Charters of Freedom

The Documents that Defined America

Table of Contents

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Chapter	Page Number
Declaration and Resolves of the First Continental Congress	**3**
Petition to the King	**9**
United States Declaration of Independence	**20**
Articles of Confederation	**59**
Constitution of the United States	**80**
United States Bill of Rights	**117**
The Federalist Papers	**149**

Declaration and Resolves of the First Continental Congress

The **Declaration and Resolves of the First Continental Congress** (also known as the **Declaration of Colonial Rights**, or the **Declaration of Rights**), was a statement adopted by the First Continental Congress on October 14, 1774, in response to the Intolerable Acts passed by the British Parliament. The Declaration outlined colonial objections to the Intolerable Acts, listed a colonial bill of rights, and provided a detailed list of grievances. It was similar to the Declaration of Rights and Grievances, passed by the Stamp Act Congress a decade earlier.

The Declaration concluded with an outline of Congress's plans: to enter into a boycott of British trade (the Continental Association) until their grievances were redressed, to publish addresses to the people of Great Britain and British America, and to send a petition to the King.

Contents

Background and text

Annotations of Resolves

Reactions to the Declaration and Resolves of the First Continental Congress

References

External links

Background and text

In the wake of the Boston Tea Party, the British government instated the Coercive Acts, called the Intolerable Acts in the colonies.[1] There were five Acts within the Intolerable Acts; the Boston Port Act, the Massachusetts Government Act, the Administration of Justice Act, the Quartering Act, and the Quebec Act.[1] These acts placed harsher legislation on the colonies, especially in Massachusetts, changed the justice system in the colonies, made colonists provide for the quartering of permanent British troops, and expanded the borders of Quebec.[1] The colonies became enraged at the implementation of these laws as they felt it limited their rights and freedoms. Outraged delegates from the colonies united to share their grievances in the First Continental Congress in Carpenters' Hall in Philadelphia on September 5, 1774 to determine if the colonies should, or were interested in taking action against the British.[1][2] All the colonies except Georgia sent delegates to this conference.[3] The First Continental Congress produced five resolves, one of which was the Declaration and Resolves of the First Continental Congress:[4]

> Since the close of the last war, the British parliament, claiming a power, of right, to bind the people of America by statutes in all cases whatsoever, hath, in some acts, expressly imposed taxes on them, and in others, under various presence's, but in fact for the purpose of raising a revenue, hath imposed rates and duties payable in these colonies, established a board of commissioners, with unconstitutional powers, and extended the jurisdiction of courts of admiralty, not only for collecting the said duties, but for the trial of causes merely arising within the body of a county:

In consequence of other statutes, judges, who before held only estates at will in their offices, have been made dependent on the crown alone for their salaries, and standing armies kept in times of peace:

It has lately been resolved in parliament, that by force of a statute, made in the thirty-fifth year of the reign of King Henry the Eighth, colonists may be transported to England, and tried there upon accusations for treasons and misprisions, or concealments of treasons committed in the colonies, and by a late statute, such trials have been directed in cases therein mentioned:

In the last session of parliament, three statutes were made; one entitled, "An act to discontinue, in such manner and for such time as are therein mentioned, the landing and discharging, lading, or shipping of goods, wares and merchandise, at the town, and within the harbour of Boston, in the province of Massachusetts-Bay in New England; — another entitled, "An act for the better regulating the government of the province of Massachusetts-Bay in New England; — and another entitled, "An act for the impartial administration of justice, in the cases of persons questioned for any act done by them in the execution of the law, or for the suppression of riots and tumults, in the province of the Massachusetts-Bay in New England; — and another statute was then made, "for making more effectual provision for the government of the province of Quebec, etc. — All which statutes are impolitic, unjust, and cruel, as well as unconstitutional, and most dangerous and destructive of American rights:

Assemblies have been frequently dissolved, contrary to the rights of the people, when they attempted to deliberate on grievances; and their dutiful, humble, loyal, and reasonable petitions to the crown for redress, have been repeatedly treated with contempt, by his Majesty's ministers of state: The good people of the several colonies of New-Hampshire, Massachusetts-Bay, Rhode Island and Providence Plantations, Connecticut, New-York, New-Jersey, Pennsylvania, Newcastle, Kent, and Sussex on Delaware, Maryland, Virginia, North-Carolina and South-Carolina, justly alarmed at these arbitrary proceedings of parliament and administration, have severally elected, constituted, and appointed deputies to meet, and sit in general Congress, in the city of Philadelphia, in order to obtain such establishment, as that their religion, laws, and liberties, may not be subverted: Whereupon the deputies so appointed being now assembled, in a full and free representation of these colonies, taking into their most serious consideration, the best means of attaining the ends aforesaid, do, in the first place, as Englishmen, their ancestors in like cases have usually done, for asserting and vindicating their rights and liberties, DECLARE,

That the inhabitants of the English colonies in North-America, by the immutable laws of nature, the principles of the English constitution, and the several charters or compacts, have the following RIGHTS:

Annotations of Resolves

Resolved, N. C. D. 1. *That they are entitled to life, liberty, and property, and they have never ceded to any sovereign power whatever a right to dispose of either without their consent.*

Resolved, N.C.D. 2. *That our ancestors, who first settled these colonies, were at the time of their emigration from the mother country, entitled to all the rights, liberties, and immunities of free and natural- born subjects, within the realm of England.*

Resolved, N.C.D. 3. *That by such emigration they by no means forfeited, surrendered, or lost any of those rights, but that they were, and their descendants now are, entitled to the exercise and enjoyment of all such of them, as their local and other circumstances enable them to exercise and enjoy.*

These resolves relate to the colonists' status as British citizens since their emigration from various European countries. Since early settlement, both by virtue of local laws and later Imperial law, alien colonists had been entitled to and were granted equal rights with other native-born British subjects, and this equal treatment should be continued. This is in reference to the termination of their rights under the Plantation Act 1740 in December 1773, about the same time as the Boston Tea Party and before passage of the Intolerable Acts. The colonists saw this as limiting their freedom, their ability to grow, and placing them at a lower political and social level than the citizens of Britain. As was the case, this resolve controversially suggests that colonial interpretations of their rights had been disrespected for many years, as well as more recently prior to the opening of the Continental Congress.

Resolved, 4. *That the foundation of English liberty, and of all free government, is a right in the people to participate in their legislative council: and as the English colonists are not represented, and from their local and other circumstances, cannot properly be represented in the British parliament, they are entitled to a free and exclusive power of legislation in their several provincial legislatures, where their right of representation can alone be preserved, in all cases of taxation and internal polity, subject only to the negative of their sovereign, in such manner as has been heretofore used and accustomed: But, from the necessity of the case, and a regard to the mutual interest of both countries, we cheerfully consent to the operation of such acts of the British parliament, as are bonfide, restrained to the regulation of our external commerce, for the purpose of securing the commercial advantages of the whole empire to the mother country, and the commercial benefits of its respective members; excluding every idea of taxation internal or external, for raising a revenue on the subjects, in America, without their consent.*[5]

The colonists did not have direct representation in British Parliament, and felt that the government couldn't place taxes on the colonists unless they had representatives in government.[6] The colonists did not want to have taxes levied on them to raise money for the British government when they had no say in the legislature of such taxes.[6] In reality, the British were implementing these taxes to raise the revenue they lost in the French and Indian War, as well as will the colonies into submission as the British felt their loyalty was wavering.[7] The colonists slogan for this issue was "No taxation without representation"[6] It is up for debate who the individual is who coined this expression. Different sources say it was Patrick Henry in 1750, while another says it was Jonathan Mayhew (also in 1750)[6]

Resolved, N.C.D. 5. *That the respective colonies are entitled to the common law of England, and more especially to the great and inestimable privilege of being tried by their peers of the vicinage, according to the course of that law.*

In the Administration of Justice Act it was made law that the colonists had to be trialed in British courts for crimes, and British soldiers accused of crimes could be trialed in British courts.[8] The colonists called this the "murder act" because they felt soldiers could get away with murder by fleeing when they were supposed to go to Britain for trial.[8] This resolve is depicting the colonists demand that they be tried in their own courts for crimes committed in the colonies.

Resolved, N.C.D. 6. *That they are entitled to the benefit of such of the English statutes, as existed at the time of their colonization; and which they have, by experience, respectively found to be applicable to their several local and other circumstances.*

Resolved, N.C.D. 7. *That these, his Majesty's colonies, are likewise entitled to all the immunities and privileges granted and confirmed to them by royal charters, or secured by their several codes of provincial laws.*

These resolves state the colonists are entitled to the rights stated in their individual colony's charters, and have been since colonization. This is important for colonial rights as it ties into the issue of colonial legislative rights, in comparison to the rights of the monarch over the colonies. This document states that colonial rights cannot be altered too much, as the colonial charter must be respected.

Resolved, N.C.D. 8. *That they have a right peaceably to assemble, consider of their grievances, and petition the king; and that all prosecutions, prohibitory proclamations, and commitments for the same, are illegal.*

The purpose of this resolve is to ease the tension and the colonies by making sure they have the right to assemble and petition the king, in the forms of committees of correspondence.[9] Committees of correspondence were formed in the period between 1772 and 1774 as a way for colonists and colonial leaders to express their grievances towards the King.[9]

Resolved, N.C.D. 9. *That the keeping a standing army in these colonies, in times of peace, without the consent of the legislature of that colony, in which such army is kept, is against law.*

The resolution above was included in the Declaration and Resolves of the First Continental Congress as the British had placed a permanent army in Massachusetts in 1768. The colonists were angered that these troops were to be quartered in their houses, fed with their food, and showed a blatant mistrust from Britain and increased control in the colonies.

Resolved, N.C.D. 10. *It is indispensably necessary to good government, and rendered essential by the English constitution, that the constituent branches of the legislature be independent of each other; that, therefore, the exercise of legislative power in several colonies, by a council appointed, during pleasure, by the crown, is unconstitutional, dangerous and destructive to the freedom of American legislation.*

All and each of which the aforesaid deputies, in behalf of themselves, and their constituents, do claim, demand, and insist on, as their indubitable rights and liberties, which cannot be legally taken from them, altered or abridged by any power whatever, without their own consent, by their representatives in their several provincial legislature.

In the course of our inquiry, we find many infringements and violations of the foregoing rights, which, from an ardent desire, that harmony and mutual intercourse of affection and interest may be restored, we pass over for the present, and proceed to state such acts and measures as have been adopted since the last war, which demonstrate a system formed to enslave America.

This resolve was created to demand and proclaim that colonial legislatures shouldn’t be controlled by a council appointed by the crown, but rather by colonists and leaders of their own choosing. The addition of this resolve is further demanding colonial independence by placing additional control in the hands of the colonial government.

Resolved, N.C.D. 11. *That the following acts of parliament are infringements and violations of the rights of the colonists; and that the repeal of them is essentially necessary, in order to restore harmony between Great Britain and the American colonies, viz.*

The several Acts of 4 George III. ch. 15, and ch. 34. 5 George III. ch. 25. 6 George III. ch. 52. 7 George III. ch. 41, and ch. 46. 8 George III. ch. 22, which impose duties for the purpose of raising a revenue in America, extend the power of the admiralty courts beyond their ancient limits, deprive the American subject of trial by jury, authorize the judges certificate to indemnify the prosecutor from damages, that he might otherwise be liable to, requiring oppressive security from a claimant of ships and goods seized, before he shall be allowed to defend his property, and are subversive of American rights.

Also 12 Geo. III. ch. 24, intituled, "An act for the better securing his majesty's dockyards, magazines, ships, ammunition, and stores," which declares a new offence in America, and deprives the American subject of a constitutional trial by jury of the vicinage, by authorizing the trial of any person, charged with the committing any offence described in the said act, out of the realm, to be indicted and tried for the same in any shire or county within the realm.

Also the three acts passed in the last session of parliament, for stopping the port and blocking up the harbour of Boston, for altering the charter and government of Massachusetts-Bay, and that which is entitled, "An act for the better administration of justice, etc."

Also the act passed in the same session for establishing the Roman Catholic religion, in the province of Quebec, abolishing the equitable system of English laws, and erecting a tyranny there, to the great danger (from so total a dissimilarity of religion, law and government) of the neighboring British colonies, by the assistance of whose blood and treasure the said country was conquered from France.

Also the act passed in the same session, for the better providing suitable quarters for officers and soldiers in his majesty's service, in North-America.

Also, that the keeping a standing army in several of these colonies, in time of peace, without the consent of the legislature of that colony, in which such army is kept, is against law.

The final resolve in this document refers to all of the intolerable acts, and states that under the Declaration and Resolves of the First Continental Congress, they are prohibited and illegal. The anger over the Intolerable Acts was no secret to the British government, and the issue of taxation without representation was voiced loudly, however this resolve questions the authority of the monarch's and parliament's rule in the colonies.

Reactions to the Declaration and Resolves of the First Continental Congress

In Britain

At this time in history the colonies were perceptibly unhappy with the British monarch and parliament.[10] Despite the palpable tensions that existed between the groups, King George did not waver or give in to colonial demands. He meant to maintain political unity between the colonies and the United Kingdom even at the expense of the happiness of the colonists.[10] King George famously said to the Prime Minister Lord North "The die is now cast, the colonies must either submit or triumph."[10] This sentiment continued after the publication of the Declarations and Resolves of the First Continental Congress, as he would not negotiate with them.[10]

Reacting to the Declaration, Samuel Johnson published a pamphlet called *Taxation No Tyranny*, questioning the colonists' right to self-government and asking "How is it that we hear the loudest yelps for liberty among the drivers of negroes?"[11][12]

In the Colonies

The Declaration and Resolves of the First Continental Congress served many purposes. Among those who supported achieving full autonomy from Britain, it served to rouse their spirits together towards gaining independence.[10] For those who were on the fence about supporting or opposing American independence, this document, which outlined all the wrongdoings of the King, could turn their support against the King.[10] In addition, before this document was released the goal of the Continental Congress was to discuss grievances, however after the publication American opinion turned from wanting respect and recognition from the crown, to wanting to become separate from the mother country. Not all Americans felt this way, there were many loyalists who wanted to remain a part of the empire of Great Britain especially in the South, but the public opinion was turning.

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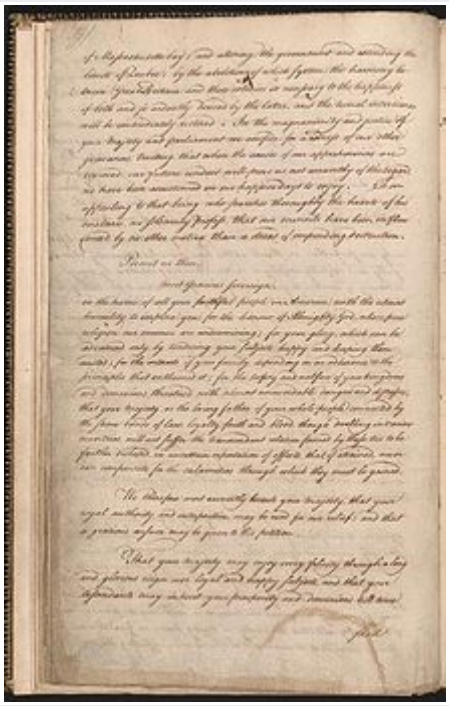
External links

- Full text of Declaration and Resolves of the First Continental Congress

Petition to the King

The **Petition to the King** was a petition sent to King George III by the First Continental Congress in 1774, calling for repeal of the Intolerable Acts.

1774 Petition to the King



Created	October 1774
Ratified	October 25, 1774
Location	Engrossed copy: Library of Congress
Author(s)	John Dickinson et al.[1]
Signatories	51 delegates to the Continental Congress

Contents

Political background

Development of the document
- Conception
- Approval by Congress

Annotated text of the petition

Delivery of the document
- Response

Publication

Surviving drafts
- Patrick Henry
- Henry Lee
- John Dickinson

Historical significance

Notes

References

Political background

Following the end of the French and Indian War (the North American theater of the Seven Years' War) in 1763, relations between the colonies and Britain had been deteriorating. Because the war had plunged the British government deep into debt, Parliament enacted a series of measures to increase tax revenue from the colonies. These acts, such as the Stamp Act of 1765 and the Townshend Acts of 1767, were seen as legitimate means of collecting revenues to pay off the nearly two-fold increase in British debt stemming from the war.[2]

Many colonists in the Americas, however, developed a different conception of their role within the British Empire. In particular, because the colonies were not directly represented in Parliament, colonists argued that Parliament had no right to levy taxes upon them.[3] After colonists destroyed thousands of pounds of British-taxed tea during the Boston Tea Party, Parliament passed the Coercive Acts in 1774, punishing the colonies for their actions. These punitive Acts were vehemently opposed by the colonists, leading the newly formed Continental Congress to seek redress with King George III, in an attempt to reach a common understanding.

Development of the document

Conception

> *Resolved unanimously*, That a loyal address to his Majesty be prepared, dutifully requesting the royal attention to the grievances that alarm and distress his Majesty's faithful subjects in North-America, and entreating his Majesty's gracious interposition for the removal of such grievances, thereby to restore between Great-Britain and the colonies that harmony so necessary to the happiness of the British empire, and so ardently desired by all America.
>
> — First Continental Congress, October 1, 1774[4]

On October 1, 1774, in response to the deteriorating relationship between the American Colonies and Britain, the First Continental Congress decided to prepare a statement to King George III of Great Britain. The goal of the address was to persuade the King to revoke unpopular policies such as the Coercive Acts, which were imposed on the Colonies by the British Parliament. The committee appointed to prepare the Address consisted of Richard Henry Lee, John Adams, Thomas Johnson, Patrick Henry, and John Rutledge, with Lee designated as the committee chairman.[5]

> *Resolved*, That the Committiee appointed to prepare an Address to his Majesty, be instructed to assure his Majesty, that in case the colonies shall be restored to the state they were in, at the close of the late war, by abolishing the system of laws and regulations-for raising a revenue in America-for extending the powers of Courts of Admiralty-for the trial of persons beyond sea for crimes committed in America-for affecting the colony of the Massachusetts-Bay and for altering the government and extending the limits of Canada, the jealousies which have been occasioned by such acts and regulations of Parliament, will be removed and commerce again restored.
>
> — First Continental Congress, October 5, 1774[6]

On October 5, 1774, Congress once more returned to the subject of the Address, stressing to the committee that the document should assure the King that following the successful repeal of the Coercive Acts, the Colonies would restore favorable relations with Britain.

Approval by Congress

> The Congress resumed the consideration of the address to his Majesty, and the same being debated by paragraphs, was, after some amendments, approved and order to be engrossed.
>
> *Resolved*, That the address to the King be enclosed in a letter to the several colony Agents, in order that the same may be by them presented to his Majesty; and that the Agents be requested to call in the aid of such Noblemen and gentlemen as are esteemed firm friends to American liberty.
>
> — First Continental Congress, October 19 1774[7]

On October 25, 1774, the petition came before Congress in its draft form. After the document was debated over and formally amended, it was then approved to be engrossed and sent to England to be presented to the King.

Annotated text of the petition

The petition, when written, was not divided into formal parts. However, the structure of the document allows it to be classified into sections, including an introduction, the list of grievances, reasons for attention, and a conclusion.

Introduction States the represented Colonies, as well as the nature of the document.	To the King's Most Excellent Majesty: Most Gracious Sovereign: We, your Majesty's faithful subjects of the Colonies of New-Hampshire, Massachusetts Bay, Rhode-Island and Providence Plantations, Connecticut, New-York, New-Jersey, Pennsylvania, the Counties of New-Castle, Kent, and Sussex, on Delaware, Maryland, Virginia, North Carolina, and South Carolina, in behalf of ourselves and the inhabitants of those Colonies who have deputed us to represent them in General Congress, by this our humble Petition, beg leave to lay our Grievances before the Throne.
List of Grievances Lists the grievances that the Colonies wish for King George III to redress.	A Standing Army has been kept in these Colonies ever since the conclusion of the late war, without the consent of our Assemblies; and this Army, with a considerable Naval armament, has been employed to enforce the collection of Taxes. The authority of the Commander-in-Chief, and under him of the Brigadiers General has, in time of peace, been rendered supreme in all the Civil Governments in *America*. The Commander-in-chief of all your Majesty's Forces in *North America*, has, in time of peace, been appointed Governour of a Colony. The charges of usual offices have been greatly increased; and new, expensive, and oppressive offices have been multiplied. The Judges of Admiralty and Vice Admiralty Courts are empowered to receive their salaries and fees from the effects condemned by themselves. The Officers of the Customs are empowered to break open and enter houses, without the authority of any Civil Magistrate, founded on legal information. The Judges of Courts of Common Law have been made entirely dependent on one part of the Legislature for their salaries, as well as for the duration of their commissions. Counsellors, holding their commissions during pleasure, exercise Legislative authority. Humble and reasonable Petitions from the Representatives of the People, have been fruitless. The Agents of the People have been discountenanced, and Governours have been instructed to prevent the payment of their salaries. Assemblies have been repeatedly and injuriously dissolved. Commerce has been burthened with many useless and oppressive restrictions.

	By several Acts of Parliament made in the fourth, fifth, sixth, seventh, and eighth years of your Majesty's Reign, Duties are imposed on us for the purpose of raising a Revenue; and the powers of Admiralty and Vice Admiralty Courts are extended beyond their ancient limits, whereby our property is taken from us without our consent; the trial by jury, in many civil cases, is abolished; enormous forfeitures are incurred for slight offences; vexatious informers are exempted from paying damages, to which they are justly liable, and oppressive security is required from owners before they are allowed to defend their right. Both Houses of Parliament have resolved, that Colonists may be tried in *England* for offences alleged to have been committed in *America*, by virtue of a Statute passed in the thirty-fifth year of *Henry the Eighth*, and, in consequence thereof, attempts have been made to enforce that Statute. A Statute was passed in the twelfth year of your Majesty's Reign, directing that persons charged with committing any offence therein described, in any place out of the Realm, may be indicted and tried for the same in any Shire or County within the Realm, whereby the inhabitants of these Colonies may, in sundry cases, by that Statute made capital, be deprived of a trial by their peers of the vicinage. In the last sessions of Parliament an Act was passed for blocking up the Harbour of *Boston*; another empowering the Governour of the *Massachusetts Bay* to send persons indicted for murder in that Province, to another Colony, or even to *Great Britain*, for trial, whereby such offenders may escape legal punishment; a third for altering the chartered Constitution of Government in that Province; and a fourth for extending the limits of *Quebec*, abolishing the *English* and restoring the *French* laws, whereby great numbers of *British* Freemen are subjected to the latter, and establishing an absolute Government and the Roman Catholick Religion throughout those vast regions that border on the Westerly and Northerly boundaries of the free Protestant *English* settlements; and a fifth, for the better providing suitable Quarters for Officers and Soldiers in his Majesty's service in *North America*.
Reasons for Attention State why the aforementioned grievances are important enough to warrant an address to the monarchy.	To a Sovereign, who glories in the name of *Briton*, the bare recital of these Acts must, we presume, justify the loyal subjects, who fly to the foot of his Throne, and implore his clemency for protection against them. From this destructive system of Colony Administration, adopted since the conclusion of the last war, have flowed those distresses, dangers, fears, and jealousies, that overwhelm your Majesty's dutiful Colonists with affliction; and we defy our most subtle and inveterate enemies to trace the unhappy differences between *Great Britain* and these Colonies, from an earlier period, or from other causes than we have assigned. Had they proceeded on our part from a restless levity of temper, unjust impulses of ambition, or artful suggestions of seditious

persons, we should merit the opprobrious terms frequently bestowed upon us by those we revere. But so far from promoting innovations, we have only opposed them; and can be charged with no offence, unless it be one to receive injuries and be sensible of them.

