Handout D

Role Play—The Significance of Representation

Passages from Madison’s The Debates in the Federal Convention of 1787 reflecting the debates of individual speakers are modified only to modernize spelling and punctuation and to provide for first-person presentation in this role play.

Act 1: Stamp Act Congress

Narrator 1: From 1756 to 1763, Britain, France, and the allies of each were at war, in a conflict that involved Europe, India, and North America. In Europe the conflict came to be called the Seven Years War, but in North America it was called the French and Indian War, as the French, along with their Native American allies, contested British control of North America. The British prevailed, but at a shockingly high cost. Hoping to recover some of the money expended to protect its North American colonies from the French and Indians, Parliament in 1764-65 imposed new regulations on colonial commerce. James Otis wrote pamphlets protesting the injustice of the Sugar Act and the Currency Act but he believed the colonists had a duty to obey the new laws until Parliament repealed them.

James Otis [Massachusetts]: (at his writing desk) These new laws are “absolutely irreconcilable with the rights of the colonists...Now can there be any liberty where property is taken away without consent? ...no parts of His Majesty’s dominions can be taxed without their consent... every part has a right to be represented in the supreme or some subordinate legislature.”

Narrator 1: However, Parliament at this time had no intention of repealing the laws. On the contrary, without the consent of local authorities, Parliament imposed for the first time a direct tax to raise revenue in the American colonies: the Stamp Act of 1765. So significant was the issue of representation that riots, boycotts, and massive resistance broke out against the new British policies and the customs officers who tried to enforce them. In the first example of united opposition to Britain, the Stamp Act Congress met in New York City in October 1765. Twenty-eight delegates from nine colonies met to plan their united opposition to the hated British policies. John Dickinson, starting with the colonists’ firm consensus that they had all the
same rights and responsibilities as subjects within Great Britain, drafted the Declaration of Rights that resulted from this meeting.

John Dickinson [Delaware]: \(\textit{(at his writing desk)}\) “The members of this congress sincerely devoted, with the warmest sentiments of affection and duty to his majesty’s person and government... esteem it our indispensable duty to make the following declarations of our humble opinions, respecting the most essential rights and liberties of the colonists, and of the grievances under which they labor, by reason of several late acts of Parliament...

- 3d. That it is inseparably essential to the freedom of a people, and the undoubted rights of Englishmen, that no taxes should be imposed on them, but with their own consent, given personally or by their representatives.
- 4\textsuperscript{th}. That the people of these colonies are not and from their local circumstances, cannot be represented in the House of Commons in Great Britain.
- 5\textsuperscript{th}. That the only representatives of the people of these colonies, are persons chosen therein, by themselves; and that no taxes ever have been, or can be constitutionally imposed on them, but by their respective legislatures...
- 13\textsuperscript{th}. That it is the right of the British subjects in these colonies, to petition the king or either house of Parliament.
- Lastly, That it is the indispensable duty of these colonies...to procure the repeal of the act for granting and applying certain stamp duties...”

Narrator 1: John Adams wrote in his diary on December 18, 1765.

John Adams [Massachusetts]: \(\textit{(at his writing desk)}\) “The Year 1765 has been the most remarkable Year of my Life. That enormous Engine, fabricated by the British Parliament, for battering down all the Rights and Liberties of America, I mean the Stamp Act, has raised and spread, through the whole Continent, a Spirit that will be recorded to our Honor, with all future Generations. In every Colony, from Georgia to New Hampshire inclusively, the Stamp Distributors and Inspectors have been compelled, by the unconquerable Rage of the People, to renounce their offices. Such and so universal has been the Resentment of the People.”
Act 2: Revolution, Confederation, and Constitutional Convention

Narrator 2:

Tension escalated between Britain and her colonies across the Atlantic, which finally broke from Britain in 1776. Included in the list of grievances against the king in the Declaration of Independence was “imposing Taxes on us without our Consent.” The first plan of union after independence from Great Britain was the Articles of Confederation and Perpetual Union in which the sovereign states entered into a “firm league of friendship.” When it became clear that a stronger central government was needed, Confederation Congress authorized a meeting in Philadelphia in 1787 to modify the Articles of Confederation.

Would the new plan retain a unicameral legislature, as under the Articles of Confederation, or choose a bicameral legislature as in the Virginia Plan and in most of the states? William Paterson on June 9 argued for equal representation of the states in a unicameral legislature—in essence just tweaking the Articles of Confederation.

