congress should devote at least one day to discussing amendments to the Constitution?</p>	
<p>What is Madison's "stronger motive" for considering the adoption of a bill of rights?</p>	

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Reading Set B: Madison defends his proposal for a Bill of Rights

Directions: Read the following document and complete the questions on the assigned worksheet.

Debates in the First Congress 8 June 1789

<http://memory.loc.gov/cgi-bin/ampage?collId=llac&fileName=001/llac001.db&recNum=228>

[Mr. Madison.] The first of these amendments relates to what may be called a bill of rights. I will own that I never considered this provision so essential to the Federal Constitution, as to make it improper to ratify it, until such an amendment was added; at the same time, I always conceived, that in a certain form, and to a certain extent, such a provision was neither improper nor altogether useless...

It has been said, by way of objection to a bill of rights, by many respectable gentlemen out of doors, and I find opposition on the same principles likely to be made by gentlemen on this floor, that they are unnecessary articles of a Republican Government, upon the presumption that the people have those rights in their own hands, and that is the proper place for them to rest... It has been said, that in the Federal Government they are unnecessary, because the powers are enumerated, and it follows, that all that are not granted by the Constitution are retained... I admit that these arguments are not entirely without foundation; but they are not conclusive to the extent which has been supposed. It is true, the powers of the General Government are circumscribed, they are directed to particular objects; but even if Government keeps within those limits, it has certain discretionary powers with respect to the means, which may admit of abuse to a certain extent...; because in the Constitution of the United States, there is a clause granting to Congress the power to make all laws which shall be necessary and proper for carrying into execution all the powers vested in the Government of the United States... I will state an instance, which I think in point, and proves that this might be the case. The General Government has a right to pass all laws which shall be necessary to collect its revenue; the means for enforcing the collection are within the direction of the Legislature: may not general warrants be considered necessary for this purpose[?]...

It may be said, indeed it has been said, that a bill of rights is not necessary, because the establishment of this Government has not repealed those declarations of rights which are added to the several State constitutions... I admit the force of this observation, but I do not look upon it to be conclusive. In the first place, it is too uncertain ground to leave this provision upon, if a provision is at all necessary to secure rights so important as many of those I have mentioned are conceived to be, by the public in general, as well as those in particular who opposed the adoption of this Constitution. Besides, some States have no bills of rights, there are others provided with very defective ones, and there are others whose bills of rights are not only defective, but absolutely improper; instead of securing some in the full extent which republican principles would require, they limit them too much to agree with the common ideas of liberty.

It has been objected also against a bill of rights, that, by enumerating particular exceptions to the grant of power, it would disparage those rights which were not placed in that enumeration; and it might follow, by implication, that those rights which were not singled out, were intended to be assigned into the hands of the General Government, and were consequently insecure. This is one of the most plausible arguments I have ever heard urged against the admission of a bill of rights into this system; but, I conceive, that it may be guarded against. I have attempted it, as gentlemen may see by turning to the last clause of the fourth resolution. *[Madison means that this objection can be overcome by an amendment reserving all rights and powers not expressly listed; this ends up being accomplished by Amendment IX, which states “The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people,” and Amendment X, which states, “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.” – editor]*

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It has been said, that it is unnecessary to load the Constitution with [*a bill of rights*]...but it does not follow but they may have, to a certain degree, a salutary effect against the abuse of power. If they are incorporated into the Constitution, independent tribunals of justice will consider themselves in a peculiar manner the guardians of those rights; they will be an impenetrable bulwark against every assumption of power in the Legislative or Executive; they will be naturally led to resist every encroachment upon rights expressly stipulated for in the Constitution by the declaration of rights. Besides this security, there is a great probability that such a declaration in the federal system would be enforced; because the State Legislatures will jealously and closely watch the operations of this Government, and be able to resist with more effect every assumption of power, than any other power on earth can do; and the greatest opponents to a Federal Government admit the State Legislatures to be sure guardians of the people's liberty. I conclude, from this view of the subject, that it will be proper in itself, and highly politic, for the tranquillity of the public mind, and the stability of the Government, that we should offer something, in the form I have proposed, to be incorporated in the system of Government, as a declaration of the rights of the people...

These are the points on which I wish to see a revision of the Constitution take place...[I]f we can make the Constitution better in the opinion of those who are opposed to it, without weakening its frame, or abridging its usefulness, in the judgment of those who are attached to it, we act the part of wise and liberal men to make such alterations as shall produce that effect...

Mr. Jackson. — The more I consider the subject of amendments, the more I am convinced it is improper. I revere the rights of my constituents as much as any gentleman in Congress, yet I am against inserting a declaration of rights in the Constitution...If such an addition is not dangerous or improper, it is at least unnecessary...Let me ask gentlemen, what reason there is for the suspicions which are to be removed by this measure? Who are Congress, that such apprehensions should be entertained of them? Do we not belong to the mass of the people? Is there a single right that, if infringed, will not affect us and our connexions as much as any other person? Do we not return at the expiration of two years into private life? and is not this a security against encroachments? Are we not sent here to guard those rights which might be endangered?...

If we actually find the Constitution bad upon experience, or the rights and privileges of the people in danger, I here pledge myself to step forward among the first friends of liberty to prevent the evil; and if nothing else will avail, I will draw my sword in the defence of freedom, and cheerfully immolate at that shrine my property and my life. But how are we now proceeding? Why, on nothing more than the theoretical speculation pursuing a mere *ignis fatuus*, which may lead us into serious embarrassments. The imperfections of the Government are now unknown; let it have a fair trial, and I will be bound they show themselves; then we can tell where to apply the remedy, so as to secure the great object we are aiming at...

At length...Mr. Madison's propositions were ordered to be referred to a Committee of the Whole.

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Question	Answer
Does Madison believe the addition of a bill of rights is necessary to perfect the Constitution?	
Why does Madison reject the argument that the specific enumeration of limited powers in the Constitution makes a bill of rights unnecessary?	
Why does Madison reject the argument that the declarations of rights in the state constitutions make a bill of rights in the Federal Constitution unnecessary?	
How does Madison overcome the objection that all rights or powers not included in a bill of rights will be assumed to have been surrendered to government?	
Why does Madison believe a bill of rights will have a "salutary effect against the abuse of power"?	
Why does Mr. Jackson continue to assert that a bill of rights is unnecessary?	