Had our Creator been pleased to give us existence in a land of slavery, the sense of our condition might have been mitigated by ignorance and habit. But, thanks be to his adorable goodness, we were born the heirs of freedom, and ever enjoyed our right under the auspices of your Royal ancestors, whose family was seated on the *British* Throne to rescue and secure a pious and gallant Nation from the Popery and despotism of a superstitious and inexorable tyrant. Your Majesty, we are confident, justly rejoices that your title to the Crown is thus founded on the title of your people to liberty; and, therefore, we doubt not but your royal wisdom must approve the sensibility that teaches your subjects anxiously to guard the blessing they received from Divine Providence, and thereby to prove the performance of that compact which elevated the illustrious House of *Brunswick* to the imperial dignity it now possesses.

The apprehension of being degraded into a state of servitude, from the pre-eminent rank of *English* freemen, while our minds retain the strongest love of liberty, and clearly foresee the miseries preparing for us and our posterity, excites emotions in our breasts which, though we cannot describe, we should not wish to conceal. Feeling as men, and thinking as subjects, in the manner we do, silence would be disloyalty. By giving this faithful information, we do all in our power to promote the great objects of your Royal cares, the tranquillity of your Government, and the welfare of your people.

Duty to your Majesty, and regard for the preservation of ourselves and our posterity, the primary obligations of nature and of society, command us to entreat your Royal attention; and, as your Majesty enjoys the signal distinction of reigning over freemen, we apprehend the language of freemen cannot be displeasing. Your Royal indignation, we hope, will rather fall on those designing and dangerous men, who, daringly interposing themselves between your Royal person and your faithful subjects, and for several years past incessantly employed to dissolve the bonds of society, by abusing your Majesty's authority, misrepresenting your *American* subjects, and prosecuting the most desperate and irritating projects of oppression, have at length compelled us, by the force of accumulated injuries, too severe to be any longer tolerable, to disturb your Majesty's repose by our complaints.

These sentiments are extorted from hearts that much more willingly would bleed in your Majesty's service. Yet, so greatly have we been misrepresented, that a necessity has been alleged of taking our property from us without our consent, "to defray the charge of the administration of justice, the support of Civil Government, and the defence, protection, and security of the Colonies." But we beg leave to assure your Majesty that such provision has been and will be made for defraying the two first artiticles [*sic*], as has been and shall be judged

	by the Legislatures of the several Colonies just and suitable to their respective circumstances; and, for the defence, protection, and security of the Colonies, their Militias, if properly regulated, as they earnestly desire may immediately be done, would be fully sufficient, at least in times of peace; and, in case of war, your faithful Colonists will be ready and willing, as they ever have been, when constitutionally required, to demonstrate their loyalty to your Majesty, by exerting their most strenuous efforts in granting supplies and raising forces.[8] Yielding to no British subjects in affectionate attachment to your Majesty's person, family, and Government, we too dearly prize the privilege of expressing that attachment by those proofs that are honourable to the Prince who receives them, and to the People who give them, ever to resign it to any body of men upon earth. Had we been permitted to enjoy, in quiet, the inheritance left us by our forefathers, we should, at this time, have been peaceably, cheerfully, and usefully employed in recommending ourselves, by every testimony of devotion, to your Majesty, and of veneration to the state, from which we derive our origin. But though now exposed to unexpected and unnatural scenes of distress by a contention with that Nation in whose parental guidance on all important affairs, we have hitherto, with filial reverence, constantly trusted, and therefore can derive no instruction in our present unhappy and perplexing circumstances from any former experience; yet, we doubt not, the purity of our intention, and the integrity of our conduct, will justify us at that grand tribunal before which all mankind must submit to judgment. We ask but for Peace, Liberty, and Safety. We wish not a diminution of the prerogative, nor do we solicit the grant of any new right in our favour. Your Royal authority over us, and our connection with Great Britain, we shall always carefully and zealously endeavour to support and maintain.
Conclusion Restates the ultimate goal of the petition, while reaffirming the Colonies' loyalty to the British monarchy.	Filled with sentiments of duty to your Majesty, and of affection to our parent state, deeply impressed by our education, and strongly confirmed by our reason, and anxious to evince the sincerity of these dispositions, we present this Petition only to obtain redress of Grievances, and relief from fears and jealousies, occasioned by the system of Statutes and Regulations adopted since the close of the late war, for raising a Revenue in America—extending the powers of Courts of Admiralty and Vice Admiralty—trying persons in Great Britain for offences alleged to be committed in America—affecting the Province of Massachusetts Bay—and altering the Government and extending the limits of Quebec; by the abolition of which system the harmony between Great Britain and these Colonies, so necessary to the happiness of both, and so ardently desired by the latter, and the usual intercourses will be immediately restored. In the magnanimity and justice of your Majesty and Parliament we confide for a redress of our other grievances, trusting, that, when the causes of our apprehensions are removed, our future conduct will prove us not unworthy of the

	regard we have been accustomed in our happier days to enjoy. For, appealing to that Being, who searches thoroughly the hearts of his creatures, we solemnly profess, that our Councils have been influenced by no other motive than a dread of impending destruction. Permit us then, most gracious Sovereign, in the name of all your faithful People in America, with the utmost humility, to implore you, for the honour of Almighty God, whose pure Religion our enemies are undermining; for your glory, which can be advanced only by rendering your subjects happy, and keeping them united; for the interests of your family depending on an adherence to the principles that enthroned it; for the safety and welfare of your Kingdoms and Dominions, threatened with almost unavoidable dangers and distresses, that your Majesty, as the loving Father of your whole People, connected by the same bands of Law, Loyalty, Faith, and Blood, though dwelling in various countries, will not suffer the transcendent relation formed by these ties to be farther violated, in uncertain expectation of effects, that, if attained, never can compensate for the calamities through which they must be gained. We therefore most earnestly beseech your Majesty, that your Royal authority and interposition may be used for our relief, and that a gracious Answer may be given to this Petition. That your Majesty may enjoy every felicity through a long and glorious Reign, over loyal and happy subjects, and that your descendants may inherit your prosperity and Dominions till time shall be no more, is, and always will be, our sincere and fervent prayer.
Signatures The first signature on the engrossed copy is that of Henry Middleton, the then appointed President of the Continental Congress. The fifty-one signatories who represented the Colonies (Georgia did not participate) are given, in order.	- *President of Congress*: Henry Middleton - *New-Hampshire*: John Sullivan, Nathaniel Folsom - *Massachusetts Bay*: Thomas Cushing, Samuel Adams, John Adams, Robert Treat Paine - *Rhode-Island*: Stephen Hopkins, Samuel Ward - *Connecticut*: Eliphalet Dyer, Roger Sherman, Silas Deane - *New-York*: Philip Livingston, John Alsop, Isaac Low, James Duane, John Jay, William Floyd, Henry Wisner, Simon Boerum - *New-Jersey*: William Livingston, John De Hart, Stephen Crane, Richard Smith - *Pennsylvania*: Edward Biddle, Joseph Galloway, John Dickinson, John Morton, Thomas Mifflin, George Ross, Charles Humphreys - *Delaware*: Caesar Rodney, Thomas McKean, George Read - *Maryland*: Matthew Tilghman, Thomas Johnson, William Paca, Samuel Chase - *Virginia*: Richard Henry Lee, Patrick Henry, George Washington, Edmund Pendleton, Richard Bland, Benjamin Harrison - *North-Carolina*: William Hooper, Joseph Hewes, Richard Caswell - *South-Carolina*: Thomas Lynch, Christopher Gadsden, John Rutledge, Edward Rutledge

Delivery of the document

On November 2, the petition departed Philadelphia on board the ship *Britannia*, captained by W. Morwick. However, a storm forced the ship to return to port, delaying the delivery of the petition. It was later discovered that the paper was unfit to be presented. The second copy left port on November 6 on board the ship *Mary and Elizabeth*, captained by N. Falconer. It was confirmed on November 14 that the document successfully arrived in London.[9]

In Britain, a number of London merchants expressed interest in joining the Americans when the petition was presented, although Benjamin Franklin advised against the proposition.[10] On December 21, Benjamin Franklin, Lee, and Bollan were notified by Lord Dartmouth that the petition was "decent and respectful" and that it would be presented as soon as possible to the Houses of Parliament. However, Franklin wrote two days later that the petition could not be presented to Parliament until after the Christmas recess.[11]

Response

On January 19, 1775, the petition was presented to the House of Commons by Lord North, and was also presented to the House of Lords the following day.[11]

> It came down among a great Heap of letters of Intelligence from Governors and officers in America, Newspapers, Pamphlets, Handbills, etc., from that Country, the last in the List, and was laid upon the Table with them, undistinguished by any particular Recommendation of it to the Notice of either House; and I do not find, that it has had any further notice taken of it as yet, than that it has been read as well as the other Papers.
>
> — Benjamin Franklin, February 5, 1775[12]

Because the petition was intermingled with many other documents, and given the increasing turmoil of the times, little attention was given to the petition by Parliament.[11] Likewise, the King never gave the Colonies a formal reply to their petition.

Publication

When the official papers of Congress were published in October and November 1774, the Petition to the King was omitted, because it was preferred that the address be read by the King before being made public. It was not until January 17 or 18, 1775 that the papers were officially released by Charles Thomson, for publication.[13]

Surviving drafts

Three drafts of the Petition to the King survive to this day: one written by Patrick Henry, one written by Henry Lee, and one by John Dickinson.[14]

Patrick Henry

The Henry draft is written with very few corrections on its four portfolio pages. Compared to the final version of the Address, the draft contains more rhetorical descriptions of the contested Acts, and focuses less on the Colonies' past loyalty to Britain.[14]

Henry Lee

The Lee draft is neatly written, with minor changes, on three portfolio pages. Compared to the Henry draft, the descriptions of the grievances were brief.[14] It does contain, however, a harsh attack on the King's ministers, most notably Bute, Mansfield, and North. Because of the inflammatory language in this draft, it is argued that this is the version that was rejected by Congress on October 21, 1774.[15]

John Dickinson

The Dickinson draft is a rough composition, rite with many changes, including entire paragraphs designated to be transposed. The document is nine and a half portfolio pages, numbered 1-9 and 12, with pages 10 and 11 left blank. The text found in this draft is virtually identical to the document adopted by Congress, with the main difference lying in the list of grievances in the adopted version, which resembled those found in the other two drafts.[15]

Historical significance

The Petition to the King reflected the Colonies' desire to maintain relations with Britain, given that certain demands were met. In particular, it showed that the Colonies viewed themselves as loyal to the British monarchy rather than to Parliament.[16][17]

Notes

1. Wolf, Edwin, *The Authorship of the 1774 Address to the King Restudied*, 199.
2. Christie and Labaree, *Empire or Independence*, 31.
3. Bailyn, *Ideological Origins*, 162
4. *Journal of the proceedings of the Congress*, 47.
5. Wolf, Edwin, *The Authorship of the 1774 Address to the King Restudied*, 190.
6. *Journal of the proceedings of the Congress*, 48–49.
7. *Journal of the proceedings of the Congress*, 116.
8. An Estimate of the number of Souls in the following Provinces, made in Congress, September, 1774: In *Massachusetts* 400,000; *New-Hampshire* 150,000; *Rhode-Island* 59,678; *Connecticut* 192,000; *New-York* 250,000; *New-Jersey* 130,000; *Pennsylvania*, including the Lower Counties, 350,000; *Maryland* 320,000; *Virginia* 650,000; *North Carolina* 300,000; *South Carolina* 225,000. Total 3,026,678.
9. Wolf, Edwin, *The Authorship of the 1774 Address to the King Restudied*, 192.
10. Smyth, *Writings of Franklin*, 344.
11. Wolf, Edwin, *The Authorship of the 1774 Address to the King Restudied*, 193.
12. Smyth, *Writings of Franklin*, 304.
13. Wolf, Edwin, *The Authorship of the 1774 Address to the King Restudied*, 201.
14. Wolf, Edwin, *The Authorship of the 1774 Address to the King Restudied*, 197.
15. Wolf, Edwin, *The Authorship of the 1774 Address to the King Restudied*, 198.
16. Wood, Gordon S. (2020-02-21). "'1774' Review: The Year That Changed the World" (https://www.wsj.com/articles/1774-review-the-year-that-changed-the-world-11582303285). *Wall Street Journal*. ISSN 0099-9660 (https://www.worldcat.org/issn/0099-9660). Retrieved 2021-01-13.
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- Ammerman, David (1974). *In the common cause: American response to the Coercive acts of 1774* (https://archive.org/details/incommoncauseame0000amme). Charlottesville, VA: University Press of Virginia. pp. 1 (https://archive.org/details/incommoncauseame0000amme/page/n16)–170. ISBN 0813905257.
- *Journal of the proceedings of the Congress, held at Philadelphia, September 5, 1774*. Philadelphia, PA: William and Thomas Bradford, at the London Coffee House. 1774. pp. 1–132.

United States Declaration of Independence

The **United States Declaration of Independence**[a] is the pronouncement adopted by the Second Continental Congress meeting in Philadelphia, Pennsylvania, on July 4, 1776. The Declaration explained why the Thirteen Colonies at war with the Kingdom of Great Britain regarded themselves as thirteen independent sovereign states, no longer under British rule. With the Declaration, these new states took a collective first step toward forming the United States of America. The declaration was signed by representatives from New Hampshire, Massachusetts Bay, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Maryland, Delaware, Virginia, North Carolina, South Carolina, and Georgia.

The Lee Resolution for independence was passed by the Second Continental Congress on July 2 with no opposing votes. The Committee of Five had drafted the Declaration to be ready when Congress voted on independence. John Adams, a leader in pushing for independence, had persuaded the committee to select Thomas Jefferson to compose the original draft of the document,[2] which Congress edited to produce the final version. The Declaration was a formal explanation of why Congress had voted to declare independence from Great Britain, more than a year after the outbreak of the American Revolutionary War. Adams wrote to his wife Abigail, "The Second Day of July 1776, will be the most memorable Epocha, in the History of America"[3] – although Independence Day is actually celebrated on July 4, the date that the wording of the Declaration of Independence was approved.

After ratifying the text on July 4, Congress issued the Declaration of Independence in several forms. It was initially published as the printed Dunlap broadside that was widely distributed and read to the public. The source copy used for this printing has been lost and may have been a copy in Thomas Jefferson's hand.[4] Jefferson's original draft is preserved at the Library of Congress, complete with changes made by John Adams and Benjamin Franklin, as well as Jefferson's notes of changes made by Congress. The best-known version of the Declaration is a signed copy that is displayed at the National Archives in Washington, D.C., and which is popularly regarded as the official document. This engrossed copy (finalized, calligraphic copy) was ordered by Congress on July 19 and signed primarily on August 2.[5][6]

United States Declaration of Independence

1823 facsimile of the engrossed copy

Created	June–July 1776
Ratified	July 4, 1776
Location	Engrossed copy: National Archives Building Rough draft: Library of Congress
Author(s)	Thomas Jefferson, Committee of Five
Signatories	56 delegates to the Second Continental Congress
Purpose	To announce and explain separation from Great Britain[1]

The sources and interpretation of the Declaration have been the subject of much scholarly inquiry. The Declaration justified the independence of the United States by listing 27 colonial grievances against King George III and by asserting certain natural and legal rights, including a right of revolution. Its original purpose

was to announce independence, and references to the text of the Declaration were few in the following years. Abraham Lincoln made it the centerpiece of his policies and his rhetoric, as in the Gettysburg Address of 1863.[7] Since then, it has become a well-known statement on human rights, particularly its second sentence:

> We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.

The declaration was made to create equal rights for every person and if it was intended for only a certain section of people, they would have left it as "rights of Englishmen".[8] This has been called "one of the best-known sentences in the English language",[9] containing "the most potent and consequential words in American history".[10] The passage came to represent a moral standard to which the United States should strive. This view was notably promoted by Lincoln, who considered the Declaration to be the foundation of his political philosophy and argued that it is a statement of principles through which the United States Constitution should be interpreted.[11]

The Declaration of Independence inspired many similar documents in other countries, the first being the 1789 *Declaration of United Belgian States* issued during the Brabant Revolution in the Austrian Netherlands. It also served as the primary model for numerous declarations of independence in Europe and Latin America, as well as Africa (Liberia) and Oceania (New Zealand) during the first half of the 19th century.[12]

Contents

Background
- Congress convenes

Toward independence
- Revising instructions
- May 15 preamble
- Lee's resolution
- The final push

Draft and adoption

Annotated text of the engrossed declaration

Influences and legal status

Signing

Publication and reaction

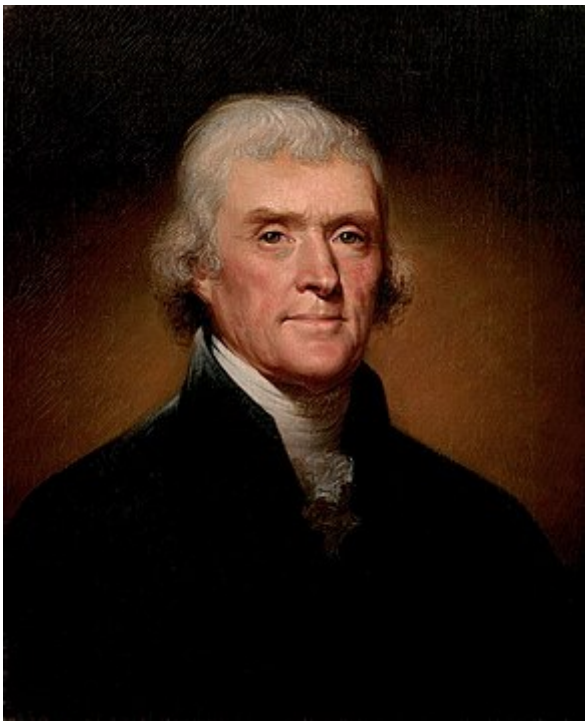
History of the documents

Legacy
- Influence in other countries
- Revival of interest
- John Trumbull's *Declaration of Independence* (1817–1826)
- Slavery and the Declaration
- John Brown's Declaration of Liberty
- Lincoln and the Declaration
- Women's suffrage and the Declaration

Twentieth century and later
Popular culture
See also
References
Bibliography
External links

Background

> Believe me, dear Sir: there is not in the British empire a man who more cordially loves a union with Great Britain than I do. But, by the God that made me, I will cease to exist before I yield to a connection on such terms as the British Parliament propose; and in this, I think I speak the sentiments of America.
>
> — Thomas Jefferson, November 29, 1775[13]



Thomas Jefferson, the principal author of the Declaration, as painted by Rembrandt Peale

By the time that the Declaration of Independence was adopted in July 1776, the Thirteen Colonies and Great Britain had been at war for more than a year. Relations had been deteriorating between the colonies and the mother country since 1763. Parliament enacted a series of measures to increase revenue from the colonies, such as the Stamp Act of 1765 and the Townshend Acts of 1767. Parliament believed that these acts were a legitimate means of having the colonies pay their fair share of the costs to keep them in the British Empire.[14]

Many colonists, however, had developed a different conception of the empire. The colonies were not directly represented in Parliament, and colonists argued that Parliament had no right to levy taxes upon them. This tax dispute was part of a larger divergence between British and American interpretations of the British Constitution and the extent of Parliament's authority in the colonies.[15] The orthodox British view, dating from the Glorious Revolution of 1688, was that Parliament was the supreme authority throughout the empire, and so, by definition, anything that Parliament did was constitutional.[16] In the colonies, however, the idea had developed that the British Constitution recognized certain fundamental rights that no government could violate, not even Parliament.[17] After the Townshend Acts, some essayists even began to question whether Parliament had any legitimate jurisdiction in the colonies at all.[18] Anticipating the arrangement of the British Commonwealth,[19] by 1774, American writers such as Samuel Adams, James Wilson, and Thomas Jefferson were arguing that Parliament was the legislature of Great Britain only, and that the colonies, which had their own legislatures, were connected to the rest of the empire only through their allegiance to the Crown.[20]

Congress convenes

The issue of Parliament's authority in the colonies became a crisis after Parliament passed the Coercive Acts (known as the Intolerable Acts in the colonies) in 1774 to punish the colonists for the Gaspee Affair of 1772 and the Boston Tea Party of 1773. Many colonists saw the Coercive Acts as a violation of the British Constitution and thus a threat to the liberties of all of British America, so the First Continental Congress convened in Philadelphia in September 1774 to coordinate a response. Congress organized a boycott of British goods and petitioned the king for repeal of the acts. These measures were unsuccessful because King George and the ministry of Prime Minister Lord North were determined to enforce parliamentary supremacy in America. As the king wrote to North in November 1774, "blows must decide whether they are to be subject to this country or independent".[21]

The 13 states at the Declaration of Independence

Most colonists still hoped for reconciliation with Great Britain, even after fighting began in the American Revolutionary War at Lexington and Concord in April 1775.[22] The Second Continental Congress convened at the Pennsylvania State House in Philadelphia in May 1775, and some delegates hoped for eventual independence, but no one yet advocated declaring it.[23] Many colonists no longer believed that Parliament had any sovereignty over them, yet they still professed loyalty to King George, who they hoped would intercede on their behalf. They were disappointed in late 1775 when the king rejected Congress's second petition, issued a Proclamation of Rebellion, and announced before Parliament on October 26 that he was considering "friendly offers of foreign assistance" to suppress the rebellion.[24] A pro-American minority in Parliament warned that the government was driving the colonists toward independence.[25]

Toward independence

Thomas Paine's pamphlet *Common Sense* was published in January 1776, just as it became clear in the colonies that the king was not inclined to act as a conciliator.[26] Paine had only recently arrived in the colonies from England, and he argued in favor of colonial independence, advocating republicanism as an alternative to monarchy and hereditary rule.[27] *Common Sense* made a persuasive and impassioned case for independence, which had not yet been given serious intellectual consideration in the American colonies. Paine connected independence with Protestant beliefs as a means to present a distinctly American political identity, thereby stimulating public debate on a topic that few had previously dared to openly discuss,[28] and public support for separation from Great Britain steadily increased after its publication.[29]

Some colonists still held out hope for reconciliation, but developments in early 1776 further strengthened public support for independence. In February 1776, colonists learned of Parliament's passage of the Prohibitory Act, which established a blockade of American ports and declared American ships to be enemy vessels. John Adams, a strong supporter of independence, believed that Parliament had effectively declared American independence before Congress had been able to. Adams labeled the Prohibitory Act the "Act of Independency", calling it "a compleat Dismemberment of the British Empire".[30] Support for declaring independence grew even more when it was confirmed that King George had hired German mercenaries to use against his American subjects.[31]

Despite this growing popular support for independence, Congress lacked the clear authority to declare it. Delegates had been elected to Congress by 13 different governments, which included extralegal conventions, ad hoc committees, and elected assemblies, and they were bound by the instructions given to them. Regardless of their personal opinions, delegates could not vote to declare independence unless their instructions permitted such an action.[32] Several colonies, in fact, expressly prohibited their delegates from taking any steps toward separation from Great Britain, while other delegations had instructions that were ambiguous on the issue;[33] consequently, advocates of independence sought to have the Congressional instructions revised. For Congress to declare independence, a majority of delegations would need authorization to vote for it, and at least one colonial government would need to specifically instruct its delegation to propose a declaration of independence in Congress. Between April and July 1776, a "complex political war"[34] was waged to bring this about.[35]

The Assembly Room in Philadelphia's Independence Hall, where the Second Continental Congress adopted the Declaration of Independence

Revising instructions

In the campaign to revise Congressional instructions, many Americans formally expressed their support for separation from Great Britain in what were effectively state and local declarations of independence. Historian Pauline Maier identifies more than ninety such declarations that were issued throughout the Thirteen Colonies from April to July 1776.[36] These "declarations" took a variety of forms. Some were formal written instructions for Congressional delegations, such as the Halifax Resolves of April 12, with which North Carolina became the first colony to explicitly authorize its delegates to vote for independence.[37] Others were legislative acts that officially ended British rule in individual colonies, such as the Rhode Island legislature renouncing its allegiance to Great Britain on May 4—the first colony to do so.[38][39] Many "declarations" were resolutions adopted at town or county meetings that offered support for independence. A few came in the form of jury instructions, such as the statement issued on April 23, 1776, by Chief Justice William Henry Drayton of South Carolina: "the law of the land authorizes me to declare ... that *George* the Third, King of *Great Britain* ... has no authority over us, and we owe no obedience to him."[40] Most of these declarations are now obscure, having been overshadowed by the declaration approved by Congress on July 2, and signed July 4.[41]

Some colonies held back from endorsing independence. Resistance was centered in the middle colonies of New York, New Jersey, Maryland, Pennsylvania, and Delaware.[42] Advocates of independence saw Pennsylvania as the key; if that colony could be converted to the pro-independence cause, it was believed that the others would follow.[42] On May 1, however, opponents of independence retained control of the Pennsylvania Assembly in a special election that had focused on the question of independence.[43] In response, Congress passed a resolution on May 10 which had been promoted by John Adams and Richard Henry Lee, calling on colonies without a "government sufficient to the exigencies of their affairs" to adopt new governments.[44] The resolution passed unanimously, and was even supported by Pennsylvania's John Dickinson, the leader of the anti-independence faction in Congress, who believed that it did not apply to his colony.[45]

May 15 preamble

As was the custom, Congress appointed a committee to draft a preamble to explain the purpose of the resolution.