William Paterson [New Jersey]:

“This convention was formed in pursuance of an act of Congress... [to amend the confederacy.] The Articles of Confederation are therefore the proper basis of all the proceedings ... We ought to keep within its limits, or we should be charged by our constituents with usurpation. The people of America are sharp-sighted and not to be deceived...”

Narrator 2:

The debate continued. On June 20, George Mason sought to summarize the topic.

George Mason [Virginia]:

“Much has been said of the unsettled state of the mind of the people... In two points [I am] sure it is well settled, — first, in an attachment to republican government; secondly, in an attachment to more than one branch in the Legislature. Their constitutions accord so generally in both these circumstances, that they seem almost to have been pre-concerted. This must either have been a miracle, or have resulted from the genius of the people.”

Narrator 2:

On June 21 the Convention settled this question in favor of a bicameral Congress.

A second question addressed the method of election in the new Congress. Would the representatives be selected by state legislatures,
as under the Articles of Confederation, or would they be elected directly by the people? On May 31 the following debate occurred.

**Roger Sherman [Connecticut]:** “I oppose the election [of the House of Representatives] by the people…it ought to be by state legislatures. The people should have as little to do as may be about the government. They lack information and are constantly liable to be misled.”

**Elbridge Gerry [Massachusetts]:** “The evils we experience flow from the excess of democracy. The people do not lack virtue, but are the dupes of pretended patriots. In Massachusetts, it has been fully confirmed by experience that they are daily misled into the most baneful (harmful) measures and opinions by the false reports circulated by designing men…”

**George Mason [Virginia]:** *(forcefully)* “Election of the larger branch must be by the people. It is to be the grand depository of the democratic principle of the government…It ought to know and sympathize with every part of the community…We ought to attend to the rights of every class of the people… The system of policy [must] provide no less carefully for the rights and happiness of the lowest than of the highest orders of citizens.”

**James Wilson [Pennsylvania]:** *(strenuously)* “[We must draw] the most numerous branch of the legislature immediately from the people… No government could long subsist without the confidence of the people. In a republican government this confidence is peculiarly essential.”

**James Madison [Virginia]:** *(firmly)* “Popular election of one branch of the national legislature is essential to every plan of free government… [The] great fabric to be raised will be more stable and durable if it should rest on the solid foundation of the people themselves, than if it should stand merely on the pillars of the legislatures.”

**Elbridge Gerry [Massachusetts]:** *(steadfastly)* “[I do] not like the election by the people. Experience has shown that the state legislatures drawn immediately from the people do not always possess their confidence. [I have] no objection, however, to an election by the people if …men of honor and character might not be unwilling to be joined in the appointments… the people might nominate a certain number out of which the state legislatures should choose.”
Narrator 2: Debate continued on and off regarding the method of electing representatives until June 25 when the Convention finally reached a compromise on method of election. The representatives in the lower house (House of Representatives) would be elected by a direct popular vote; Senators would be named by the state legislatures.

A third major focus of debate was whether the states would have equal representation in the national legislature, as under the Articles of Confederation, or, would each state’s representation in Congress be proportional, based on population or wealth? A plan using equal representation would benefit the small states; using proportional representation would benefit the large states. On June 9, David Brearly and James Wilson addressed the question.

David Brearly [New Jersey]: “It had been much agitated in Congress at the time of forming the Confederation, and was then rightly settled by allowing to each sovereign state an equal vote. Otherwise the smaller states must have been destroyed instead of being saved... Little States will be obliged to throw themselves constantly into the scale of some large one, in order to have any weight at all.”

James Wilson [Pennsylvania]: “As all authority was derived from the people, equal numbers of people ought to have an equal number of representatives, and different numbers of people different numbers of representatives... [It would be unjust for a state with one-third of Pennsylvania’s population to have the same weight in national decisions as Pennsylvania.]”

Narrator 2: On June 15, William Paterson introduced the Small State, or New Jersey Plan, providing for each state to be represented equally regardless of population. Argument continued on the question of equal/proportional representation for weeks. Large-state delegates were unwilling to compromise, and Luther Martin of Maryland later commented that the Convention “was on the verge of dissolution, scarce held together by the strength of an hair.” Even General Washington was worried. On July 10, he wrote privately to Alexander Hamilton:

George Washington [Virginia]: (at his writing desk) “When I refer you to the State of the Councils which prevailed at the period you left this City—and add, that they are now, if possible, in a worse train than ever; you will find but little ground on which the hope of a good establishment, can be
formed. In a word, I almost despair of seeing a favorable issue to the proceedings of the Convention, and do therefore repent having had any agency in the business.”