> This Day the Congress has passed the most important Resolution, that ever was taken in America.

—John Adams, May 15, 1776[46]

John Adams wrote the preamble, which stated that because King George had rejected reconciliation and was hiring foreign mercenaries to use against the colonies, "it is necessary that the exercise of every kind of authority under the said crown should be totally suppressed".[47] Adams's preamble was meant to encourage the overthrow of the governments of Pennsylvania and Maryland, which were still under proprietary governance.[48] Congress passed the preamble on May 15 after several days of debate, but four of the middle colonies voted against it, and the Maryland delegation walked out in protest.[49] Adams regarded his May 15 preamble effectively as an American declaration of independence, although a formal declaration would still have to be made.[50]

Lee's resolution

On the same day that Congress passed Adams's radical preamble, the Virginia Convention set the stage for a formal Congressional declaration of independence. On May 15, the Convention instructed Virginia's congressional delegation "to propose to that respectable body to declare the United Colonies free and independent States, absolved from all allegiance to, or dependence upon, the Crown or Parliament of Great Britain".[51] In accordance with those instructions, Richard Henry Lee of Virginia presented a three-part resolution to Congress on June 7.[52] The motion was seconded by John Adams, calling on Congress to declare independence, form foreign alliances, and prepare a plan of colonial confederation. The part of the resolution relating to declaring independence read:

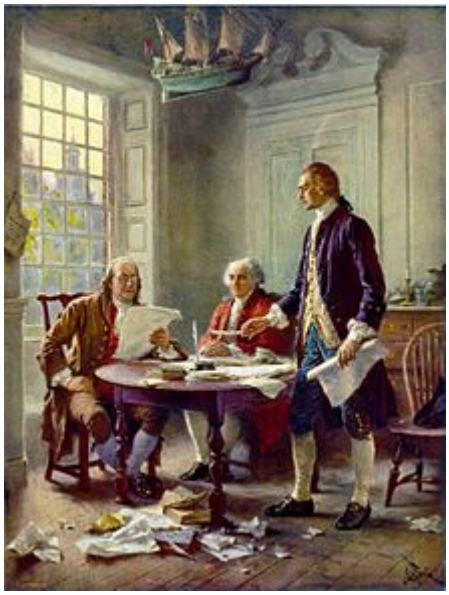
> Resolved, that these United Colonies are, and of right ought to be, free and independent States, that they are absolved from all allegiance to the British Crown, and that all political connection between them and the State of Great Britain is, and ought to be, totally dissolved.[53]

Lee's resolution met with resistance in the ensuing debate. Opponents of the resolution conceded that reconciliation was unlikely with Great Britain, while arguing that declaring independence was premature, and that securing foreign aid should take priority.[54] Advocates of the resolution countered that foreign governments would not intervene in an internal British struggle, and so a formal declaration of independence was needed before foreign aid was possible. All Congress needed to do, they insisted, was to "declare a fact which already exists".[55] Delegates from Pennsylvania, Delaware, New Jersey, Maryland, and New York were still not yet authorized to vote for independence, however, and some of them threatened to leave Congress if the resolution were adopted. Congress, therefore, voted on June 10 to postpone further discussion of Lee's resolution for three weeks.[56] Until then, Congress decided that a committee should prepare a document announcing and explaining independence in the event that Lee's resolution was approved when it was brought up again in July.

The final push

Support for a Congressional declaration of independence was consolidated in the final weeks of June 1776. On June 14, the Connecticut Assembly instructed its delegates to propose independence and, the following day, the legislatures of New Hampshire and Delaware authorized their delegates to declare independence.[58] In Pennsylvania, political struggles ended with the dissolution of the colonial assembly, and a new Conference of Committees under Thomas McKean authorized Pennsylvania's delegates to declare independence on June 18.[59] The Provincial Congress of New Jersey had been governing the province since January 1776; they resolved on June 15 that Royal Governor William Franklin was "an enemy to the liberties of this country" and had him arrested.[60] On June 21, they chose new delegates to Congress and empowered them to join in a declaration of independence.[61]

Only Maryland and New York had yet to authorize independence toward the end of June. Previously, Maryland's delegates had walked out when the Continental Congress adopted Adams's radical May 15 preamble, and had sent to the Annapolis Convention for instructions.[62] On May 20, the Annapolis Convention rejected Adams's preamble, instructing its delegates to remain against independence. But Samuel Chase went to Maryland and, thanks to local resolutions in favor of independence, was able to get the Annapolis Convention to change its mind on June 28.[63] Only the New York delegates were unable to get revised instructions. When Congress had been considering the resolution of independence on June 8, the New York Provincial Congress told the delegates to wait.[64] But on June 30, the Provincial Congress evacuated New York as British forces approached, and would not convene again until July 10. This meant that New York's delegates would not be authorized to declare independence until after Congress had made its decision.[65]



Writing the Declaration of Independence, 1776, an idealized depiction of (left to right) Franklin, Adams, and Jefferson working on the Declaration was widely reprinted (by Jean Leon Gerome Ferris, 1900).[57]

Draft and adoption

Political maneuvering was setting the stage for an official declaration of independence even while a document was being written to explain the decision. On June 11, 1776, Congress appointed a "Committee of Five" to draft a declaration, consisting of John Adams of Massachusetts, Benjamin Franklin of Pennsylvania, Thomas Jefferson of Virginia, Robert R. Livingston of New York, and Roger Sherman of Connecticut. The committee took no minutes, so there is some uncertainty about how the drafting process proceeded; contradictory accounts were written many years later by Jefferson and Adams, too many years to be regarded as entirely reliable—although their accounts are frequently cited.[66] What is certain is that the committee discussed the general outline which the document should follow and decided that Jefferson would write the first draft.[67] The committee in general, and Jefferson in particular, thought that Adams should write the document, but Adams persuaded them to choose Jefferson and promised to consult with him personally.[2] Adams also convinced Jefferson by giving him some drinks. Jefferson was a little nervous about writing it, so Adams calmed him down with the drinks.[68] Considering Congress's busy schedule, Jefferson probably had limited time for writing over the next 17 days, and he likely wrote the draft quickly.[69] He then consulted the others and made some changes, and then produced another copy incorporating these alterations. The committee presented this copy to the Congress on June 28, 1776. The title of the document was "A Declaration by the Representatives of the United States of America, in General Congress assembled."[70]

Congress ordered that the draft "lie on the table"[71] and then methodically edited Jefferson's primary document for the next two days, shortening it by a fourth, removing unnecessary wording, and improving sentence structure.[72] They removed Jefferson's assertion that King George III had forced slavery onto the colonies,[73] in order to moderate the document and appease those in South Carolina and Georgia, both states which had significant involvement in the slave trade. Jefferson later wrote in his autobiography that Northern states were also supportive towards the clauses removal, "for though their people had very few slaves themselves, yet they had been pretty considerable carriers of them to others."[74] Jefferson wrote that Congress had "mangled" his draft version, but the Declaration that was finally produced was "the majestic document that inspired both contemporaries and posterity", in the words of his biographer John Ferling.[72]

Congress tabled the draft of the declaration on Monday, July 1 and resolved itself into a committee of the whole, with Benjamin Harrison of Virginia presiding, and they resumed debate on Lee's resolution of independence.[75] John Dickinson made one last effort to delay the decision, arguing that Congress should not

declare independence without first securing a foreign alliance and finalizing the Articles of Confederation.[76] John Adams gave a speech in reply to Dickinson, restating the case for an immediate declaration.

Portable writing desk that Jefferson used to draft and write the Declaration of Independence

A vote was taken after a long day of speeches, each colony casting a single vote, as always. The delegation for each colony numbered from two to seven members, and each delegation voted among themselves to determine the colony's vote. Pennsylvania and South Carolina voted against declaring independence. The New York delegation abstained, lacking permission to vote for independence. Delaware cast no vote because the delegation was split between Thomas McKean, who voted yes, and George Read, who voted no. The remaining nine delegations voted in favor of independence, which meant that the resolution had been approved by the committee of the whole. The next step was for the resolution to be voted upon by Congress itself. Edward Rutledge of South Carolina was opposed to Lee's resolution but desirous of unanimity, and he moved that the vote be postponed until the following day.[77]

On July 2, South Carolina reversed its position and voted for independence. In the Pennsylvania delegation, Dickinson and Robert Morris abstained, allowing the delegation to vote three-to-two in favor of independence. The tie in the Delaware delegation was broken by the timely arrival of Caesar Rodney, who voted for independence. The New York delegation abstained once again since they were still not authorized to vote for independence, although they were allowed to do so a week later by the New York Provincial Congress.[78] The resolution of independence was adopted with twelve affirmative votes and one abstention, and the colonies formally severed political ties with Great Britain.[79] John Adams wrote to his wife on the following day and predicted that July 2 would become a great American holiday[80] He thought that the vote for independence would be commemorated; he did not foresee that Americans would instead celebrate Independence Day on the date when the announcement of that act was finalized.[81]

"Declaration House", the reconstructed boarding house at Market and S. 7th Street in Philadelphia, where Jefferson wrote the Declaration

> I am apt to believe that [Independence Day] will be celebrated, by succeeding Generations, as the great anniversary Festival. It ought to be commemorated, as the Day of Deliverance by solemn Acts of Devotion to God Almighty. It ought to be solemnized with Pomp and Parade, with shews, Games, Sports, Guns, Bells, Bonfires and Illuminations from one End of this Continent to the other from this Time forward forever more.[82]

Congress next turned its attention to the committee's draft of the declaration. They made a few changes in wording during several days of debate and deleted nearly a fourth of the text. The wording of the Declaration of Independence was approved on July 4, 1776 and sent to the printer for publication.

IN CONGRESS, JULY 4, 1776.

A DECLARATION

BY THE REPRESENTATIVES OF THE

UNITED STATES OF AMERICA,

IN GENERAL CONGRESS ASSEMBLED.

WHEN in the Course of human Events, it becomes necessary for one People ... to dissolve the Political Bands which have connected them with another, ... and to assume among the Powers of the Earth, the ... equal Station ... to which the Laws of Nature and of Nature's God entitle them, a decent Respect to the Opinions of Mankind requires ... that they should declare the causes which impel them to the Separation.

We hold these Truths to be self-evident, ... that all Men are created equal, ... that they are endowed by their Creator with certain unalienable Rights, ... that among these are Life, Liberty, and the Pursuit of Happiness.—That to secure these Rights, Governments are instituted among Men, ... deriving their just Powers from the Consent of the Governed, ... that whenever any Form of Government becomes destructive of these Ends, ... it is the Right of the People to alter or to abolish it, and to institute a new Government, ... laying its Foundation on such Principles, and organizing its Powers in such Form, as to them shall seem most likely to effect their Safety and Happiness. ... Prudence, indeed, will dictate that Governments long established should not be changed for light and transient Causes; and accordingly all Experience hath shewn, that Mankind are more disposed to suffer, while Evils are sufferable, than to right themselves by abolishing the Forms to which they are accustomed. ... But when a long Train of Abuses and Usurpations, ...

The opening of the original printing of the Declaration, printed on July 4, 1776, under Jefferson's supervision. The engrossed copy was made later (shown at the top of this article). Note that the opening lines differ between the two versions.[83]

There is a distinct change in wording from this original broadside printing of the Declaration and the final official engrossed copy. The word "unanimous" was inserted as a result of a Congressional resolution passed on July 19, 1776:

> Resolved, That the Declaration passed on the 4th, be fairly engrossed on parchment, with the title and stile of "The unanimous declaration of the thirteen United States of America," and that the same, when engrossed, be signed by every member of Congress.[84]

Historian George Billias says:

> Independence amounted to a new status of interdependence: the United States was now a sovereign nation entitled to the privileges and responsibilities that came with that status. America thus became a member of the international community, which meant becoming a maker of treaties and alliances, a military ally in diplomacy, and a partner in foreign trade on a more equal basis.[85]

Annotated text of the engrossed declaration

The declaration is not divided into formal sections; but it is often discussed as consisting of five parts: *introduction*, *preamble*, *indictment* of King George III, *denunciation* of the British people, and *conclusion*.[86]

Introduction Asserts as a matter of Natural Law the ability of a people to assume political independence; acknowledges that the grounds for such independence must be reasonable, and therefore explicable, and ought to be explained.	In CONGRESS, July 4, 1776. The unanimous Declaration of the thirteen united States of America, "When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation."[87]
Preamble Outlines a general philosophy of government that justifies revolution when government harms natural rights.[86]	"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.—That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed,—That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shewn, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security."
Indictment A bill of grievances documenting the king's "repeated injuries and usurpations" of the Americans' rights and liberties.[86]	"Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their former Systems of Government. The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States. To prove this, let Facts be submitted to a candid world. "He has refused his Assent to Laws, the most wholesome and necessary for the public good. "He has forbidden his Governors to pass Laws of immediate and pressing importance, unless suspended in their operation till his Assent should be obtained; and when so suspended, he has utterly neglected to attend to them.

"He has refused to pass other Laws for the accommodation of large districts of people, unless those people would relinquish the right of Representation in the Legislature, a right inestimable to them and formidable to tyrants only.

"He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their Public Records, for the sole purpose of fatiguing them into compliance with his measures.

"He has dissolved Representative Houses repeatedly, for opposing with manly firmness of his invasions on the rights of the people.

"He has refused for a long time, after such dissolutions, to cause others to be elected, whereby the Legislative Powers, incapable of Annihilation, have returned to the People at large for their exercise; the State remaining in the meantime exposed to all the dangers of invasion from without, and convulsions within.

"He has endeavoured to prevent the population of these States; for that purpose obstructing the Laws for Naturalization of Foreigners; refusing to pass others to encourage their migrations hither, and raising the conditions of new Appropriations of Lands.

"He has obstructed the Administration of Justice by refusing his Assent to Laws for establishing Judiciary Powers.

"He has made Judges dependent on his Will alone for the tenure of their offices, and the amount and payment of their salaries.

"He has erected a multitude of New Offices, and sent hither swarms of Officers to harass our people and eat out their substance.

"He has kept among us, in times of peace, Standing Armies without the Consent of our legislatures.

"He has affected to render the Military independent of and superior to the Civil Power.

"He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his Assent to their Acts of pretended Legislation:

"For quartering large bodies of armed troops among us:

"For protecting them, by a mock Trial from punishment for any Murders which they should commit on the Inhabitants of these States:

"For cutting off our Trade with all parts of the world:

"For imposing Taxes on us without our Consent:

"For depriving us in many cases, of the benefit of Trial by Jury:

	"For transporting us beyond Seas to be tried for pretended offences: "For abolishing the free System of English Laws in a neighbouring Province, establishing therein an Arbitrary government, and enlarging its Boundaries so as to render it at once an example and fit instrument for introducing the same absolute rule into these Colonies: "For taking away our Charters, abolishing our most valuable Laws and altering fundamentally the Forms of our Governments: "For suspending our own Legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever. "He has abdicated Government here, by declaring us out of his Protection and waging War against us. "He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people. "He is at this time transporting large Armies of foreign Mercenaries to compleat the works of death, desolation, and tyranny, already begun with circumstances of Cruelty & Perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the Head of a civilized nation. "He has constrained our fellow Citizens taken Captive on the high Seas to bear Arms against their Country, to become the executioners of their friends and Brethren, or to fall themselves by their Hands. "He has excited domestic insurrections amongst us, and has endeavoured to bring on the inhabitants of our frontiers, the merciless Indian Savages whose known rule of warfare, is an undistinguished destruction of all ages, sexes and conditions. "In every stage of these Oppressions We have Petitioned for Redress in the most humble terms: Our repeated Petitions have been answered only by repeated injury. A Prince, whose character is thus marked by every act which may define a Tyrant, is unfit to be the ruler of a free people."
Failed Warnings Describes the colonists' attempts to inform and warn the British people of the king's injustice, and the British people's failure to act. Even so, it affirms the colonists' ties to the British as "brethren."[86]	"Nor have We been wanting in attentions to our British brethren. We have warned them from time to time of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which, would inevitably interrupt our connections and correspondence. They too have been deaf to the voice of justice and of consanguinity."

Denunciation This section essentially finishes the case for independence. The conditions that justified revolution have been shown.[86]	"We must, therefore, acquiesce in the necessity, which denounces our Separation, and hold them, as we hold the rest of mankind, Enemies in War, in Peace Friends."
Conclusion The signers assert that there exist conditions under which people must change their government, that the British have produced such conditions and, by necessity, the colonies must throw off political ties with the British Crown and become independent states. The conclusion contains, at its core, the Lee Resolution that had been passed on July 2.	"We, therefore, the Representatives of the united States of America, in General Congress, Assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the Name, and by Authority of the good People of these Colonies, solemnly publish and declare, That these united Colonies are, and of Right ought to be Free and Independent States; that they are Absolved from all Allegiance to the British Crown, and that all political connection between them and the State of Great Britain, is and ought to be totally dissolved; and that as Free and Independent States, they have full Power to levy War, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and Things which Independent States may of right do. And for the support of this Declaration, with a firm reliance on the protection of divine Providence, we mutually pledge to each other our Lives, our Fortunes and our sacred Honor."
Signatures The first and most famous signature on the engrossed copy was that of John Hancock, President of the Continental Congress. Two future presidents (Thomas Jefferson and John Adams) and a father and great-grandfather of two other presidents (Benjamin Harrison V) were among the signatories. Edward Rutledge (age 26) was the youngest signer, and Benjamin Franklin (age 70) was the oldest signer. The fifty-six signers of the	*New Hampshire*: Josiah Bartlett, William Whipple, Matthew Thornton *Massachusetts*: Samuel Adams, John Adams, John Hancock, Robert Treat Paine, Elbridge Gerry *Rhode Island*: Stephen Hopkins, William Ellery *Connecticut*: Roger Sherman, Samuel Huntington, William Williams, Oliver Wolcott *New York*: William Floyd, Philip Livingston, Francis Lewis, Lewis Morris *New Jersey*: Richard Stockton, John Witherspoon, Francis Hopkinson, John Hart, Abraham Clark *Pennsylvania*: Robert Morris, Benjamin Rush, Benjamin Franklin, John Morton, George Clymer, James Smith, George Taylor, James Wilson, George Ross *Delaware*: George Read, Caesar Rodney, Thomas McKean *Maryland*: Samuel Chase, William Paca, Thomas Stone, Charles Carroll of Carrollton *Virginia*: George Wythe, Richard Henry Lee, Thomas Jefferson, Benjamin Harrison, Thomas Nelson Jr., Francis Lightfoot Lee, Carter Braxton *North Carolina*: William Hooper, Joseph Hewes, John Penn *South Carolina*: Edward Rutledge, Thomas Heyward Jr., Thomas Lynch Jr., Arthur Middleton *Georgia*: Button Gwinnett, Lyman Hall, George Walton

Declaration represented the new states as follows (from north to south):[88]	

Influences and legal status

English political philosopher John Locke (1632–1704)

Historians have often sought to identify the sources that most influenced the words and political philosophy of the Declaration of Independence. By Jefferson's own admission, the Declaration contained no original ideas, but was instead a statement of sentiments widely shared by supporters of the American Revolution. As he explained in 1825:

> Neither aiming at originality of principle or sentiment, nor yet copied from any particular and previous writing, it was intended to be an expression of the American mind, and to give to that expression the proper tone and spirit called for by the occasion.[89]

Jefferson's most immediate sources were two documents written in June 1776: his own draft of the preamble of the Constitution of Virginia, and George Mason's draft of the Virginia Declaration of Rights. Ideas and phrases from both of these documents appear in the Declaration of Independence.[90] Mason's opening was:

> Section 1. That all men are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.[91]

Mason was, in turn, directly influenced by the 1689 English Declaration of Rights, which formally ended the reign of King James II.[92] During the American Revolution, Jefferson and other Americans looked to the English Declaration of Rights as a model of how to end the reign of an unjust king.[93] The Scottish Declaration of Arbroath (1320) and the Dutch Act of Abjuration (1581) have also been offered as models for Jefferson's Declaration, but these models are now accepted by few scholars.[94]

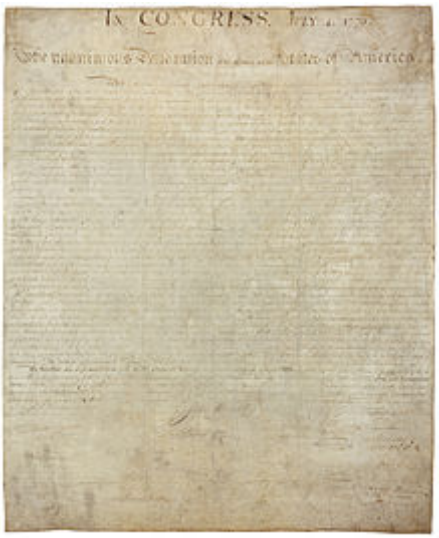
Jefferson wrote that a number of authors exerted a general influence on the words of the Declaration.[95] English political theorist John Locke is usually cited as one of the primary influences, a man whom Jefferson called one of "the three greatest men that have ever lived".[96] In 1922, historian Carl L. Becker wrote, "Most Americans had absorbed Locke's works as a kind of political gospel; and the Declaration, in its form, in its phraseology, follows closely certain sentences in Locke's second treatise on government."[97] The extent of Locke's influence on the American Revolution has been questioned by some subsequent scholars, however. Historian Ray Forrest Harvey argued in 1937 for the dominant influence of Swiss jurist Jean Jacques Burlamaqui, declaring that Jefferson and Locke were at "two opposite poles" in their political philosophy, as evidenced by Jefferson's use in the Declaration of Independence of the phrase "pursuit of happiness" instead

of "property".[98] Other scholars emphasized the influence of republicanism rather than Locke's classical liberalism.[99] Historian Garry Wills argued that Jefferson was influenced by the Scottish Enlightenment, particularly Francis Hutcheson, rather than Locke,[100] an interpretation that has been strongly criticized.[101]

Legal historian John Phillip Reid has written that the emphasis on the political philosophy of the Declaration has been misplaced. The Declaration is not a philosophical tract about natural rights, argues Reid, but is instead a legal document—an indictment against King George for violating the constitutional rights of the colonists.[102] As such, it follows the process of the 1550 *Magdeburg Confession*, which legitimized resistance against Holy Roman Emperor Charles V in a multi-step legal formula now known as the doctrine of the Lesser magistrate.[103] Historian David Armitage has argued that the Declaration was strongly influenced by de Vattel's *The Law of Nations*, the dominant international law treatise of the period, and a book that Benjamin Franklin said was "continually in the hands of the members of our Congress".[104] Armitage writes, "Vattel made independence fundamental to his definition of statehood"; therefore, the primary purpose of the Declaration was "to express the international legal sovereignty of the United States". If the United States were to have any hope of being recognized by the European powers, the American revolutionaries first had to make it clear that they were no longer dependent on Great Britain.[105] The Declaration of Independence does not have the force of law domestically, but nevertheless it may help to provide historical and legal clarity about the Constitution and other laws.[106][107][108][109]

Signing

The Declaration became official when Congress voted for it on July 4; signatures of the delegates were not needed to make it official. The handwritten copy of the Declaration of Independence that was signed by Congress is dated July 4, 1776. The signatures of fifty-six delegates are affixed; however, the exact date when each person signed it has long been the subject of debate. Jefferson, Franklin, and Adams all wrote that the Declaration had been signed by Congress on July 4.[110] But in 1796, signer Thomas McKean disputed that the Declaration had been signed on July 4, pointing out that some signers were not then present, including several who were not even elected to Congress until after that date.[111]



The signed copy of the Declaration is now badly faded because of poor preserving practices in the 19th century. It is on display at the National Archives in Washington, D.C.

The Declaration was transposed on paper, adopted by the Continental Congress, and signed by John Hancock, President of the Congress, on July 4, 1776, according to the 1911 record of events by the U.S. State Department under Secretary Philander C. Knox.[112] On August 2, 1776, a parchment paper copy of the Declaration was signed by 56 persons.[112] Many of these signers were not present when the original Declaration was adopted on July 4.[112] Signer Matthew Thornton from New Hampshire was seated in the Continental Congress in November; he asked for and received the privilege of adding his signature at that time, and signed on November 4, 1776.[112]

Historians have generally accepted McKean's version of events, arguing that the famous signed version of the Declaration was created after July 19, and was not signed by Congress until August 2, 1776.[113] In 1986, legal historian Wilfred Ritz argued that historians had misunderstood the primary documents and given too much credence to McKean, who had not been present in Congress on July 4.[114] According to Ritz, about

thirty-four delegates signed the Declaration on July 4, and the others signed on or after August 2.[115] Historians who reject a July 4 signing maintain that most delegates signed on August 2, and that those eventual signers who were not present added their names later.[116]

Two future U.S. presidents were among the signatories: Thomas Jefferson and John Adams. The most famous signature on the engrossed copy is that of John Hancock, who presumably signed first as President of Congress.[117] Hancock's large, flamboyant signature became iconic, and the term *John Hancock* emerged in the United States as an informal synonym for "signature".[118] A commonly circulated but apocryphal account claims that, after Hancock signed, the delegate from Massachusetts commented, "The British ministry can read that name without spectacles." Another apocryphal report indicates that Hancock proudly declared, "There! I guess King George will be able to read that!"[119]

Various legends emerged years later about the signing of the Declaration, when the document had become an important national symbol. In one famous story, John Hancock supposedly said that Congress, having signed the Declaration, must now "all hang together", and Benjamin Franklin replied: "Yes, we must indeed all hang together, or most assuredly we shall all hang separately." The earliest known version of that quotation in print appeared in a London humor magazine in 1837.[120]

The Syng inkstand, which was used at both the 1776 signing of the Declaration and the 1787 signing of the U.S. Constitution, is on display in Philadelphia

On July 4, 1776, Continental Congress President John Hancock's signature authenticated the United States Declaration of Independence.

The Syng inkstand used at the signing was also used at the signing of the United States Constitution in 1787.

Publication and reaction

After Congress approved the final wording of the Declaration on July 4, a handwritten copy was sent a few blocks away to the printing shop of John Dunlap. Through the night, Dunlap printed about 200 broadsides for distribution. Soon, it was being read to audiences and reprinted in newspapers throughout the 13 states. The first formal public readings of the document took place on July 8, in Philadelphia (by John Nixon in the yard of Independence Hall), Trenton, New Jersey, and Easton, Pennsylvania; the first newspaper to publish it was the *Pennsylvania Evening Post* on July 6.[121] A German translation of the Declaration was published in Philadelphia by July 9.[122]

President of Congress John Hancock sent a broadside to General George Washington, instructing him to have it proclaimed "at the Head of the Army in the way you shall think it most proper".[123] Washington had the Declaration read to his troops in New York City on July 9, with thousands of British troops on ships in the harbor. Washington and Congress hoped that the Declaration would inspire the soldiers, and encourage others to join the army.[121] After hearing the Declaration, crowds in many cities tore down and destroyed signs or statues representing royal authority. An equestrian statue of King George in New York City was pulled down and the lead used to make musket balls.[124]

Johannes Adam Simon Oertel's painting *Pulling Down the Statue of King George III, N.Y.C.*, ca. 1859, depicts citizens destroying a statue of King George after the Declaration was read in New York City on July 9, 1776.

One of the first readings of the Declaration by the British is believed to have taken place at the Rose and Crown Tavern on Staten Island, New York in the presence of General Howe.[125] British officials in North America sent copies of the Declaration to Great Britain.[126] It was published in British newspapers beginning in mid-August, it had reached Florence and Warsaw by mid-September, and a German translation appeared in Switzerland by October. The first copy of the Declaration sent to France got lost, and the second copy arrived only in November 1776.[127] It reached Portuguese America by Brazilian medical student "Vendek" José Joaquim Maia e Barbalho, who had met with Thomas Jefferson in Nîmes.

William Whipple, signer of the Declaration of Independence, manumitted his slave, believing that he could not both fight for liberty and own slaves.

The Spanish-American authorities banned the circulation of the Declaration, but it was widely transmitted and translated: by Venezuelan Manuel García de Sena, by Colombian Miguel de Pombo, by Ecuadorian Vicente Rocafuerte, and by New Englanders Richard Cleveland and William Shaler, who distributed the Declaration and the United States Constitution among Creoles in Chile and Indians in Mexico in 1821.[128] The North Ministry did not give an official answer to the Declaration, but instead secretly commissioned pamphleteer John Lind to publish a response entitled *Answer to the Declaration of the American Congress*.[129] British Tories denounced the signers of the Declaration for not applying the same principles of "life, liberty, and the pursuit of happiness" to African Americans.[130] Thomas Hutchinson, the former royal governor of Massachusetts, also published a rebuttal.[131][132] These pamphlets challenged various aspects of the Declaration. Hutchinson argued that the American Revolution was the work of a few conspirators who wanted independence from the outset, and who had finally achieved it by inducing otherwise loyal colonists to rebel.[133] Lind's pamphlet had an anonymous attack on the concept of natural rights written by Jeremy Bentham, an argument that he repeated during the French Revolution.[134] Both pamphlets questioned how the American slaveholders in Congress could proclaim that "all men are created equal" without freeing their own slaves.[135]

William Whipple, a signer of the Declaration of Independence who had fought in the war, freed his slave Prince Whipple because of his revolutionary ideals. In the postwar decades, other slaveholders also freed their slaves; from 1790 to 1810, the percentage of free blacks in the Upper South increased to 8.3 percent from less than one percent of the black population.[136] Northern states began abolishing slavery shortly after the war for Independence began, and all had abolished slavery by 1804.

Later in 1776, a group of 547 Loyalists, largely from New York, signed a Declaration of Dependence pledging their loyalty to the Crown.[137]

History of the documents

The official copy of the Declaration of Independence was the one printed on July 4, 1776, under Jefferson's supervision. It was sent to the states and to the Army and was widely reprinted in newspapers. The slightly different "engrossed copy" (shown at the top of this article) was made later for members to sign. The engrossed version is the one widely distributed in the 21st century. Note that the opening lines differ between the two versions.[83]

The copy of the Declaration that was signed by Congress is known as the engrossed or parchment copy. It was probably engrossed (that is, carefully handwritten) by clerk Timothy Matlack.[138] A facsimile made in 1823 has become the basis of most modern reproductions rather than the original because of poor conservation of the engrossed copy through the 19th century.[138] In 1921, custody of the engrossed copy of the Declaration was transferred from the State Department to the Library of Congress, along with the United States Constitution. After the Japanese attack on Pearl Harbor in 1941, the documents were moved for safekeeping to the United States Bullion Depository at Fort Knox in Kentucky, where they were kept until 1944.[139] In 1952, the engrossed Declaration was transferred to the National Archives and is now on permanent display at the National Archives in the "Rotunda for the Charters of Freedom".[140]

The document signed by Congress and enshrined in the National Archives is usually regarded as *the* Declaration of Independence, but historian Julian P. Boyd argued that the Declaration, like Magna Carta, is not a single document. Boyd considered the printed broadsides ordered by Congress to be official texts, as well. The Declaration was first published as a broadside that was printed the night of July 4 by John Dunlap of Philadelphia. Dunlap printed about 200 broadsides, of which 26 are known to survive. The 26th copy was discovered in The National Archives in England in 2009.[141]

The Rotunda for the Charters of Freedom in the National Archives building

In 1777, Congress commissioned Mary Katherine Goddard to print a new broadside that listed the signers of the Declaration, unlike the Dunlap broadside.[138][142] Nine copies of the Goddard broadside are known to still exist.[142] A variety of broadsides printed by the states are also extant, including seven copies of the Solomon Southwick broadside, one of which was acquired by Washington University in St. Louis in 2015.[142][143]

Several early handwritten copies and drafts of the Declaration have also been preserved. Jefferson kept a four-page draft that late in life he called the "original Rough draught".[144] It is not known how many drafts Jefferson wrote prior to this one, and how much of the text was contributed by other committee members. In 1947, Boyd discovered a fragment of an earlier draft in Jefferson's handwriting.[145] Jefferson and Adams sent copies of the rough draft to friends, with slight variations.

During the writing process, Jefferson showed the rough draft to Adams and Franklin, and perhaps to other members of the drafting committee,[144] who made a few more changes. Franklin, for example, may have been responsible for changing Jefferson's original phrase "We hold these truths to be sacred and undeniable" to "We hold these truths to be self-evident".[146] Jefferson incorporated these changes into a copy that was submitted to Congress in the name of the committee.[144] The copy that was submitted to Congress on June 28 has been lost and was perhaps destroyed in the printing process,[147] or destroyed during the debates in accordance with Congress's secrecy rule.[148]

On April 21, 2017, it was announced that a second engrossed copy had been discovered in the archives at West Sussex County Council in Chichester, England.[149] Named by its finders the "Sussex Declaration", it differs from the National Archives copy (which the finders refer to as the "Matlack Declaration") in that the signatures on it are not grouped by States. How it came to be in England is not yet known, but the finders believe that the randomness of the signatures points to an origin with signatory James Wilson, who had argued strongly that the Declaration was made not by the States but by the whole people.[150][151]

Years of exposure to damaging lighting would result in the original Declaration of Independence document having much of its ink fade by 1876.[152][153]

Legacy

The Declaration was given little attention in the years immediately following the American Revolution, having served its original purpose in announcing the independence of the United States.[154] Early celebrations of Independence Day largely ignored the Declaration, as did early histories of the Revolution. The *act* of declaring independence was considered important, whereas the *text* announcing that act attracted little attention.[155] The Declaration was rarely mentioned during the debates about the United States Constitution, and its language was not incorporated into that document.[156] George Mason's draft of the Virginia Declaration of Rights was more influential, and its language was echoed in state constitutions and state bills of rights more often than Jefferson's words.[157] "In none of these documents," wrote Pauline Maier, "is there any evidence whatsoever that the Declaration of Independence lived in men's minds as a classic statement of American political principles."[158]

Influence in other countries

Many leaders of the French Revolution admired the Declaration of Independence[158] but were also interested in the new American state constitutions.[159] The inspiration and content of the French Declaration of the Rights of Man and of the Citizen (1789) emerged largely from the ideals of the American Revolution.[160] Lafayette prepared its key drafts, working closely in Paris with his friend Thomas Jefferson. It also borrowed language from George Mason's Virginia Declaration of Rights.[161][162] The declaration also influenced the Russian Empire, and it had a particular impact on the Decembrist revolt and other Russian thinkers.

According to historian David Armitage, the Declaration of Independence did prove to be internationally influential, but not as a statement of human rights. Armitage argues that the Declaration was the first in a new genre of declarations of independence which announced the creation of new states. Other French leaders were directly influenced by the text of the Declaration of Independence itself. The *Manifesto of the Province of Flanders* (1790) was the first foreign derivation of the Declaration;[163] others include the Venezuelan Declaration of Independence (1811), the Liberian Declaration of Independence (1847), the declarations of secession by the Confederate States of America (1860–61), and the Vietnamese Proclamation of Independence (1945).[164] These declarations echoed the United States Declaration of Independence in announcing the independence of a new state, without necessarily endorsing the political philosophy of the original.[165]

Other countries have used the Declaration as inspiration or have directly copied sections from it. These include the Haitian declaration of January 1, 1804 during the Haitian Revolution, the United Provinces of New Granada in 1811, the Argentine Declaration of Independence in 1816, the Chilean Declaration of Independence in 1818, Costa Rica in 1821, El Salvador in 1821, Guatemala in 1821, Honduras in 1821, Mexico in 1821, Nicaragua in 1821, Peru in 1821, Bolivian War of Independence in 1825, Uruguay in 1825, Ecuador in 1830, Colombia in 1831, Paraguay in 1842, Dominican Republic in 1844, Texas Declaration of Independence in March 1836, California Republic in November 1836, Hungarian Declaration of Independence in 1849, Declaration of the Independence of New Zealand in 1835, and the Czechoslovak declaration of independence from 1918 drafted in Washington D.C. with Gutzon Borglum among the drafters. The Rhodesian declaration of independence is based on the American one, as well, ratified in November 1965, although it omits the phrases "all men are created equal" and "the consent of the governed".[128][166][167][168] The South Carolina declaration of secession from December 1860 also mentions the U.S. Declaration of Independence, though it omits references to "all men are created equal" and "consent of the governed".

Revival of interest

Interest in the Declaration was revived in the 1790s with the emergence of the United States's first political parties.[169] Throughout the 1780s, few Americans knew or cared who wrote the Declaration.[170] But in the next decade, Jeffersonian Republicans sought political advantage over their rival Federalists by promoting both the importance of the Declaration and Jefferson as its author.[171] Federalists responded by casting doubt on Jefferson's authorship or originality, and by emphasizing that independence was declared by the whole Congress, with Jefferson as just one member of the drafting committee. Federalists insisted that Congress's act of declaring independence, in which Federalist John Adams had played a major role, was more important than the document announcing it.[172] But this view faded away, like the Federalist Party itself, and, before long, the act of declaring independence became synonymous with the document.

A less partisan appreciation for the Declaration emerged in the years following the War of 1812, thanks to a growing American nationalism and a renewed interest in the history of the Revolution.[173] In 1817, Congress commissioned John Trumbull's famous painting of the signers, which was exhibited to large crowds before being installed in the Capitol.[174] The earliest commemorative printings of the Declaration also appeared at this time, offering many Americans their first view of the signed document.[175] Collective biographies of the signers were first published in the 1820s,[176] giving birth to what Garry Wills called the "cult of the signers".[177] In the years that followed, many stories about the writing and signing of the document were published for the first time.

When interest in the Declaration was revived, the sections that were most important in 1776 were no longer relevant: the announcement of the independence of the United States and the grievances against King George. But the second paragraph was applicable long after the war had ended, with its talk of self-evident truths and unalienable rights.[178] The identity of natural law since the 18th century has seen increasing ascendancy towards political and moral norms versus the law of nature, God, or human nature as seen in the past.[179] The Constitution and the Bill of Rights lacked sweeping statements about rights and equality, and advocates of groups with grievances turned to the Declaration for support.[180] Starting in the 1820s, variations of the Declaration were issued to proclaim the rights of workers, farmers, women, and others.[181] In 1848, for example, the Seneca Falls Convention of women's rights advocates declared that "all men and women are created equal".[182]

John Trumbull's *Declaration of Independence* (1817–1826)

John Trumbull's painting *Declaration of Independence* has played a significant role in popular conceptions of the Declaration of Independence. The painting is 12-by-18-foot (3.7 by 5.5 m) in size and was commissioned by the United States Congress in 1817; it has hung in the United States Capitol Rotunda since 1826. It is sometimes described as the signing of the Declaration of Independence, but it actually shows the Committee of Five presenting their draft of the Declaration to the Second Continental Congress on June 28, 1776, and not the signing of the document, which took place later.[184]

John Trumbull's famous 1818 painting is often identified as a depiction of the signing of the Declaration, but it actually shows the drafting committee presenting its work to the Congress.[183]

Trumbull painted the figures from life whenever possible, but some had died and images could not be located; hence, the painting does not include all the signers of the Declaration. One figure had participated in the drafting but did not sign the final document; another refused to sign. In fact, the membership of the Second Continental Congress changed as time passed, and the figures in the painting were never in the same room at the same time. It is, however, an accurate depiction of the room in Independence Hall, the centerpiece of the Independence National Historical Park in Philadelphia, Pennsylvania.

Trumbull's painting has been depicted multiple times on U.S. currency and postage stamps. Its first use was on the reverse side of the $100 National Bank Note issued in 1863. A few years later, the steel engraving used in printing the bank notes was used to produce a 24-cent stamp, issued as part of the 1869 Pictorial Issue. An engraving of the signing scene has been featured on the reverse side of the United States two-dollar bill since 1976.

United States two-dollar bill (reverse)

Slavery and the Declaration

The apparent contradiction between the claim that "all men are created equal" and the existence of slavery in the United States attracted comment when the Declaration was first published. Many of the founders understood the incompatibility of the statement of natural equality with the institution of slavery, but continued to enjoy the "Rights of Man".[185] Jefferson had included a paragraph in his initial rough Draft of the Declaration of Independence vigorously condemning the evil of the slave trade, and condemning King George III for forcing it onto the colonies, but this was deleted from the final version.[186][73]

> He has waged cruel war against human nature itself, violating it's most sacred rights of life and liberty in the persons of a distant people who never offended him, captivating and carrying them into slavery in another hemispere, or to incure miserable death in their transportation hither. this piratical warfare, the opprobium of infidel powers, is the warfare of the Christian king of Great Britain. **determined to keep open a market where MEN should be bought and sold,** he has prostituted his negative for suppressing every legislative attempt to prohibit or to restrain this execrable commerce **determining to keep open a market where MEN should be bought and sold**: and that this assemblage of horrors might want no fact of distinguished die, he is now exciting those very people to rise in arms among us, and to purchase that liberty of which he had deprived them, by murdering the people upon whom he also obtruded them: thus paying off former crimes committed against the liberties of one people, with crimes which he urges them to commit against the lives of another.

Jefferson himself was a prominent Virginia slaveowner, owning six hundred enslaved Africans on his Monticello plantation.[187] Referring to this contradiction, English abolitionist Thomas Day wrote in a 1776 letter, "If there be an object truly ridiculous in nature, it is an American patriot, signing resolutions of independency with the one hand, and with the other brandishing a whip over his affrighted slaves."[188] The African-American writer Lemuel Haynes expressed similar viewpoints in his essay "Liberty Further Extended," where he wrote that "Liberty is Equally as pre[c]ious to a Black man, as it is to a white one".[189]

In the 19th century, the Declaration took on a special significance for the abolitionist movement. Historian Bertram Wyatt-Brown wrote that "abolitionists tended to interpret the Declaration of Independence as a theological as well as a political document".[190] Abolitionist leaders Benjamin Lundy and William Lloyd Garrison adopted the "twin rocks" of "the Bible and the Declaration of Independence" as the basis for their philosophies. "As long as there remains a single copy of the Declaration of Independence, or of the Bible, in our land," wrote Garrison, "we will not despair."[191] For radical abolitionists such as Garrison, the most

important part of the Declaration was its assertion of the right of revolution. Garrison called for the destruction of the government under the Constitution, and the creation of a new state dedicated to the principles of the Declaration.[192]

On July 5, 1852, Frederick Douglass delivered a speech asking the question, What to the Slave Is the Fourth of July?