Narrator 2: Finally, the delegates agreed on July 16 to implement a compromise proposed by Connecticut delegates Sherman and Ellsworth. This solution, called the Connecticut Compromise or the Great Compromise, provided for proportional representation based on population in the lower House, and equal representation in the Senate. Further, delegates decided that direct taxes would be in proportion to representation.

The fourth major question related to representation was how, if at all, would enslaved persons be counted? Delegates from states with large numbers of enslaved individuals wanted them to be counted as part of the population for purposes of representation, but not for purposes of taxation. On July 11 convention members once again discussed a compromise: counting three-fifths of enslaved people in computing population for purposes of representation.

James Wilson [Pennsylvania]: “[I do] not well see, on what principle the admission of blacks in the proportion of three-fifths, could be explained. Are they admitted as citizens — then why are they not admitted on an equality with white citizens? Are they admitted as property — then why is not other property admitted into the computation? These [are] difficulties, however, which [I think] must be overruled by the necessity of compromise.”

Gouv. Morris [Pennsylvania]: “[I am] compelled to declare [my] dilemma of doing injustice to the Southern States, or to human nature; and [I] must therefore do it to the former. For [I] could never agree to give such encouragement to the slave trade, as would be given by allowing them a representation for their Negroes; and [I do] not believe those States would ever confederate on terms that would deprive them of that trade.”

Narrator 2: On July 11 the Convention voted against including three-fifths of the blacks in the population count. The next day they discussed the same question again.

William Davie [North Carolina]: “[It is] high time now to speak out...Some gentlemen mean to deprive the Southern States of any share of representation for their blacks. [I am] sure that North Carolina would never confederate
on any terms that did not rate them at least as three-fifths. If the Eastern States [mean], therefore, to exclude them altogether, the business [is] at an end.”

**Narrator 2:**

Many delegates balked at the three-fifths ratio, but finally accepted it, though heated exchanges about slavery and the slave trade would continue. On July 14, James Madison reviewed some of the controversies surrounding the principle of representation, and James Wilson spoke to encourage the Convention, in spite of the difficulty of the task, to persevere in the goal for which the states had sent delegates to Philadelphia—the design of a competent national government that would represent the will of the people.

**James Madison** [Virginia]:

“It seem[s] now to be pretty well understood, that the real difference of interest [is] not between the large and small, but between the Northern and Southern, States. The institution of slavery, and its consequences, formed the line of discrimination. There [are] five States on the Southern, eight on the Northern side of this line. Should a proportional representation take place, it [is] true, the Northern would still outnumber the other; but not in the same degree, at this time; and every day would tend towards an equilibrium.”

**James Wilson** [Pennsylvania]:

“The justice of the general principle of proportional representation has not, in argument at least, been yet contradicted. But it is said that a departure from it, so far as to give the States an equal vote in one branch of the Legislature, is essential to their preservation... [I agree] that the States ought to be preserved. But does it follow, that an equality of votes is necessary for the purpose? ... [T]he great fault of the existing Confederacy is its inactivity. It has never been a complaint against Congress, that they governed overmuch. The complaint has been, that they have governed too little. To remedy this defect we were sent here. Shall we effect the cure by establishing an equality of votes, as is proposed? No: this very equality [created] the system which it is our duty to rectify...Will not our constituents say, we sent you to form an efficient government, and you have given us one, more complex, indeed, but having all the weakness of the former government. [I am anxious to unite] all the States under one government.
Narrator 2: On July 12 the Convention voted again on the same proposal they had rejected the previous day. This time they accepted the three-fifths compromise.

**Act 3: Ratification**

Narrator 3: The Convention drew to a close on September 17, 1787, after four long, hot months in Philadelphia. But the debates continued in the states as Anti-Federalists wrote and argued that the new government was too powerful, insufficiently representative, and failed to secure the rights of the people. Federalists wrote essays explaining why the liberty of the people was safe under the new Constitution.