The controversial question of whether to allow additional slave states into the United States coincided with the growing stature of the Declaration. The first major public debate about slavery and the Declaration took place during the Missouri controversy of 1819 to 1821.[193] Anti-slavery Congressmen argued that the language of the Declaration indicated that the Founding Fathers of the United States had been opposed to slavery in principle, and so new slave states should not be added to the country.[194] Pro-slavery Congressmen led by Senator Nathaniel Macon of North Carolina argued that the Declaration was not a part of the Constitution and therefore had no relevance to the question.[195]

With the abolitionist movement gaining momentum, defenders of slavery such as John Randolph and John C. Calhoun found it necessary to argue that the Declaration's assertion that "all men are created equal" was false, or at least that it did not apply to black people.[196] During the debate over the Kansas–Nebraska Act in 1853, for example, Senator John Pettit of Indiana argued that the statement "all men are created equal" was not a "self-evident truth" but a "self-evident lie".[197] Opponents of the Kansas–Nebraska Act, including Salmon P. Chase and Benjamin Wade, defended the Declaration and what they saw as its antislavery principles.[198]

John Brown's Declaration of Liberty

In preparing for his raid on Harpers Ferry, said by Stephen Douglass to be the beginning of the end of slavery in the United States,[199]:27–28 abolitionist John Brown had many copies printed of a Provisional Constitution. (When the seceding states created the Confederate States of America 16 months later, they operated for over a year under a Provisional Constitution.) It outlines the three branches of government in the quasi-country he hoped to set up in the Appalachian Mountains. It was widely reproduced in the press, and in full in the Select Senate Committee report on John Brown's insurrection (the Mason Report).[200]

Much less known, as Brown did not have it printed, is his Declaration of Liberty, dated July 4, 1859, found among his papers at the Kennedy Farm.[201]:330–331 It was written out on sheets of paper attached to fabric, to allow it to be rolled, and it was rolled when found. The hand is that of Owen Brown, who often served as his father's amanuensis.[202]

Imitating the vocabulary, punctution, and capitalization of the 73-year-old U.S. Declaration, the 2000-word document begins:

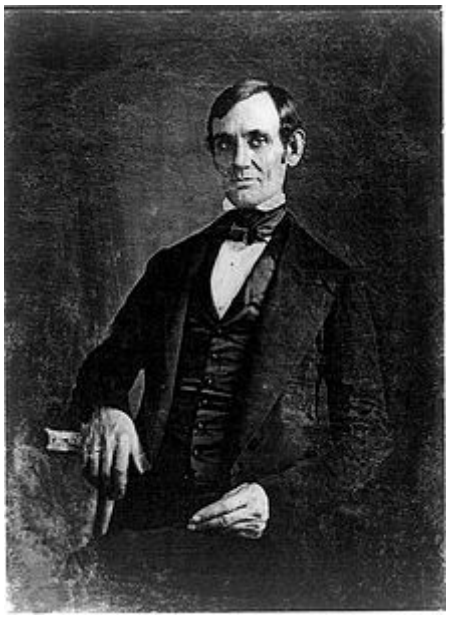
> July 4th 1859
>
> A Declaration of Liberty
> By the Representatives of the slave Popolation of the United States of America
>
> When in the course of human events, it becomes necessary for an Oppressed People to Rise, and assert their Natural Rights, as Human Beings, as Native & mutual Citizens of a free Republic, and break that odious Yoke of oppression, which is so unjustly laid upon them by their fellow Countrymen, and to assume among the powers of Earth the same equal privileges to which the

> Laws of Nature, & natures God entitle them; A moderate respect for the opinions of Mankind, requires that they should declare the causes which incite them to this just & worthy action.
>
> We hold these truths to be Self Evident; That All Men are Created Equal; That they are endowed by their Creator with certain unalienable rights. That among these are Life, Liberty; & the persuit of happiness. That Nature hath freely given to all Men, a full Supply of Air. Water, & Land; for their sustinance, & mutual happiness, That No Man has any right to deprive his fellow Man, of these Inherent rights, except in punishment of Crime. That to secure these rights governments are instituted among Men, deriving their just powers from the consent of the governed. That when any form of Government, becomes destructive to these ends, It is the right of the People, to alter, Amend, or Remoddel it, Laying its foundation on Such Principles, & organizing its powers in such form as to them shall seem most likely to effect the safety, & happiness of the Human Race.[203]

The document was apparently intended to be read aloud, but so far as is known Brown never did so, even though he read the Provisional Constitution aloud the day the raid on Harpers Ferry began.[204]:74 Very much aware of the history of the American Revolution, he would have read the Declaration aloud after the revolt had started. The document was not published until 1894, and by someone who did not realize its importance and buried it in an appendix of documents.[201]:637–643 It is missing from most but not all studies of John Brown.[205][204]:69–73

Lincoln and the Declaration

The Declaration's relationship to slavery was taken up in 1854 by Abraham Lincoln, a little-known former Congressman who idolized the Founding Fathers.[206] Lincoln thought that the Declaration of Independence expressed the highest principles of the American Revolution, and that the Founding Fathers had tolerated slavery with the expectation that it would ultimately wither away.[11] For the United States to legitimize the expansion of slavery in the Kansas–Nebraska Act, thought Lincoln, was to repudiate the principles of the Revolution. In his October 1854 Peoria speech, Lincoln said:



Congressman Abraham Lincoln, 1845–1846

> Nearly eighty years ago we began by declaring that all men are created equal; but now from that beginning we have run down to the other declaration, that for some men to enslave others is a "sacred right of self-government". ... Our republican robe is soiled and trailed in the dust. ... Let us repurify it. Let us re-adopt the Declaration of Independence, and with it, the practices, and policy, which harmonize with it. ... If we do this, we shall not only have saved the Union: but we shall have saved it, as to make, and keep it, forever worthy of the saving.[207]

The meaning of the Declaration was a recurring topic in the famed debates between Lincoln and Stephen Douglas in 1858. Douglas argued that the phrase "all men are created equal" in the Declaration referred to white men only. The purpose of the Declaration, he said, had simply been to justify the independence of the

United States, and not to proclaim the equality of any "inferior or degraded race".[208] Lincoln, however, thought that the language of the Declaration was deliberately universal, setting a high moral standard to which the American republic should aspire. "I had thought the Declaration contemplated the progressive improvement in the condition of all men everywhere", he said.[209] During the seventh and last joint debate with Steven Douglas at Alton, Illinois, on October 15, 1858, Lincoln said about the declaration:

> I think the authors of that notable instrument intended to include all men, but they did not mean to declare all men equal in all respects. They did not mean to say all men were equal in color, size, intellect, moral development, or social capacity. They defined with tolerable distinctness in what they did consider all men created equal—equal in "certain inalienable rights, among which are life, liberty, and the pursuit of happiness." This they said, and this they meant. They did not mean to assert the obvious untruth that all were then actually enjoying that equality, or yet that they were about to confer it immediately upon them. In fact, they had no power to confer such a boon. They meant simply to declare the right, so that the enforcement of it might follow as fast as circumstances should permit. They meant to set up a standard maxim for free society which should be familiar to all, constantly looked to, constantly labored for, and even, though never perfectly attained, constantly approximated, and thereby constantly spreading and deepening its influence, and augmenting the happiness and value of life to all people, of all colors, everywhere.[210]

According to Pauline Maier, Douglas's interpretation was more historically accurate, but Lincoln's view ultimately prevailed. "In Lincoln's hands," wrote Maier, "the Declaration of Independence became first and foremost a living document" with "a set of goals to be realized over time".[211]

Like Daniel Webster, James Wilson, and Joseph Story before him, Lincoln argued that the Declaration of Independence was a founding document of the United States, and that this had important implications for interpreting the Constitution, which had been ratified more than a decade after the Declaration.[213] The Constitution did not use the word "equality", yet Lincoln believed that the concept that "all men are created equal" remained a part of the nation's founding principles.[214] He famously expressed this belief in the opening sentence of his 1863 Gettysburg Address: "Four score and seven years ago [i.e. in 1776] our fathers brought forth on this continent, a new nation, conceived in Liberty, and dedicated to the proposition that all men are created equal."

> [T]here is no reason in the world why the negro is not entitled to all the natural rights enumerated in the Declaration of Independence, the right to life, liberty, and the pursuit of happiness. I hold that he is as much entitled to these as the white man.
>
> —Abraham Lincoln, 1858[212]

Lincoln's view of the Declaration became influential, seeing it as a moral guide to interpreting the Constitution. "For most people now," wrote Garry Wills in 1992, "the Declaration means what Lincoln told us it means, as a way of correcting the Constitution itself without overthrowing it."[215] Admirers of Lincoln such as Harry V. Jaffa praised this development. Critics of Lincoln, notably Willmoore Kendall and Mel Bradford, argued that Lincoln dangerously expanded the scope of the national government and violated states' rights by reading the Declaration into the Constitution.[216]

Women's suffrage and the Declaration

In July 1848, the Seneca Falls Convention was held in Seneca Falls, New York, the first women's rights convention. It was organized by Elizabeth Cady Stanton, Lucretia Mott, Mary Ann McClintock, and Jane Hunt. They patterned their "Declaration of Sentiments" on the Declaration of Independence, in which they

demanded social and political equality for women. Their motto was that "All men *and women* are created equal", and they demanded the right to vote.[217][218]

Elizabeth Cady Stanton and her two sons (1848)

Twentieth century and later

The Declaration was chosen to be the first digitized text (1971).[219]

The Memorial to the 56 Signers of the Declaration of Independence was dedicated in 1984 in Constitution Gardens on the National Mall in Washington, D.C., where the signatures of all the original signers are carved in stone with their names, places of residence, and occupations.

The new One World Trade Center building in New York City (2014) is 1776 feet high to symbolize the year that the Declaration of Independence was signed.[220][221][222]

Popular culture

The adoption of the Declaration of Independence was dramatized in the 1969 Tony Award-winning musical *1776* and the 1972 film version, as well as in the 2008 television miniseries *John Adams*.[223][224] In 1970, The 5th Dimension recorded the opening of the Declaration on their album *Portrait* in the song "Declaration". It was first performed on the *Ed Sullivan Show* on December 7, 1969, and it was taken as a song of protest against the Vietnam War.[225] The Declaration of Independence is a plot device in the 2004 American film *National Treasure*.[226] After the 2009 death of radio broadcaster Paul Harvey, Focus Today aired a "clip" of Harvey speaking about the lives of all the signers of the Declaration of Independence.[227]

See also

- Grievances of the United States Declaration of Independence

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94. Maier found no evidence that the Dutch Act of Abjuration served as a model for the Declaration, and considers the argument "unpersuasive" (*American Scripture*, p. 264). Armitage discounts the influence of the Scottish and Dutch acts, and writes that neither was called "declarations of independence" until fairly recently (*Global History*, pp. 42–44). For the argument in favor of the influence of the Dutch act, see Stephen E. Lucas, "The 'Plakkaat van Verlatinge': A Neglected Model for the American Declaration of Independence", in Rosemarijn Hofte and Johanna C. Kardux, eds., *Connecting Cultures: The Netherlands in Five Centuries of Transatlantic Exchange* (Amsterdam, 1994), 189–207, and Barbara Wolff, "Was the Declaration of Independence Inspired by the Dutch?" University of Wisconsin Madison News, June 29, 1988, http://www.news.wisc.edu/3049 Archived (https://web.archive.org/web/20071213022057/http://www.news.wisc.edu/3049) December 13, 2007, at the Wayback Machine Accessed July 3, 2013.
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99. A brief, online overview of the classical liberalism vs. republicanism debate is Alec Ewald, "The American Republic: 1760–1870" (2004) (http://www.flowofhistory.org/themes/american_republic/overview.php) Archived (https://web.archive.org/web/20080517080053/http://www.flowofhistory.org/themes/american_republic/overview.php) May 17, 2008, at the Wayback Machine. In a similar vein, historian Robert Middlekauff argues that the political ideas of the independence movement took their origins mainly from the "eighteenth-century commonwealthmen, the radical Whig ideology", which in turn drew on the political thought of John Milton, James Harrington, and John Locke. See Robert Middlekauff (2005), *The Glorious Cause*, pp. 3–6, 51–52, 136
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External links

- "Declare the Causes: The Declaration of Independence" (http://edsitement.neh.gov/lesson-plan/declare-causes-declaration-independence) lesson plan for grades 9–12 from National Endowment for the Humanities
- Declaration of Independence at the National Archives (https://www.archives.gov/exhibits/charters/declaration.html)
- Declaration of Independence at the Library of Congress (https://www.loc.gov/rr/program/bib/ourdocs/DeclarInd.html)
- Mobile-friendly Declaration of Independence (https://uscon.mobi/ind/)

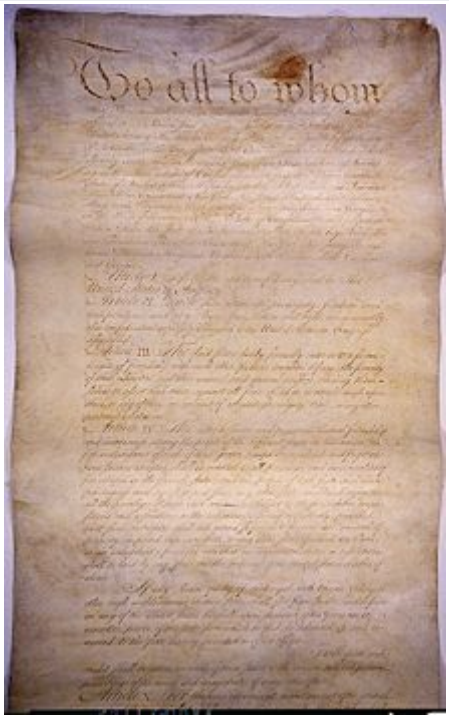
Articles of Confederation

The **Articles of Confederation and Perpetual Union** was an agreement among the 13 original states of the United States of America that served as its first constitution.[1] It was approved after much debate (between July 1776 and November 1777) by the Second Continental Congress on November 15, 1777, and sent to the states for ratification. The Articles of Confederation came into force on March 1, 1781, after ratification by all the states. A guiding principle of the Articles was to preserve the independence and sovereignty of the states. The weak central government established by the Articles received only those powers which the former colonies had recognized as belonging to king and parliament.[2]

The document provided clearly written rules for how the states' "league of friendship" would be organized. During the ratification process, the Congress looked to the Articles for guidance as it conducted business, directing the war effort, conducting diplomacy with foreign states, addressing territorial issues and dealing with Native American relations. Little changed politically once the Articles of Confederation went into effect, as ratification did little more than legalize what the Continental Congress had been doing. That body was renamed the Congress of the Confederation; but most Americans continued to call it the *Continental Congress*, since its organization remained the same.[2]

As the Confederation Congress attempted to govern the continually growing American states, delegates discovered that the limitations placed upon the central government rendered it ineffective at doing so. As the government's weaknesses became apparent, especially after Shays' Rebellion, some prominent political thinkers in the fledgling union began asking for changes to the Articles. Their hope was to create a stronger government. Initially, some states met to deal with their trade and economic problems. However, as more states became interested in meeting to change the Articles, a meeting was set in Philadelphia on May 25, 1787. This became the Constitutional Convention. It was quickly agreed that changes would not work, and instead the entire Articles needed to be replaced.[3] On March 4, 1789, the government under the Articles was replaced with the federal government under the Constitution.[4] The new Constitution provided for a much stronger federal government by establishing a chief executive (the President), courts, and taxing powers.

Articles of Confederation



Page I of the Articles of Confederation

Created	November 15, 1777
Ratified	March 1, 1781
Location	National Archives
Author(s)	Continental Congress
Signatories	Continental Congress
Purpose	First constitution for the United States; replaced by the current United States Constitution on March 4, 1789

Contents

Background and context

Drafting
Ratification
Article summaries
Congress under the Articles
- The army
- Foreign policy
- Taxation and commerce
- Accomplishments
- Presidents of Congress

The U.S. under the Articles
Signatures
- Signers

Parchment pages
Revision and replacement
- Legitimacy of closing down
- Final months

See also
References
Further reading
External links

Background and context

The political push to increase cooperation among the then-loyal colonies began with the Albany Congress in 1754 and Benjamin Franklin's proposed Albany Plan, an inter-colonial collaboration to help solve mutual local problems. Over the next two decades, some of the basic concepts it addressed would strengthen; others would weaken, especially in the degree of loyalty (or lack thereof) owed the Crown. Civil disobedience resulted in coercive and quelling measures, such as the passage of what the colonials referred to as the Intolerable Acts in the British Parliament, and armed skirmishes which resulted in dissidents being proclaimed rebels. These actions eroded the number of Crown Loyalists (Tories) among the colonials and, together with the highly effective propaganda campaign of the Patriot leaders, caused an increasing number of colonists to begin agitating for independence from the mother country. In 1775, with events outpacing communications, the Second Continental Congress began acting as the provisional government.

It was an era of constitution writing—most states were busy at the task—and leaders felt the new nation must have a written constitution; a "rulebook" for how the new nation should function. During the war, Congress exercised an unprecedented level of political, diplomatic, military and economic authority. It adopted trade restrictions, established and maintained an army, issued fiat money, created a military code and negotiated with foreign governments.[5]

To transform themselves from outlaws into a legitimate nation, the colonists needed international recognition for their cause and foreign allies to support it. In early 1776, Thomas Paine argued in the closing pages of the first edition of *Common Sense* that the "custom of nations" demanded a formal declaration of American independence if any European power were to mediate a peace between the Americans and Great Britain. The monarchies of France and Spain, in particular, could not be expected to aid those they considered rebels against another legitimate monarch. Foreign courts needed to have American grievances laid before them

persuasively in a "manifesto" which could also reassure them that the Americans would be reliable trading partners. Without such a declaration, Paine concluded, "[t]he custom of all courts is against us, and will be so, until, by an independence, we take rank with other nations."[6]

Beyond improving their existing association, the records of the Second Continental Congress show that the need for a declaration of independence was intimately linked with the demands of international relations. On June 7, 1776, Richard Henry Lee introduced a resolution before the Continental Congress declaring the colonies independent; at the same time, he also urged Congress to resolve "to take the most effectual measures for forming foreign Alliances" and to prepare a plan of confederation for the newly independent states. Congress then created three overlapping committees to draft the Declaration, a model treaty, and the Articles of Confederation. The Declaration announced the states' entry into the international system; the model treaty was designed to establish amity and commerce with other states; and the Articles of Confederation, which established "a firm league" among the thirteen free and independent states, constituted an international agreement to set up central institutions for the conduct of vital domestic and foreign affairs.[7]

Drafting

On June 12, 1776, a day after appointing a committee to prepare a draft of the Declaration of Independence, the Second Continental Congress resolved to appoint a committee of 13 to prepare a draft of a constitution for a union of the states. The committee met frequently, and chairman John Dickinson presented their results to the Congress on July 12, 1776. Afterward, there were long debates on such issues as state sovereignty, the exact powers to be given to Congress, whether to have a judiciary, western land claims and voting procedures.[8] To further complicate work on the constitution, Congress was forced to leave Philadelphia twice, for Baltimore, Maryland, in the winter of 1776, and later for Lancaster then York, Pennsylvania, in the fall of 1777, to evade advancing British troops. Even so, the committee continued with its work.

1977 13-cent U.S. Postage stamp commemorating the Articles of Confederation bicentennial; the draft was completed on November 15, 1777

The final draft of the *Articles of Confederation and Perpetual Union* was completed on November 15, 1777.[9] Consensus was achieved by: including language guaranteeing that each state retained its sovereignty, leaving the matter of western land claims in the hands of the individual states, including language stating that votes in Congress would be *en bloc* by state, and establishing a unicameral legislature with limited and clearly delineated powers.[10]

Ratification

The Articles of Confederation was submitted to the states for ratification in late November 1777. The first state to ratify was Virginia on December 16, 1777; 12 states had ratified the Articles by February 1779, 14 months into the process.[11] The lone holdout, Maryland, refused to go along until the landed states, especially Virginia, had indicated they were prepared to cede their claims west of the Ohio River to the Union.[12] It would be two years before the Maryland General Assembly became satisfied that the various states would follow through, and voted to ratify. During this time, Congress observed the Articles as its de facto frame of government. Maryland finally ratified the Articles on February 2, 1781. Congress was informed of Maryland's assent on March 1, and officially proclaimed the Articles of Confederation to be the law of the land.[11][13][14]

The several states ratified the Articles of Confederation on the following dates:[15]

	State	Date
1	Virginia	December 16, 1777
2	South Carolina	February 5, 1778
3	New York	February 6, 1778
4	Rhode Island	February 9, 1778
5	Connecticut	February 12, 1778
6	Georgia	February 26, 1778
7	New Hampshire	March 4, 1778
8	Pennsylvania	March 5, 1778
9	Massachusetts	March 10, 1778
10	North Carolina	April 5, 1778
11	New Jersey	November 19, 1778
12	Delaware	February 1, 1779
13	Maryland	February 2, 1781

Article summaries

The Articles of Confederation contain a preamble, thirteen articles, a conclusion, and a signatory section. The individual articles set the rules for current and future operations of the confederation's central government. Under the Articles, the states retained sovereignty over all governmental functions not specifically relinquished to the national Congress, which was empowered to make war and peace, negotiate diplomatic and commercial agreements with foreign countries, and to resolve disputes between the states. The document also stipulates that its provisions "shall be inviolably observed by every state" and that "the Union shall be perpetual".

Summary of the purpose and content of each of the 13 articles:

1. Establishes the name of the confederation with these words: "The stile of this confederacy shall be 'The United States of America.'"
2. Asserts the sovereignty of each state, except for the specific powers delegated to the confederation government: "Each state retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this Confederation expressly delegated."
3. Declares the purpose of the confederation: "The said States hereby severally enter into a firm league of friendship with each other, for their common defense, the security of their liberties, and their mutual and general welfare, binding themselves to assist each other, against all force

offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretense whatever."

4. Elaborates upon the intent "to secure and perpetuate mutual friendship and intercourse among the people of the different States in this union," and to establish equal treatment and freedom of movement for the free inhabitants of each state to pass unhindered between the states, excluding "paupers, vagabonds, and fugitives from justice." All these people are entitled to equal rights established by the state into which they travel. If a crime is committed in one state and the perpetrator flees to another state, he will be extradited to and tried in the state in which the crime was committed.
5. Allocates one vote in the Congress of the Confederation (the "United States in Congress Assembled") to each state, which is entitled to a delegation of between two and seven members. Members of Congress are to be appointed by state legislatures. No congressman may serve more than three out of any six years.
6. Only the central government may declare war, or conduct foreign political or commercial relations. No state or official may accept foreign gifts or titles, and granting any title of nobility is forbidden to all. No states may form any sub-national groups. No state may tax or interfere with treaty stipulations already proposed. No state may wage war without permission of Congress, unless invaded or under imminent attack on the frontier; no state may maintain a peacetime standing army or navy, unless infested by pirates, but every State is required to keep ready, a well-trained, disciplined, and equipped militia.
7. Whenever an army is raised for common defense, the state legislatures shall assign military ranks of colonel and below.
8. Expenditures by the United States of America will be paid with funds raised by state legislatures, and apportioned to the states in proportion to the real property values of each.
9. Powers and functions of the United States in Congress Assembled.
    - Grants to the United States in Congress assembled the sole and exclusive right and power to determine peace and war; to exchange ambassadors; to enter into treaties and alliances, with some provisos; to establish rules for deciding all cases of captures or prizes on land or water; to grant letters of marque and reprisal (documents authorizing privateers) in times of peace; to appoint courts for the trial of pirates and crimes committed on the high seas; to establish courts for appeals in all cases of captures, but no member of Congress may be appointed a judge; to set weights and measures (including coins), and for Congress to serve as a final court for disputes between states.
    - The court will be composed of jointly appointed commissioners or Congress shall appoint them. Each commissioner is bound by oath to be impartial. The court's decision is final.
    - Congress shall regulate the post offices; appoint officers in the military; and regulate the armed forces.
    - The United States in Congress assembled may appoint a president who shall not serve longer than one year per three-year term of the Congress.
    - Congress may request requisitions (demands for payments or supplies) from the states in proportion with their population, or take credit.
    - Congress may not declare war, enter into treaties and alliances, appropriate money, or appoint a commander in chief without nine states assented. Congress shall keep a journal of proceedings and adjourn for periods not to exceed six months.
10. When Congress is in recess, any of the powers of Congress may be executed by "The committee of the states, or any nine of them", except for those powers of Congress which require nine states *in* Congress to execute.
11. If Canada [referring to the British Province of Quebec] accedes to this confederation, it will be admitted.[16] No other colony could be admitted without the consent of nine states.
12. Affirms that the Confederation will honor all bills of credit incurred, monies borrowed, and debts contracted by Congress before the existence of the Articles.

13. Declares that the Articles shall be perpetual, and may be altered only with the approval of Congress and the ratification of all the state legislatures.

Congress under the Articles

The army

Under the Articles, Congress had the authority to regulate and fund the Continental Army, but it lacked the power to compel the States to comply with requests for either troops or funding. This left the military vulnerable to inadequate funding, supplies, and even food.[17] Further, although the Articles enabled the states to present a unified front when dealing with the European powers, as a tool to build a centralized war-making government, they were largely a failure; Historian Bruce Chadwick wrote:

> George Washington had been one of the very first proponents of a strong federal government. The army had nearly disbanded on several occasions during the winters of the war because of the weaknesses of the Continental Congress. ... The delegates could not draft soldiers and had to send requests for regular troops and militia to the states. Congress had the right to order the production and purchase of provisions for the soldiers, but could not force anyone to supply them, and the army nearly starved in several winters of war.[18]

Phelps wrote:

> It is hardly surprising, given their painful confrontations with a weak central government and the sovereign states, that the former generals of the Revolution as well as countless lesser officers strongly supported the creation of a more muscular union in the 1780s and fought hard for the ratification of the Constitution in 1787. Their wartime experiences had nationalized them.[19]

The Continental Congress, before the Articles were approved, had promised soldiers a pension of half pay for life. However Congress had no power to compel the states to fund this obligation, and as the war wound down after the victory at Yorktown the sense of urgency to support the military was no longer a factor. No progress was made in Congress during the winter of 1783–84. General Henry Knox, who would later become the first Secretary of War under the Constitution, blamed the weaknesses of the Articles for the inability of the government to fund the army. The army had long been supportive of a strong union.[20]Knox wrote:

> The army generally have always reprobated the idea of being thirteen armies. Their ardent desires have been to be one continental body looking up to one sovereign. ... It is a favorite toast in the army, "A hoop to the barrel" or "Cement to the Union".[21]

As Congress failed to act on the petitions, Knox wrote to Gouverneur Morris, four years before the Philadelphia Convention was convened, "As the present Constitution is so defective, why do not you great men call the people together and tell them so; that is, to have a convention of the States to form a better Constitution."[21]

Once the war had been won, the Continental Army was largely disbanded. A very small national force was maintained to man the frontier forts and to protect against Native American attacks. Meanwhile, each of the states had an army (or militia), and 11 of them had navies. The wartime promises of bounties and land grants to

be paid for service were not being met. In 1783, George Washington defused the Newburgh conspiracy, but riots by unpaid Pennsylvania veterans forced Congress to leave Philadelphia temporarily.[22]

The Congress from time to time during the Revolutionary War requisitioned troops from the states. Any contributions were voluntary, and in the debates of 1788, the Federalists (who supported the proposed new Constitution) claimed that state politicians acted unilaterally, and contributed when the Continental army protected their state's interests. The Anti-Federalists claimed that state politicians understood their duty to the Union and contributed to advance its needs. Dougherty (2009) concludes that generally the States' behavior validated the Federalist analysis. This helps explain why the Articles of Confederation needed reforms.[23]

Foreign policy

The 1783 Treaty of Paris, which ended hostilities with Great Britain, languished in Congress for several months because too few delegates were present at any one time to constitute a quorum so that it could be ratified. Afterward, the problem only got worse as Congress had no power to enforce attendance. Rarely did more than half of the roughly sixty delegates attend a session of Congress at the time, causing difficulties in raising a quorum. The resulting paralysis embarrassed and frustrated many American nationalists, including George Washington. Many of the most prominent national leaders, such as Washington, John Adams, John Hancock, and Benjamin Franklin, retired from public life, served as foreign delegates, or held office in state governments; and for the general public, local government and self-rule seemed quite satisfactory. This served to exacerbate Congress's impotence.[24]

Inherent weaknesses in the confederation's frame of government also frustrated the ability of the government to conduct foreign policy. In 1786, Thomas Jefferson, concerned over the failure of Congress to fund an American naval force to confront the Barbary pirates, wrote in a diplomatic correspondence to James Monroe that, "It will be said there is no money in the treasury. There never will be money in the treasury till the Confederacy shows its teeth."[25]

Furthermore, the 1786 Jay–Gardoqui Treaty with Spain also showed weakness in foreign policy. In this treaty, which was never ratified, the United States was to give up rights to use the Mississippi River for 25 years, which would have economically strangled the settlers west of the Appalachian Mountains. Finally, due to the Confederation's military weakness, it could not compel the British army to leave frontier forts which were on American soil — forts which, in 1783, the British promised to leave, but which they delayed leaving pending U.S. implementation of other provisions such as ending action against Loyalists and allowing them to seek compensation. This incomplete British implementation of the Treaty of Paris would later be resolved by the implementation of Jay's Treaty in 1795 after the federal Constitution came into force.

Taxation and commerce

Under the Articles of Confederation, the central government's power was kept quite limited. The Confederation Congress could make decisions but lacked enforcement powers. Implementation of most decisions, including modifications to the Articles, required unanimous approval of all thirteen state legislatures.[26]

Congress was denied any powers of taxation: it could only request money from the states. The states often failed to meet these requests in full, leaving both Congress and the Continental Army chronically short of money. As more money was printed by Congress, the continental dollars depreciated. In 1779, George Washington wrote to John Jay, who was serving as the president of the Continental Congress, "that a wagon load of money will scarcely purchase a wagon load of provisions."[27] Mr. Jay and the Congress responded in May by requesting $45 million from the States. In an appeal to the States to comply, Jay wrote that the taxes were "the price of liberty, the peace, and the safety of yourselves and posterity."[28] He argued that Americans

should avoid having it said "that America had no sooner become independent than she became insolvent" or that "her infant glories and growing fame were obscured and tarnished by broken contracts and violated faith."[29] The States did not respond with any of the money requested from them.

Congress had also been denied the power to regulate either foreign trade or interstate commerce and, as a result, all of the States maintained control over their own trade policies. The states and the Confederation Congress both incurred large debts during the Revolutionary War, and how to repay those debts became a major issue of debate following the War. Some States paid off their war debts and others did not. Federal assumption of the states' war debts became a major issue in the deliberations of the Constitutional Convention.

Accomplishments

Nevertheless, the Confederation Congress did take two actions with long-lasting impact. The Land Ordinance of 1785 and Northwest Ordinance created territorial government, set up protocols for the admission of new states and the division of land into useful units, and set aside land in each township for public use. This system represented a sharp break from imperial colonization, as in Europe, and it established the precedent by which the national (later, federal) government would be sovereign and expand westward—as opposed to the existing states doing so under their sovereignty.[30]

The Land Ordinance of 1785 established both the general practices of land surveying in the west and northwest and the land ownership provisions used throughout the later westward expansion beyond the Mississippi River. Frontier lands were surveyed into the now-familiar squares of land called the township (36 square miles), the section (one square mile), and the quarter section (160 acres). This system was carried forward to most of the States west of the Mississippi (excluding areas of Texas and California that had already been surveyed and divided up by the Spanish Empire). Then, when the Homestead Act was enacted in 1867, the quarter section became the basic unit of land that was granted to new settler-farmers.

The Northwest Ordinance of 1787 noted the agreement of the original states to give up northwestern land claims, organized the Northwest Territory and laid the groundwork for the eventual creation of new states. While it didn't happen under the articles, the land north of the Ohio River and west of the (present) western border of Pennsylvania ceded by Massachusetts, Connecticut, New York, Pennsylvania, and Virginia, eventually became the states of: Ohio, Indiana, Illinois, Michigan, and Wisconsin, and the part of Minnesota east of the Mississippi River. The Northwest Ordinance of 1787 also made great advances in the abolition of slavery. New states admitted to the union in this territory would never be slave states.

No new states were admitted to the Union under the Articles of Confederation. The Articles provided for a blanket acceptance of the Province of Quebec (referred to as "Canada" in the Articles) into the United States if it chose to do so. It did not, and the subsequent Constitution carried no such special provision of admission. Additionally, ordinances to admit Frankland (later modified to Franklin), Kentucky, and Vermont to the Union were considered, but none were approved.

Presidents of Congress

Under the Articles of Confederation, the presiding officer of Congress—referred to in many official records as *President of the United States in Congress Assembled*—chaired the Committee of the States when Congress was in recess, and performed other administrative functions. He was not, however, an executive in the way the later President of the United States is a chief executive, since all of the functions he executed were under the direct control of Congress.[31]

There were 10 presidents of Congress under the Articles. The first, Samuel Huntington, had been serving as president of the Continental Congress since September 28, 1779.

President	Term
Samuel Huntington	March 1, 1781 – July 10, 1781
Thomas McKean	July 10, 1781 – November 5, 1781
John Hanson	November 5, 1781 – November 4, 1782
Elias Boudinot	November 4, 1782 – November 3, 1783
Thomas Mifflin	November 3, 1783 – June 3, 1784
Richard Henry Lee	November 30, 1784 – November 4, 1785
John Hancock	November 23, 1785 – June 5, 1786
Nathaniel Gorham	June 6, 1786 – November 3, 1786
Arthur St. Clair	February 2, 1787 – November 4, 1787
Cyrus Griffin	January 22, 1788 – November 15, 1788

The U.S. under the Articles

The peace treaty left the United States independent and at peace but with an unsettled governmental structure. The Articles envisioned a permanent confederation but granted to the Congress—the only federal institution—little power to finance itself or to ensure that its resolutions were enforced. There was no president, no executive agencies, no judiciary, and no tax base. The absence of a tax base meant that there was no way to pay off state and national debts from the war years except by requesting money from the states, which seldom arrived.[32][33] Although historians generally agree that the Articles were too weak to hold the fast-growing nation together, they do give credit to the settlement of the western issue, as the states voluntarily turned over their lands to national control.[34]

By 1783, with the end of the British blockade, the new nation was regaining its prosperity. However, trade opportunities were restricted by the mercantilism of the British and French empires. The ports of the British West Indies were closed to all staple products which were not carried in British ships. France and Spain established similar policies. Simultaneously, new manufacturers faced sharp competition from British products which were suddenly available again. Political unrest in several states and efforts by debtors to use popular government to erase their debts increased the anxiety of the political and economic elites which had led the Revolution. The apparent inability of the Congress to redeem the public obligations (debts) incurred during the war, or to become a forum for productive cooperation among the states to encourage commerce and economic development, only aggravated a gloomy situation. In 1786–87, Shays' Rebellion, an uprising of dissidents in western Massachusetts against the state court system, threatened the stability of state government.[35]

The Continental Congress printed paper money which was so depreciated that it ceased to pass as currency, spawning the expression "not worth a continental". Congress could not levy taxes and could only make requisitions upon the States. Less than a million and a half dollars came into the treasury between 1781 and 1784, although the governors had been asked for two million in 1783 alone.[36]

When John Adams went to London in 1785 as the first representative of the United States, he found it impossible to secure a treaty for unrestricted commerce. Demands were made for favors and there was no assurance that individual states would agree to a treaty. Adams stated it was necessary for the States to confer the power of passing navigation laws to Congress, or that the States themselves pass retaliatory acts against Great Britain. Congress had already requested and failed to get power over navigation laws. Meanwhile, each State acted individually against Great Britain to little effect. When other New England states closed their ports to British shipping, Connecticut hastened to profit by opening its ports.[37]

By 1787 Congress was unable to protect manufacturing and shipping. State legislatures were unable or unwilling to resist attacks upon private contracts and public credit. Land speculators expected no rise in values when the government could not defend its borders nor protect its frontier population.[38]

The idea of a convention to revise the Articles of Confederation grew in favor. Alexander Hamilton realized while serving as Washington's top aide that a strong central government was necessary to avoid foreign intervention and allay the frustrations due to an ineffectual Congress. Hamilton led a group of like-minded nationalists, won Washington's endorsement, and convened the Annapolis Convention in 1786 to petition Congress to call a constitutional convention to meet in Philadelphia to remedy the long-term crisis.[39]

Signatures

The Second Continental Congress approved the Articles for distribution to the states on November 15, 1777. A copy was made for each state and one was kept by the Congress. On November 28, the copies sent to the states for ratification were unsigned, and the cover letter, dated November 17, had only the signatures of Henry Laurens and Charles Thomson, who were the President and Secretary to the Congress.

The Articles, however, were unsigned, and the date was blank. Congress began the signing process by examining their copy of the Articles on June 27, 1778. They ordered a final copy prepared (the one in the National Archives), and that delegates should inform the secretary of their authority for ratification.

On July 9, 1778, the prepared copy was ready. They dated it and began to sign. They also requested each of the remaining states to notify its delegation when ratification was completed. On that date, delegates present from New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, Virginia and South Carolina signed the Articles to indicate that their states had ratified. New Jersey, Delaware and Maryland could not, since their states had not ratified. North Carolina and Georgia also were unable to sign that day, since their delegations were absent.

After the first signing, some delegates signed at the next meeting they attended. For example, John Wentworth of New Hampshire added his name on August 8. John Penn was the first of North Carolina's delegates to arrive (on July 10), and the delegation signed the Articles on July 21, 1778.

The other states had to wait until they ratified the Articles and notified their Congressional delegation. Georgia signed on July 24, New Jersey on November 26, and Delaware on February 12, 1779. Maryland refused to ratify the Articles until every state had ceded its western land claims. Chevalier de La Luzerne, French Minister to the United States, felt that the Articles would help strengthen the American government. In 1780 when Maryland requested France provide naval forces in the Chesapeake Bay for protection from the British (who were conducting raids in the lower part of the bay), he indicated that French Admiral Destouches would do what he could but La Luzerne also “sharply pressed” Maryland to ratify the Articles, thus suggesting the two issues were related.[40]

On February 2, 1781, the much-awaited decision was taken by the Maryland General Assembly in Annapolis.[41] As the last piece of business during the afternoon Session, "among engrossed Bills" was "signed and sealed by Governor Thomas Sim Lee in the Senate Chamber, in the presence of the members of both Houses... an Act to empower the delegates of this state in Congress to subscribe and ratify the articles of confederation" and perpetual union among the states. The Senate then adjourned "to the first Monday in August next." The decision of Maryland to ratify the Articles was reported to the Continental Congress on February 12. The confirmation signing of the Articles by the two Maryland delegates took place in Philadelphia at noon time on March 1, 1781, and was celebrated in the afternoon. With these events, the Articles were entered into force and the United States of America came into being as a sovereign federal state.

Congress had debated the Articles for over a year and a half, and the ratification process had taken nearly three and a half years. Many participants in the original debates were no longer delegates, and some of the signers had only recently arrived. The Articles of Confederation and Perpetual Union were signed by a group of men who were never present in the Congress at the same time.

The Act of the Maryland legislature to ratify the Articles of Confederation, February 2, 1781

Signers

The signers and the states they represented were:

Connecticut

- Roger Sherman
- Samuel Huntington
- Oliver Wolcott
- Titus Hosmer
- Andrew Adams

Delaware

- Thomas McKean
- John Dickinson
- Nicholas Van Dyke

Georgia

- John Walton
- Edward Telfair
- Edward Langworthy

Maryland

- John Hanson
- Daniel Carroll

Massachusetts Bay

- John Hancock
- Samuel Adams
- Elbridge Gerry
- Francis Dana
- James Lovell

- Samuel Holten

New Hampshire

- Josiah Bartlett
- John Wentworth Jr.

New Jersey

- John Witherspoon
- Nathaniel Scudder

New York

- James Duane
- Francis Lewis
- William Duer
- Gouverneur Morris

North Carolina

- John Penn
- Cornelius Harnett
- John Williams

Pennsylvania

- Robert Morris
- Daniel Roberdeau
- Jonathan Bayard Smith
- William Clingan
- Joseph Reed

Rhode Island and Providence Plantations

- William Ellery
- Henry Marchant
- John Collins

South Carolina

- Henry Laurens
- William Henry Drayton
- John Mathews
- Richard Hutson
- Thomas Heyward Jr.

Virginia

- Richard Henry Lee
- John Banister

- Thomas Adams
- John Harvie
- Francis Lightfoot Lee

Roger Sherman (Connecticut) was the only person to sign all four great state papers of the United States: the Continental Association, the United States Declaration of Independence, the Articles of Confederation and the United States Constitution.

Robert Morris (Pennsylvania) signed three of the great state papers of the United States: the United States Declaration of Independence, the Articles of Confederation and the United States Constitution.

John Dickinson (Delaware), Daniel Carroll (Maryland) and Gouverneur Morris (New York), along with Sherman and Robert Morris, were the only five people to sign both the Articles of Confederation and the United States Constitution (Gouverneur Morris represented Pennsylvania when signing the Constitution).

Parchment pages

Original parchment pages of the Articles of Confederation, National Archives and Records Administration.

Preamble to Art. V, Sec. 1

Art. V, Sec. 2 to Art. VI

Art. VII to Art. IX, Sec. 2

Art. IX, Sec. 2 to Sec. 5

Art. IX, Sec. 5 to Art. XIII, Sec. 2

Art. XIII, Sec. 2 to signatures

Revision and replacement

On January 21, 1786, the Virginia Legislature, following James Madison's recommendation, invited all the states to send delegates to Annapolis, Maryland, to discuss ways to reduce interstate conflict. At what came to be known as the Annapolis Convention, the few state delegates in attendance endorsed a motion that called for all states to meet in Philadelphia in May 1787 to discuss ways to improve the Articles of Confederation in a "Grand Convention." Although the states' representatives to the Constitutional Convention in Philadelphia were only authorized to amend the Articles, the representatives held secret, closed-door sessions and wrote a

new constitution. The new Constitution gave much more power to the central government, but characterization of the result is disputed. The general goal of the authors was to get close to a republic as defined by the philosophers of the Age of Enlightenment, while trying to address the many difficulties of the interstate relationships. Historian Forrest McDonald, using the ideas of James Madison from *Federalist 39*, described the change this way:

> The constitutional reallocation of powers created a new form of government, unprecedented under the sun. Every previous national authority either had been centralized or else had been a confederation of sovereign states. The new American system was neither one nor the other; it was a mixture of both.[42]

In May 1786, Charles Pinckney of South Carolina proposed that Congress revise the Articles of Confederation. Recommended changes included granting Congress power over foreign and domestic commerce, and providing means for Congress to collect money from state treasuries. Unanimous approval was necessary to make the alterations, however, and Congress failed to reach a consensus. The weakness of the Articles in establishing an effective unifying government was underscored by the threat of internal conflict both within and between the states, especially after Shays' Rebellion threatened to topple the state government of Massachusetts.

Historian Ralph Ketcham commented on the opinions of Patrick Henry, George Mason, and other Anti-Federalists who were not so eager to give up the local autonomy won by the revolution:

> Antifederalists feared what Patrick Henry termed the "consolidated government" proposed by the new Constitution. They saw in Federalist hopes for commercial growth and international prestige only the lust of ambitious men for a "splendid empire" that, in the time-honored way of empires, would oppress the people with taxes, conscription, and military campaigns. Uncertain that any government over so vast a domain as the United States could be controlled by the people, Antifederalists saw in the enlarged powers of the general government only the familiar threats to the rights and liberties of the people.[43]

Historians have given many reasons for the perceived need to replace the articles in 1787. Jillson and Wilson (1994) point to the financial weakness as well as the norms, rules and institutional structures of the Congress, and the propensity to divide along sectional lines.

Rakove identifies several factors that explain the collapse of the Confederation.[44] The lack of compulsory direct taxation power was objectionable to those wanting a strong centralized state or expecting to benefit from such power. It could not collect customs after the war because tariffs were vetoed by Rhode Island. Rakove concludes that their failure to implement national measures "stemmed not from a heady sense of independence but rather from the enormous difficulties that all the states encountered in collecting taxes, mustering men, and gathering supplies from a war-weary populace."[45] The second group of factors Rakove identified derived from the substantive nature of the problems the Continental Congress confronted after 1783, especially the inability to create a strong foreign policy. Finally, the Confederation's lack of coercive power reduced the likelihood for profit to be made by political means, thus potential rulers were uninspired to seek power.

When the war ended in 1783, certain special interests had incentives to create a new "merchant state," much like the British state people had rebelled against. In particular, holders of war scrip and land speculators wanted a central government to pay off scrip at face value and to legalize western land holdings with disputed claims. Also, manufacturers wanted a high tariff as a barrier to foreign goods, but competition among states made this impossible without a central government.[46]

Legitimacy of closing down

Two prominent political leaders in the Confederation, John Jay of New York and Thomas Burke of North Carolina believed that "the authority of the congress rested on the prior acts of the several states, to which the states gave their voluntary consent, and until those obligations were fulfilled, neither nullification of the authority of congress, exercising its due powers, nor secession from the compact itself was consistent with the terms of their original pledges."[47]

According to Article XIII of the Confederation, any alteration had to be approved unanimously:

> [T]he Articles of this Confederation shall be inviolably observed by every State, and the Union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them; unless such alteration be agreed to in a Congress of the United States, and be afterwards confirmed by the legislatures of every State.

On the other hand, Article VII of the proposed Constitution stated that it would become effective after ratification by a mere nine states, without unanimity:

> The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.