**Brutus:**
*(believed to be Robert Yates)*

[It will be impossible to provide fair and true representation in such a large republic.] “The confidence which the people have in their rulers, in a free republic, arises from their knowing them, from their being responsible to them for their conduct, and from the power they have of displacing them when they misbehave: but in a republic of the extent of this continent, the people in general would be acquainted with very few of their rulers: the people at large would know little of their proceedings, ... [T]he great officers of government would soon become above the control of the people, and abuse their power to the purpose of aggrandizing themselves, and oppressing them...” *Brutus I, Oct. 18, 1787*

**Cato:**
*(believed to be George Clinton)*

“The most general objections to the first article, are that biennial elections for representatives are a departure from the safe democratical principles—of annual ones—that the number of representatives are too few...If annual elections were to exist in this government, and learning and information to become more prevalent, you never will want men to execute whatever you could design—Sidney observes ... that “it was also thought, that free cities by frequent elections of magistrates became nurseries of great and able men, every man endeavoring to excel others, that he might be advanced to the honor he had no other title to, than what might arise from his merit, or reputation,” but the framers of this perfect government, as it is called, have departed from this democratical principle, and established bi-ennial elections for the house of representatives...” *Cato V, Nov. 22, 1787*
James Madison: The two great points of difference between a democracy and a republic are: first, the delegation of the government, in the latter, to a small number of citizens elected by the rest; secondly, the greater number of citizens, and greater sphere of country, over which the latter may be extended. The effect of the first difference is, on the one hand, to refine and enlarge the public views, by passing them through the medium of a chosen body of citizens, whose wisdom may best discern the true interest of their country, and whose patriotism and love of justice will be least likely to sacrifice it to temporary or partial considerations. Under such a regulation, it may well happen that the public voice, pronounced by the representatives of the people, will be more consonant to the public good than if pronounced by the people themselves, convened for the purpose. *Federalist No. 10, Nov. 23, 1787*

Brutus: “The great art, therefore, in forming a good constitution, appears to be this, so to frame it, as that those to whom the power is committed shall be subject to the same feelings, and aim at the same objects as the people do, who transfer to them their authority. There is no possible way to effect this but by an equal, full and fair representation; this, therefore, is the great desideratum in politics. However fair an appearance any government may make, though it may possess a thousand plausible articles and be decorated with ever so many ornaments, yet if it is deficient in this essential principle of a full and just representation of the people, it will be only like a painted sepulcher — For, without this it cannot be a free government; let the administration of it be good or ill, it still will be a government, not according to the will of the people, but according to the will of a few.” *Brutus IV, Nov. 29, 1787*

James Madison: [The Constitution provides a good foundation for a republic because] “it is essential to such a government that it be derived from the great body of the society, not from an inconsiderable proportion or a favored class of it,” and that “the persons administering it be appointed, either directly or indirectly, by the people [for a limited time and based on good behavior].” *Federalist No. 39, Jan. 16 1788*

Federal Farmer: *(believed to be Melancton Smith)* “Creating all these restrictions, still the powers of the union in matters of taxation, will be too unlimited; further checks, in my mind, are indispensably necessary... A government possessed of more power than its constituent parts will justify, will not only
probably abuse it, but be unequal to bear its own burden; it may as soon be destroyed by the pressure of power, as languish and perish for want of it.” *Federal Farmer XVII, Jan. 23, 1788*

**James Madison:**

“Where no Constitution, paramount to the government, either existed or could be obtained, no constitutional security, similar to that established in the United States, was to be attempted...But...the federal government will be [limited] by the authority of a paramount Constitution. *Federalist No. 53, Feb. 9, 1788*

**James Madison:**

“The aim of every political constitution is, or ought to be, first to obtain for rulers men who possess most wisdom to discern, and most virtue to pursue, the common good of the society; and in the next place, to take the most effectual precautions for keeping them virtuous whilst they continue to hold their public trust. The elective mode of obtaining rulers is the characteristic policy of republican government. The means relied on in this form of government for preventing their degeneracy are numerous and various. The most effectual one, is such a limitation of the term of appointments as will maintain a proper responsibility to the people.” *Federalist No. 57, Feb. 19 1788*

**James Madison:**

“As the cool and deliberate sense of the community ought, in all governments, and actually will, in all free governments, ultimately prevail over the views of its rulers; so there are particular moments in public affairs when the people, stimulated by some irregular passion, or some illicit advantage, or misled by the artful misrepresentations of interested men, may call for measures which they themselves will afterwards be the most ready to lament and condemn. In these critical moments, how salutary will be the interference of some temperate and respectable body of citizens, in order to check the misguided career, and to suspend the blow meditated by the people against themselves, until reason, justice, and truth can regain their authority over the public mind? What bitter anguish would not the people of Athens have often escaped if their government had contained so provident a safeguard against the tyranny of their own passions? Popular liberty might then have escaped the indelible reproach of decreeing to the same citizens the hemlock on one day and statues on the next.” *Federalist No. 63, Mar. 1, 1788*