The apparent tension between these two provisions was addressed at the time, and remains a topic of scholarly discussion. In 1788, James Madison remarked (in *Federalist No. 40*) that the issue had become moot: "As this objection… has been in a manner waived by those who have criticised the powers of the convention, I dismiss it without further observation." Nevertheless, it is a historical and legal question whether opponents of the Constitution could have plausibly attacked the Constitution on that ground. At the time, there were state legislators who argued that the Constitution was not an alteration of the Articles of Confederation, but rather would be a complete replacement so the unanimity rule did not apply.[48] Moreover, the Confederation had proven woefully inadequate and therefore was supposedly no longer binding.[48]

Modern scholars such as Francisco Forrest Martin agree that the Articles of Confederation had lost its binding force because many states had violated it, and thus "other states-parties did not have to comply with the Articles' unanimous consent rule".[49] In contrast, law professor Akhil Amar suggests that there may not have really been any conflict between the Articles of Confederation and the Constitution on this point; Article VI of the Confederation specifically allowed side deals among states, and the Constitution could be viewed as a side deal until all states ratified it.[50]

Final months

On July 3, 1788, the Congress received New Hampshire's all-important ninth ratification of the proposed Constitution, thus, according to its terms, establishing it as the new framework of governance for the ratifying states. The following day delegates considered a bill to admit Kentucky into the Union as a sovereign state. The discussion ended with Congress making the determination that, in light of this development, it would be "unadvisable" to admit Kentucky into the Union, as it could do so "under the Articles of Confederation" only, but not "under the Constitution".[51]

By the end of July 1788, 11 of the 13 states had ratified the new Constitution. Congress continued to convene under the Articles with a quorum until October.[52][53] On Saturday, September 13, 1788, the Confederation Congress voted the resolve to implement the new Constitution, and on Monday, September 15 published an

announcement that the new Constitution had been ratified by the necessary nine states, set the first Wednesday in January 1789 for appointing electors, set the first Wednesday in February 1789 for the presidential electors to meet and vote for a new president, and set the first Wednesday of March 1789 as the day "for commencing proceedings" under the new Constitution.[54][55] On that same September 13, it determined that New York would remain the national capital.[54]

See also

- Court of Appeals in Cases of Capture
- History of the United States (1776–1789)
- Perpetual Union
- Vetocracy

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External links

- Text version of the Articles of Confederation (https://www.ourdocuments.gov/print_friendly.php?flash=true&page=transcript&doc=3&title=Transcript+of+Articles+of+Confederation+%281777%29)
- Articles of Confederation and Perpetual Union (http://earlyamerica.com/earlyamerica/milestones/articles/cover.html)
- Articles of Confederation and related resources (https://www.loc.gov/rr/program/bib/ourdocs/articles.html), Library of Congress
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- United States Constitution Online—The Articles of Confederation (http://www.usconstitution.net/articles.html)
- Free Download of Articles of Confederation Audio (http://www.mp3books.com/shop/audio_item.aspx?id=819)
- Mobile friendly (https://uscon.mobi/art/index.html) version of the Articles of Confederation

Constitution of the United States

The **Constitution of the United States** is the supreme law of the United States of America.[2] This founding document, originally comprising seven articles, delineates the national frame of government. Its first three articles embody the doctrine of the separation of powers, whereby the federal government is divided into three branches: the legislative, consisting of the bicameral Congress (Article I); the executive, consisting of the president and subordinate officers (Article II); and the judicial, consisting of the Supreme Court and other federal courts (Article III). Article IV, Article V and Article VI embody concepts of federalism, describing the rights and responsibilities of state governments, the states in relationship to the federal government, and the shared process of constitutional amendment. Article VII establishes the procedure subsequently used by the 13 States to ratify it. It is regarded as the oldest written and codified national constitution in force.[3]

Since the Constitution came into force in 1789, it has been amended 27 times, including one amendment that repealed a previous one,[4] in order to meet the needs of a nation that has profoundly changed since the 18th century.[5] In general, the first ten amendments, known collectively as the Bill of Rights, offer specific protections of individual liberty and justice and place restrictions on the powers of government.[6][7] The majority of the 17 later amendments expand individual civil rights protections. Others address issues related to federal authority or modify government processes and procedures. Amendments to the United States Constitution, unlike ones made to many constitutions worldwide, are appended to the document. All four pages[8] of the original U.S. Constitution are written on parchment.[9]

According to the United States Senate: "The Constitution's first three words—*We the People*—affirm that the government of the United States exists to serve its citizens. For over two centuries the Constitution has remained in force because its framers wisely separated and balanced governmental powers to safeguard the interests of majority rule and minority rights, of liberty and equality, and of the federal and state governments."[5] The first permanent constitution,[a] it is interpreted, supplemented, and implemented by a large body of federal constitutional law, and has influenced the constitutions of other nations.

Contents

Background
First government

Constitution of the United States

Page one of the original copy of the Constitution

Jurisdiction	United States of America
Created	September 17, 1787
Presented	September 28, 1787
Ratified	June 21, 1788
Date effective	March 4, 1789[1]
System	Constitutional presidential republic
Branches	3
Chambers	Bicameral
Executive	President
Judiciary	Supreme, Circuits, Districts
Federalism	Federation
Electoral college	Yes
Entrenchments	2, 1 still active

- Articles of Confederation

History
- 1787 drafting
- 1788 ratification

Influences

Original frame
- Preamble
- Article I
- Article II
- Article III
- Article IV
- Article V
- Article VI
- Article VII
- Closing endorsement

Amending the Constitution

Ratified amendments
- Safeguards of liberty (Amendments 1, 2, and 3)
- Safeguards of justice (Amendments 4, 5, 6, 7, and 8)
- Unenumerated rights and reserved powers (Amendments 9 and 10)
- Governmental authority (Amendments 11, 16, 18, and 21)
- Safeguards of civil rights (Amendments 13, 14, 15, 19, 23, 24, and 26)
- Government processes and procedures (Amendments 12, 17, 20, 22, 25, and 27)

Unratified amendments
- Pending
- Status contested
- No longer pending

Judicial review
- Scope and theory
- Establishment
  - Self-restraint
  - Separation of powers
- Subsequent Courts

Civic religion

Worldwide influence

Criticisms

See also
- Related documents

Notes

First legislature	March 4, 1789
First executive	April 30, 1789
First court	February 2, 1790
Amendments	27
Last amended	May 5, 1992
Citation	*The Constitution of the United States of America, As Amended* (https://www.govinfo.gov/content/pkg/CDOC-110hdoc50/pdf/CDOC-110hdoc50.pdf) (PDF), July 25, 2007
Location	National Archives Building
Commissioned by	Congress of the Confederation
Author(s)	Philadelphia Convention
Signatories	39 of the 55 delegates
Media type	Parchment
Supersedes	Articles of Confederation

References
Works cited
Further reading
External links
U.S. government sources
Non-governmental sources

Background

First government

From September 5, 1774, to March 1, 1781, the Continental Congress functioned as the provisional government of the United States. Delegates to the First (1774) and then the Second (1775–1781) Continental Congress were chosen largely through the action of committees of correspondence in various colonies rather than through the colonial governments of the Thirteen Colonies.[12]

Articles of Confederation

The Articles of Confederation and Perpetual Union was the first constitution of the United States.[13] It was drafted by the Second Continental Congress from mid-1776 through late 1777, and ratification by all 13 states was completed by early 1781. The Articles of Confederation gave little power to the central government. The Confederation Congress could make decisions, but lacked enforcement powers. Implementation of most decisions, including modifications to the Articles, required unanimous approval of all 13 state legislatures.[14]

Although, in a way, the Congressional powers in Article 9 made the "league of states as cohesive and strong as any similar sort of republican confederation in history",[15] the chief problem was, in the words of George Washington, "no money".[16] The Continental Congress could print money but it was worthless. Congress could borrow money, but couldn't pay it back.[16] No state paid all their U.S. taxes; some paid nothing. Some few paid an amount equal to interest on the national debt owed to their citizens, but no more.[16] No interest was paid on debt owed foreign governments. By 1786, the United States would default on outstanding debts as their dates came due.[16]

Internationally, the United States had little ability to defend its sovereignty. Most of the troops in the 625-man United States Army were deployed facing (but not threatening) British forts on American soil. They had not been paid; some were deserting and others threatening mutiny.[17] Spain closed New Orleans to American commerce; U.S. officials protested, but to no effect. Barbary pirates began seizing American ships of commerce; the Treasury had no funds to pay their ransom. If any military crisis required action, the Congress had no credit or taxing power to finance a response.[16]

Domestically, the Articles of Confederation was failing to bring unity to the diverse sentiments and interests of the various states. Although the Treaty of Paris (1783) was signed between Great Britain and the U.S., and named each of the American states, various states proceeded to violate it. New York and South Carolina repeatedly prosecuted Loyalists for wartime activity and redistributed their lands.[16] Individual state legislatures independently laid embargoes, negotiated directly with foreign authorities, raised armies, and made war, all violating the letter and the spirit of the Articles.

In September 1786, during an inter–state convention to discuss and develop a consensus about reversing the protectionist trade barriers that each state had erected, James Madison questioned whether the Articles of Confederation was a binding compact or even a viable government. Connecticut paid nothing and "positively refused" to pay U.S. assessments for two years.[18] A rumor had it that a "seditious party" of New York legislators had opened a conversation with the Viceroy of Canada. To the south, the British were said to be openly funding Creek Indian raids on Georgia, and the state was under martial law.[19] Additionally, during Shays' Rebellion (August 1786 – June 1787) in Massachusetts, Congress could provide no money to support an endangered constituent state. General Benjamin Lincoln was obliged to raise funds from Boston merchants to pay for a volunteer army.[20]

Congress was paralyzed. It could do nothing significant without nine states, and some legislation required all 13. When a state produced only one member in attendance, its vote was not counted. If a state's delegation was evenly divided, its vote could not be counted towards the nine-count requirement.[21] The Congress of the Confederation had "virtually ceased trying to govern".[22] The vision of a "respectable nation" among nations seemed to be fading in the eyes of revolutionaries such as George Washington, Benjamin Franklin, and Rufus King. Their dream of a republic, a nation without hereditary rulers, with power derived from the people in frequent elections, was in doubt.[23][24]

On February 21, 1787, the Confederation Congress called a convention of state delegates at Philadelphia to propose a plan of government.[25] Unlike earlier attempts, the convention was not meant for new laws or piecemeal alterations, but for the "sole and express purpose of revising the Articles of Confederation". The convention was not limited to commerce; rather, it was intended to "render the federal constitution adequate to the exigencies of government and the preservation of the Union." The proposal might take effect when approved by Congress and the states.[26]

History

1787 drafting

On the appointed day, May 14, 1787, only the Virginia and Pennsylvania delegations were present, and so the convention's opening meeting was postponed for lack of a quorum.[27] A quorum of seven states met and deliberations began on May 25. Eventually twelve states were represented; 74 delegates were named, 55 attended and 39 signed.[28] The delegates were generally convinced that an effective central government with a wide range of enforceable powers must replace the weaker Congress established by the Articles of Confederation.

Signing of the Constitution, September 17, 1787

Two plans for structuring the federal government arose at the convention's outset:

- The Virginia Plan (also known as the *Large State Plan* or the *Randolph Plan*) proposed that the legislative department of the national government be composed of a Bicameral Congress, with both chambers elected with apportionment according to population. Generally favoring the most highly populated states, it used the philosophy of John Locke to rely on consent of the governed, Montesquieu for divided government, and Edward Coke to emphasize civil liberties.[29]
- The New Jersey Plan proposed that the legislative department be a unicameral body with one vote per state. Generally favoring the less-populous states, it used the philosophy of English

Whigs such as Edmund Burke to rely on received procedure and William Blackstone to emphasize sovereignty of the legislature. This position reflected the belief that the states were independent entities and, as they entered the United States of America freely and individually, remained so.[30]

On May 31, the Convention devolved into a "Committee of the Whole" to consider the Virginia Plan. On June 13, the Virginia resolutions in amended form were reported out of committee. The New Jersey Plan was put forward in response to the Virginia Plan.

A "Committee of Eleven" (one delegate from each state represented) met from July 2 to 16[31] to work out a compromise on the issue of representation in the federal legislature. All agreed to a republican form of government grounded in representing the people in the states. For the legislature, two issues were to be decided: how the votes were to be allocated among the states in the Congress, and how the representatives should be elected. In its report, now known as the Connecticut Compromise (or "Great Compromise"), the committee proposed proportional representation for seats in the House of Representatives based on population (with the people voting for representatives), and equal representation for each State in the Senate (with each state's legislators generally choosing their respective senators), and that all money bills would originate in the House.[32]

The Great Compromise ended the stalemate between "patriots" and "nationalists", leading to numerous other compromises in a spirit of accommodation. There were sectional interests to be balanced by the Three-Fifths Compromise; reconciliation on Presidential term, powers, and method of selection; and jurisdiction of the federal judiciary.

On July 24, a "Committee of Detail"—John Rutledge (South Carolina), Edmund Randolph (Virginia), Nathaniel Gorham (Massachusetts), Oliver Ellsworth (Connecticut), and James Wilson (Pennsylvania)—was elected to draft a detailed constitution reflective of the Resolutions passed by the convention up to that point.[33] The Convention recessed from July 26 to August 6 to await the report of this "Committee of Detail". Overall, the report of the committee conformed to the resolutions adopted by the convention, adding some elements. A twenty-three article (plus preamble) constitution was presented.[34]

From August 6 to September 10, the report of the committee of detail was discussed, section by section and clause by clause. Details were attended to, and further compromises were effected.[31][33] Toward the close of these discussions, on September 8, a "Committee of Style and Arrangement"—Alexander Hamilton (New York), William Samuel Johnson (Connecticut), Rufus King (Massachusetts), James Madison (Virginia), and Gouverneur Morris (Pennsylvania)—was appointed to distill a final draft constitution from the twenty-three approved articles.[33] The final draft, presented to the convention on September 12, contained seven articles, a preamble and a closing endorsement, of which Morris was the primary author.[28] The committee also presented a proposed letter to accompany the constitution when delivered to Congress.[35]

The final document, engrossed by Jacob Shallus,[36] was taken up on Monday, September 17, at the convention's final session. Several of the delegates were disappointed in the result, a makeshift series of unfortunate compromises. Some delegates left before the ceremony and three others refused to sign. Of the thirty-nine signers, Benjamin Franklin summed up, addressing the convention: "There are several parts of this Constitution which I do not at present approve, but I am not sure I shall never approve them." He would accept the Constitution, "because I expect no better and because I am not sure that it is not the best".[37]

The advocates of the Constitution were anxious to obtain unanimous support of all twelve states represented in the convention. Their accepted formula for the closing endorsement was "Done in Convention, by the unanimous consent of the States present." At the end of the convention, the proposal was agreed to by eleven state delegations and the lone remaining delegate from New York, Alexander Hamilton.[38]

1788 ratification

Dates the 13 states ratified the Constitution

Transmitted to the Congress of the Confederation, then sitting in New York City, it was within the power of Congress to expedite or block ratification of the proposed Constitution. The new frame of government that the Philadelphia Convention presented was technically only a revision of the Articles of Confederation. After several days of debate, Congress voted to transmit the document to the thirteen states for ratification according to the process outlined in its Article VII. Each state legislature was to call elections for a "Federal Convention" to ratify the new Constitution, rather than consider ratification itself; a departure from the constitutional practice of the time, designed to expand the franchise in order to more clearly embrace "the people". The frame of government itself was to go into force among the States so acting upon the approval of nine (i.e. two-thirds of the 13) states; also a departure from constitutional practice, as the Articles of Confederation could be amended only by unanimous vote of all the states.

Three members of the Convention—Madison, Gorham, and King—were also Members of Congress. They proceeded at once to New York, where Congress was in session, to placate the expected opposition. Aware of their vanishing authority, Congress, on September 28, after some debate, resolved unanimously to submit the Constitution to the States for action, "in conformity to the resolves of the Convention",[39] but with no recommendation either for or against its adoption.

Two parties soon developed, one in opposition, the Anti-Federalists, and one in support, the Federalists, of the Constitution; and the Constitution was debated, criticized, and expounded upon clause by clause. Hamilton, Madison, and Jay, under the name of Publius, wrote a series of commentaries, now known as *The Federalist Papers*, in support of ratification in the state of New York, at that time a hotbed of anti-Federalism. These commentaries on the Constitution, written during the struggle for ratification, have been frequently cited by the Supreme Court as an authoritative contemporary interpretation of the meaning of its provisions. The dispute over additional powers for the central government was close, and in some states, ratification was effected only after a bitter struggle in the state convention itself.

On June 21, 1788, the constitution had been ratified by the minimum of nine states required under Article VII. Towards the end of July, and with eleven states then having ratified, the process of organizing the new government began. The Continental Congress, which still functioned at irregular intervals, passed a resolution on September 13, 1788, to put the new Constitution into operation with the eleven states that had then ratified it.[40] The federal government began operations under the new form of government on March 4, 1789. However, the initial meeting of each chamber of Congress had to be adjourned due to lack of a quorum.[41] George Washington was inaugurated as the nation's first president 8 weeks later, on April 30. The final two states both ratified the Constitution subsequently: North Carolina on November 21, 1789 and Rhode Island on May 29, 1790.

Influences

Several ideas in the Constitution were new. These were associated with the combination of consolidated government along with federal relationships with constituent states.

Enlightenment and Rule of law

The Due Process Clause of the Constitution was partly based on common law and on Magna Carta (1215), which had become a foundation of English liberty against arbitrary power wielded by a ruler.

John Locke
Two Treatises of Government
life, liberty and property

Among the most prominent political theorists of the late eighteenth century were William Blackstone, John Locke, and Montesquieu.[42]

Both the influence of Edward Coke and William Blackstone were evident at the convention. In his *Institutes of the Lawes of England*, Edward Coke interpreted Magna Carta protections and rights to apply not just to nobles, but to all British subjects. In writing the Virginia Charter of 1606, he enabled the King in Parliament to give those to be born in the colonies all rights and liberties as though they were born in England. William Blackstone's *Commentaries on the Laws of England* were the most influential books on law in the new republic.

British political philosopher John Locke following the Glorious Revolution (1688) was a major influence expanding on the contract theory of government advanced by Thomas Hobbes. Locke advanced the principle of consent of the governed in his *Two Treatises of Government*. Government's duty under a social contract among the sovereign people was to serve the people by protecting their rights. These basic rights were life, liberty and property.

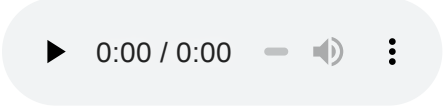
Montesquieu's influence on the framers is evident in Madison's *Federalist No. 47* and Hamilton's *Federalist No. 78*. Jefferson, Adams, and Mason were known to read Montesquieu.[43] Supreme Court Justices, the ultimate interpreters of the Constitution, have cited Montesquieu throughout the Court's history.[44] (See, *e.g.*, *Green v. Biddle*, 21 U.S. 1, 1, 36 (1823).*United States v. Wood*, 39 U.S. 430, 438 (1840).*Myers v. United States*, 272 U.S. 52, 116 (1926).*Nixon v. Administrator of General Services*, 433 U.S. 425, 442 (1977).*Bank Markazi v. Peterson*, 136 U.S. 1310, 1330 (2016).) Montesquieu emphasized the need for balanced forces pushing against each other to prevent tyranny (reflecting the influence of Polybius's 2nd century BC treatise on the checks and balances of the Roman Republic). In his *The Spirit of the Laws*, Montesquieu argues that the separation of state powers should be by its service to the people's liberty: legislative, executive and judicial.

A substantial body of thought had been developed from the literature of republicanism in the United States, including work by John Adams and applied to the creation of state constitutions.

The constitution was a federal one, and was influenced by the study of other federations, both ancient and extant.

The United States Bill of Rights consists of 10 amendments added to the Constitution in 1791, as supporters of the Constitution had promised critics during the debates of 1788.[45] The English Bill of Rights (1689) was an inspiration for the American Bill of Rights. Both require jury trials, contain a right to keep and bear arms, prohibit excessive bail and forbid "cruel and unusual punishments". Many liberties protected by state constitutions and the Virginia Declaration of Rights were incorporated into the Bill of Rights.

Original frame



Reading of the Original United States Constitution, 1787

Neither the Convention which drafted the Constitution nor the Congress which sent it to the 13 states for ratification in the autumn of 1787, gave it a lead caption. To fill this void, the document was most often titled "A frame of Government" when it was printed for the convenience of ratifying conventions and the information of the public.[46] This *Frame of Government* consisted of a preamble, seven articles and a signed closing endorsement.

Preamble

"We the People" in an original edition

The preamble to the Constitution serves as an introductory statement of the document's fundamental purposes and guiding principles. It neither assigns powers to the federal government,[47] nor does it place specific limitations on government action. Rather, it sets out the origin, scope, and purpose of the Constitution. Its origin and authority is in "We, the people of the United States". This echoes the Declaration of Independence. "One people" dissolved their connection with another, and assumed among the powers of the earth, a sovereign nation-state. The scope of the Constitution is twofold. First, "to form a more perfect Union" than had previously existed in the "perpetual Union" of the Articles of Confederation. Second, to "secure the blessings of liberty", which were to be enjoyed by not only the first generation but for all who came after, "our posterity".[48]

Article I

Article I describes the Congress, the legislative branch of the federal government. Section 1, reads, "All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives." The article establishes the manner of election and the qualifications of members of each body. Representatives must be at least 25 years old, be a citizen of the United States for seven years, and live in the state they represent. Senators must be at least 30 years old, be a citizen for nine years, and live in the state they represent.

Article I, Section 8 enumerates the powers delegated to the legislature. Financially, Congress has the power to tax, borrow, pay debt and provide for the common defense and the general welfare; to regulate commerce, bankruptcies, and coin money. To regulate internal affairs, it has the power to regulate and govern military forces and militias, suppress insurrections and repel invasions. It is to provide for naturalization, standards of weights and measures, post offices and roads, and patents; to directly govern the federal district and cessions of land by the states for forts and arsenals. Internationally, Congress has the power to define and punish piracies and offenses against the Law of Nations, to declare war and make rules of war. The final Necessary and Proper Clause, also known as the Elastic Clause, expressly confers incidental powers upon Congress without the Articles' requirement for express delegation for each and every power. Article I, Section 9 lists eight specific limits on congressional power.

The Supreme Court has sometimes broadly interpreted the Commerce Clause and the Necessary and Proper Clause in Article One to allow Congress to enact legislation that is neither expressly allowed by the enumerated powers nor expressly denied in the limitations on Congress. In *McCulloch v. Maryland* (1819), the Supreme Court read the Necessary and Proper Clause to permit the federal government to take action that would "enable [it] to perform the high duties assigned to it [by the Constitution] in the manner most beneficial to the people",[49] even if that action is not itself within the enumerated powers. Chief Justice Marshall clarified: "Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the Constitution, are Constitutional."[49]

Article II

Article II describes the office, qualifications, and duties of the President of the United States and the Vice President. The President is head of the executive branch of the federal government, as well as the nation's head of state and head of government.

Article two is modified by the 12th Amendment which tacitly acknowledges political parties, and the 25th Amendment relating to office succession. The president is to receive only one compensation from the federal government. The inaugural oath is specified to preserve, protect and defend the Constitution.

The president is the Commander in Chief of the United States Armed Forces, as well as of state militias when they are mobilized. He or she makes treaties with the advice and consent of a two-thirds quorum of the Senate. To administer the federal government, the president commissions all the offices of the federal government as Congress directs; he or she may require the opinions of its principal officers and make "recess appointments" for vacancies that may happen during the recess of the Senate. The president is to see that the laws are faithfully executed, though he or she may grant reprieves and pardons except regarding Congressional impeachment of himself or other federal officers. The president reports to Congress on the State of the Union, and by the Recommendation Clause, recommends "necessary and expedient" national measures. The president may convene and adjourn Congress under special circumstances.

Section 4 provides for the removal of the president and other federal officers. The president is removed on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

Article III

Article III describes the court system (the judicial branch), including the Supreme Court. The article describes the kinds of cases the court takes as original jurisdiction. Congress can create lower courts and an appeals process, and enacts law defining crimes and punishments. Article Three also protects the right to trial by jury in all criminal cases, and defines the crime of treason.

Section 1 vests the judicial power of the United States in federal courts, and with it, the authority to interpret and apply the law to a particular case. Also included is the power to punish, sentence, and direct future action to resolve conflicts. The Constitution outlines the U.S. judicial system. In the Judiciary Act of 1789, Congress began to fill in details. Currently, Title 28 of the U.S. Code[50] describes judicial powers and administration.

As of the First Congress, the Supreme Court justices rode circuit to sit as panels to hear appeals from the district courts.[b] In 1891, Congress enacted a new system. District courts would have original jurisdiction. Intermediate appellate courts (circuit courts) with exclusive jurisdiction heard regional appeals before consideration by the Supreme Court. The Supreme Court holds discretionary jurisdiction, meaning that it does not have to hear every case that is brought to it.[50]

To enforce judicial decisions, the Constitution grants federal courts both criminal contempt and civil contempt powers. Other implied powers include injunctive relief and the habeas corpus remedy. The Court may imprison for contumacy, bad-faith litigation, and failure to obey a writ of mandamus. Judicial power includes that granted by Acts of Congress for rules of law and punishment. Judicial power also extends to areas not covered by statute. Generally, federal courts cannot interrupt state court proceedings.[50]

Clause 1 of Section 2 authorizes the federal courts to hear actual cases and controversies only. Their judicial power does not extend to cases that are hypothetical, or which are proscribed due to standing, mootness, or ripeness issues. Generally, a case or controversy requires the presence of adverse parties who have some interest genuinely at stake in the case.[c]

Clause 2 of Section 2 provides that the Supreme Court has original jurisdiction in cases involving ambassadors, ministers, and consuls, for all cases respecting foreign nation-states,[51] and also in those controversies which are subject to federal judicial power because at least one state is a party. Cases arising under the laws of the United States and its treaties come under the jurisdiction of federal courts. Cases under

international maritime law and conflicting land grants of different states come under federal courts. Cases between U.S. citizens in different states, and cases between U.S. citizens and foreign states and their citizens, come under federal jurisdiction. The trials will be in the state where the crime was committed.[50]

No part of the Constitution expressly authorizes judicial review, but the Framers did contemplate the idea, and precedent has since established that the courts could exercise judicial review over the actions of Congress or the executive branch. Two conflicting federal laws are under "pendent" jurisdiction if one presents a strict constitutional issue. Federal court jurisdiction is rare when a state legislature enacts something as under federal jurisdiction.[d] To establish a federal system of national law, considerable effort goes into developing a spirit of comity between federal government and states. By the doctrine of 'Res judicata', federal courts give "full faith and credit" to State Courts.[e] The Supreme Court will decide Constitutional issues of state law only on a case-by-case basis, and only by strict Constitutional necessity, independent of state legislators' motives, their policy outcomes or its national wisdom.[f]

Section 3 bars Congress from changing or modifying Federal law on treason by simple majority statute. This section also defines treason, as an overt act of making war or materially helping those at war with the United States. Accusations must be corroborated by at least two witnesses. Congress is a political body and political disagreements routinely encountered should never be considered as treason. This allows for nonviolent resistance to the government because opposition is not a life or death proposition. However, Congress does provide for other lesser subversive crimes such as conspiracy.[g]

Article IV

Article IV outlines the relations among the states and between each state and the federal government. In addition, it provides for such matters as admitting new states and border changes between the states. For instance, it requires states to give "full faith and credit" to the public acts, records, and court proceedings of the other states. Congress is permitted to regulate the manner in which proof of such acts may be admitted. The "privileges and immunities" clause prohibits state governments from discriminating against citizens of other states in favor of resident citizens. For instance, in criminal sentencing, a state may not increase a penalty on the grounds that the convicted person is a non-resident.

It also establishes extradition between the states, as well as laying down a legal basis for freedom of movement and travel amongst the states. Today, this provision is sometimes taken for granted, but in the days of the Articles of Confederation, crossing state lines was often arduous and costly. The Territorial Clause gives Congress the power to make rules for disposing of federal property and governing non-state territories of the United States. Finally, the fourth section of Article Four requires the United States to guarantee to each state a republican form of government, and to protect them from invasion and violence.

Article V

Article V outlines the process for amending the Constitution. Eight state constitutions in effect in 1787 included an amendment mechanism. Amendment making power rested with the legislature in three of the states and in the other five it was given to specially elected conventions. The Articles of Confederation provided that amendments were to be proposed by Congress and ratified by the unanimous vote of all 13 state legislatures. This proved to be a major flaw in the Articles, as it created an insurmountable obstacle to constitutional reform. The amendment process crafted during the Philadelphia Constitutional Convention was, according to The Federalist No. 43, designed to establish a balance between pliancy and rigidity:[52]

> It guards equally against that extreme facility which would render the Constitution too mutable; and that extreme difficulty which might perpetuate its discovered faults. It moreover equally enables the General and the State Governments to originate the amendment of errors, as they may be pointed out by the experience on one side, or on the other.

There are two steps in the amendment process. Proposals to amend the Constitution must be properly adopted and ratified before they change the Constitution. First, there are two procedures for adopting the language of a proposed amendment, either by (a) Congress, by two-thirds majority in both the Senate and the House of Representatives, or (b) national convention (which shall take place whenever two-thirds of the state legislatures collectively call for one). Second, there are two procedures for ratifying the proposed amendment, which requires three-fourths of the states' (presently 38 of 50) approval: (a) consent of the state legislatures, or (b) consent of state ratifying conventions. The ratification method is chosen by Congress for each amendment.[53] State ratifying conventions were used only once, for the Twenty-first Amendment.[54]

Presently, the Archivist of the United States is charged with responsibility for administering the ratification process under the provisions of 1 U.S. Code § 106b (https://www.law.cornell.edu/uscode/text/1/106b). The Archivist submits the proposed amendment to the states for their consideration by sending a letter of notification to each Governor. Each Governor then formally submits the amendment to their state's legislature. When a state ratifies a proposed amendment, it sends the Archivist an original or certified copy of the state's action. Ratification documents are examined by the Office of the Federal Register for facial legal sufficiency and an authenticating signature.[55]

Article Five ends by shielding certain clauses in the new frame of government from being amended. Article One, Section 9, Clause 1 prevents Congress from passing any law that would restrict the importation of slaves into the United States prior to 1808, plus the fourth clause from that same section, which reiterates the Constitutional rule that direct taxes must be apportioned according to state populations. These clauses were explicitly shielded from Constitutional amendment prior to 1808. On January 1, 1808, the first day it was permitted to do so, Congress approved legislation prohibiting the importation of slaves into the country. On February 3, 1913, with ratification of the Sixteenth Amendment, Congress gained the authority to levy an income tax without apportioning it among the states or basing it on the United States Census. The third textually entrenched provision is Article One, Section 3, Clauses 1, which provides for equal representation of the states in the Senate. The shield protecting this clause from the amendment process ("no state, without its consent, shall be deprived of its equal Suffrage in the Senate") is less absolute but it is permanent.

Article VI

Article VI establishes the Constitution, and all federal laws and treaties of the United States made according to it, to be the supreme law of the land, and that "the judges in every state shall be bound thereby, any thing in the laws or constitutions of any state notwithstanding." It validates national debt created under the Articles of Confederation and requires that all federal and state legislators, officers, and judges take oaths or affirmations to support the Constitution. This means that the states' constitutions and laws should not conflict with the laws of the federal constitution and that in case of a conflict, state judges are legally bound to honor the federal laws and constitution over those of any state. Article Six also states "no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States."

Article VII

Article VII describes the process for establishing the proposed new frame of government. Anticipating that the influence of many state politicians would be Antifederalist, delegates to the Philadelphia Convention provided for ratification of the Constitution by popularly elected ratifying conventions in each state. The convention

method also made it possible that judges, ministers and others ineligible to serve in state legislatures, could be elected to a convention. Suspecting that Rhode Island, at least, might not ratify, delegates decided that the Constitution would go into effect as soon as nine states (two-thirds rounded up) ratified.[56] Once ratified by this minimum number of states, it was anticipated that the proposed Constitution would become *this Constitution* between the nine or more that signed. It would not cover the four or fewer states that might not have signed.[57]

Closing endorsement

The signing of the United States Constitution occurred on September 17, 1787, when 39 delegates to the Constitutional Convention endorsed the constitution created during the convention. In addition to signatures, this closing endorsement, the Constitution's eschatocol, included a brief declaration that the delegates' work has been successfully completed and that those whose signatures appear on it subscribe to the final document. Included are a statement pronouncing the document's adoption by the states present, a formulaic dating of its adoption, and the signatures of those endorsing it. Additionally, the convention's secretary, William Jackson, added a note to verify four amendments made by hand to the final document, and signed the note to authenticate its validity.[58]

Closing endorsement section of the United States Constitution

The language of the concluding endorsement, conceived by Gouverneur Morris and presented to the convention by Benjamin Franklin, was made intentionally ambiguous in hopes of winning over the votes of dissenting delegates. Advocates for the new frame of government, realizing the impending difficulty of obtaining the consent of the states needed to make it operational, were anxious to obtain the unanimous support of the delegations from each state. It was feared that many of the delegates would refuse to give their individual assent to the Constitution. Therefore, in order that the action of the convention would appear to be unanimous, the formula, *Done in convention by the unanimous consent of the states present* ... was devised.[59]

The document is dated: "the Seventeenth Day of September in the Year of our Lord" 1787, and "of the Independence of the United States of America the Twelfth." This two-fold epoch dating serves to place the Constitution in the context of the religious traditions of Western civilization and, at the same time, links it to the regime principles proclaimed in the Declaration of Independence. This dual reference can also be found in the Articles of Confederation and the Northwest Ordinance.[59]

The closing endorsement serves an authentication function only. It neither assigns powers to the federal government nor does it provide specific limitations on government action. It does, however, provide essential documentation of the Constitution's validity, a statement of "This is what was agreed to." It records who signed the Constitution, and when and where.

Amending the Constitution

The procedure for amending the Constitution is outlined in Article Five (see above). The process is overseen by the archivist of the United States. Between 1949 and 1985, it was overseen by the administrator of General Services, and before that by the secretary of state.[55]

Under Article Five, a proposal for an amendment must be adopted either by Congress or by a national convention, but as of 2020 all amendments have gone through Congress.[55] The proposal must receive two-thirds of the votes of both houses to proceed. It is passed as a joint resolution, but is not presented to the president, who plays no part in the process. Instead, it is passed to the Office of the Federal Register, which copies it in slip law format and submits it to the states.[55] Congress decides whether the proposal is to be ratified in the state legislature or by a state ratifying convention. To date all amendments have been ratified by the state legislatures except one, the Twenty-first Amendment.[53]

A proposed amendment becomes an operative part of the Constitution as soon as it is ratified by three-fourths of the States (currently 38 of the 50 states). There is no further step. The text requires no additional action by Congress or anyone else after ratification by the required number of states.[60] Thus, when the Office of the Federal Register verifies that it has received the required number of authenticated ratification documents, it drafts a formal proclamation for the Archivist to certify that the amendment is valid and has become part of the nation's frame of government. This certification is published in the *Federal Register* and *United States Statutes at Large* and serves as official notice to Congress and to the nation that the ratification process has been successfully completed.[55]

Ratified amendments

The Constitution has twenty-seven amendments. Structurally, the Constitution's original text and all prior amendments remain untouched. The precedent for this practice was set in 1789, when Congress considered and proposed the first several Constitutional amendments. Among these, Amendments 1–10 are collectively known as the Bill of Rights, and Amendments 13–15 are known as the Reconstruction Amendments. Excluding the Twenty-seventh Amendment, which was pending before the states for 202 years, 225 days, the longest pending amendment that was successfully ratified was the Twenty-second Amendment, which took 3 years, 343 days. The Twenty-sixth Amendment was ratified in the shortest time, 100 days. The average ratification time for the first twenty-six amendments was 1 year, 252 days; for all twenty-seven, 9 years, 48 days.

United States Bill of Rights
Currently housed in the National Archives.

Safeguards of liberty (Amendments 1, 2, and 3)

The First Amendment (1791) prohibits Congress from obstructing the exercise of certain individual freedoms: freedom of religion, freedom of speech, freedom of the press, freedom of assembly, and right to petition. Its Free Exercise Clause guarantees a person's right to hold whatever religious beliefs they want, and to freely exercise that belief, and its Establishment Clause prevents the federal government from creating an official national church or favoring one set of religious beliefs over another. The amendment guarantees an individual's right to express and to be exposed to a wide range of opinions and views. It was intended to ensure a free exchange of ideas, even unpopular ones. It also guarantees an individual's right to physically gather or associate with others in groups for economic, political or religious purposes. Additionally, it guarantees an individual's right to petition the government for a redress of grievances.[61]

The Second Amendment (1791) protects the right of individuals[62][63] to keep and bear arms.[64][65][66][67] Although the Supreme Court has ruled that this right applies to individuals, not merely to collective militias, it has also held that the government may regulate or place some limits on the manufacture, ownership and sale of

firearms or other weapons.[68][69] Requested by several states during the Constitutional ratification debates, the amendment reflected the lingering resentment over the widespread efforts of the British to confiscate the colonists' firearms at the outbreak of the Revolutionary War. Patrick Henry had rhetorically asked, shall we be stronger, "when we are totally disarmed, and when a British Guard shall be stationed in every house?"[70]

The Third Amendment (1791) prohibits the federal government from forcing individuals to provide lodging to soldiers in their homes during peacetime without their consent. Requested by several states during the Constitutional ratification debates, the amendment reflected the lingering resentment over the Quartering Acts passed by the British Parliament during the Revolutionary War, which had allowed British soldiers to take over private homes for their own use.[71]

Safeguards of justice (Amendments 4, 5, 6, 7, and 8)

The Fourth Amendment (1791) protects people against unreasonable searches and seizures of either self or property by government officials. A search can mean everything from a frisking by a police officer or to a demand for a blood test to a search of an individual's home or car. A seizure occurs when the government takes control of an individual or something in his or her possession. Items that are seized often are used as evidence when the individual is charged with a crime. It also imposes certain limitations on police investigating a crime and prevents the use of illegally obtained evidence at trial.[72]

The Fifth Amendment (1791) establishes the requirement that a trial for a major crime may commence only after an indictment has been handed down by a grand jury; protects individuals from double jeopardy, being tried and put in danger of being punished more than once for the same criminal act; prohibits punishment without due process of law, thus protecting individuals from being imprisoned without fair procedures; and provides that an accused person may not be compelled to reveal to the police, prosecutor, judge, or jury any information that might incriminate or be used against him or her in a court of law. Additionally, the Fifth Amendment also prohibits government from taking private property for public use without "just compensation", the basis of eminent domain in the United States.[73]

The Sixth Amendment (1791) provides several protections and rights to an individual accused of a crime. The accused has the right to a fair and speedy trial by a local and impartial jury. Likewise, a person has the right to a public trial. This right protects defendants from secret proceedings that might encourage abuse of the justice system, and serves to keep the public informed. This amendment also guarantees a right to legal counsel if accused of a crime, guarantees that the accused may require witnesses to attend the trial and testify in the presence of the accused, and guarantees the accused a right to know the charges against them. In 1966, the Supreme Court ruled that, with the Fifth Amendment, this amendment requires what has become known as the *Miranda* warning.[74]

The Seventh Amendment (1791) extends the right to a jury trial to federal civil cases, and inhibits courts from overturning a jury's findings of fact. Although the Seventh Amendment itself says that it is limited to "suits at common law", meaning cases that triggered the right to a jury under English law, the amendment has been found to apply in lawsuits that are similar to the old common law cases. For example, the right to a jury trial applies to cases brought under federal statutes that prohibit race or gender discrimination in housing or employment. Importantly, this amendment guarantees the right to a jury trial only in federal court, not in state court.[75]

The Eighth Amendment (1791) protects people from having bail or fines set at an amount so high that it would be impossible for all but the richest defendants to pay and also protects people from being subjected to cruel and unusual punishment. Although this phrase originally was intended to outlaw certain gruesome methods of punishment, it has been broadened over the years to protect against punishments that are grossly

disproportionate to or too harsh for the particular crime. This provision has also been used to challenge prison conditions such as extremely unsanitary cells, overcrowding, insufficient medical care and deliberate failure by officials to protect inmates from one another.[76]

Unenumerated rights and reserved powers (Amendments 9 and 10)

The Ninth Amendment (1791) declares that individuals have other fundamental rights, in addition to those stated in the Constitution. During the Constitutional ratification debates Anti-Federalists argued that a Bill of Rights should be added. The Federalists opposed it on grounds that a list would necessarily be incomplete but would be taken as explicit and exhaustive, thus enlarging the power of the federal government by implication. The Anti-Federalists persisted, and several state ratification conventions refused to ratify the Constitution without a more specific list of protections, so the First Congress added what became the Ninth Amendment as a compromise. Because the rights protected by the Ninth Amendment are not specified, they are referred to as "unenumerated". The Supreme Court has found that unenumerated rights include such important rights as the right to travel, the right to vote, the right to privacy, and the right to make important decisions about one's health care or body.[77]

The Tenth Amendment (1791) was included in the Bill of Rights to further define the balance of power between the federal government and the states. The amendment states that the federal government has only those powers specifically granted by the Constitution. These powers include the power to declare war, to collect taxes, to regulate interstate business activities and others that are listed in the articles or in subsequent constitutional amendments. Any power not listed is, says the Tenth Amendment, left to the states or the people. While there is no specific list of what these "reserved powers" may be, the Supreme Court has ruled that laws affecting family relations, commerce within a state's own borders, and local law enforcement activities, are among those specifically reserved to the states or the people.[78]

Governmental authority (Amendments 11, 16, 18, and 21)

The Eleventh Amendment (1795) specifically prohibits federal courts from hearing cases in which a state is sued by an individual from another state or another country, thus extending to the states sovereign immunity protection from certain types of legal liability. Article Three, Section 2, Clause 1 has been affected by this amendment, which also overturned the Supreme Court's decision in *Chisholm v. Georgia* (1793).[79][80]

The Sixteenth Amendment (1913) removed existing Constitutional constraints that limited the power of Congress to lay and collect taxes on income. Specifically, the apportionment constraints delineated in Article 1, Section 9, Clause 4 have been removed by this amendment, which also overturned an 1895 Supreme Court decision, in *Pollock v. Farmers' Loan & Trust Co.*, that declared an unapportioned federal income tax on rents, dividends, and interest unconstitutional. This amendment has become the basis for all subsequent federal income tax legislation and has greatly expanded the scope of federal taxing and spending in the years since.[81]

The Eighteenth Amendment (1919) prohibited the making, transporting, and selling of alcoholic beverages nationwide. It also authorized Congress to enact legislation enforcing this prohibition. Adopted at the urging of a national temperance movement, proponents believed that the use of alcohol was reckless and destructive and that prohibition would reduce crime and corruption, solve social problems, decrease the need for welfare and prisons, and improve the health of all Americans. During prohibition, it is estimated that alcohol consumption and alcohol related deaths declined dramatically. But prohibition had other, more negative consequences. The amendment drove the lucrative alcohol business underground, giving rise to a large and pervasive black market. In addition, prohibition encouraged disrespect for the law and strengthened organized crime. Prohibition came to an end in 1933, when this amendment was repealed.[82]

The Twenty-first Amendment (1933) repealed the Eighteenth Amendment and returned the regulation of alcohol to the states. Each state sets its own rules for the sale and importation of alcohol, including the drinking age. Because a federal law provides federal funds to states that prohibit the sale of alcohol to minors under the age of twenty-one, all fifty states have set their drinking age there. Rules about how alcohol is sold vary greatly from state to state.[83]

Safeguards of civil rights (Amendments 13, 14, 15, 19, 23, 24, and 26)

The Thirteenth Amendment (1865) abolished slavery and involuntary servitude, except as punishment for a crime, and authorized Congress to enforce abolition. Though millions of slaves had been declared free by the 1863 Emancipation Proclamation, their post Civil War status was unclear, as was the status of other millions.[84] Congress intended the Thirteenth Amendment to be a proclamation of freedom for all slaves throughout the nation and to take the question of emancipation away from politics. This amendment rendered inoperative or moot several of the original parts of the constitution.[85]

The Fourteenth Amendment (1868) granted United States citizenship to former slaves and to all persons "subject to U.S. jurisdiction". It also contained three new limits on state power: a state shall not violate a citizen's privileges or immunities; shall not deprive any person of life, liberty, or property without due process of law; and must guarantee all persons equal protection of the laws. These limitations dramatically expanded the protections of the Constitution. This amendment, according to the Supreme Court's Doctrine of Incorporation, makes most provisions of the Bill of Rights applicable to state and local governments as well. It superseded the mode of apportionment of representatives delineated in Article 1, Section 2, Clause 3, and also overturned the Supreme Court's decision in *Dred Scott v. Sandford* (1857).[86]

The Fifteenth Amendment (1870) prohibits the use of race, color, or previous condition of servitude in determining which citizens may vote. The last of three post Civil War Reconstruction Amendments, it sought to abolish one of the key vestiges of slavery and to advance the civil rights and liberties of former slaves.[87]

The Nineteenth Amendment (1920) prohibits the government from denying women the right to vote on the same terms as men. Prior to the amendment's adoption, only a few states permitted women to vote and to hold office.[88]

The Twenty-third Amendment (1961) extends the right to vote in presidential elections to citizens residing in the District of Columbia by granting the District electors in the Electoral College, as if it were a state. When first established as the nation's capital in 1800, the District of Columbia's five thousand residents had neither a local government, nor the right to vote in federal elections. By 1960 the population of the District had grown to over 760,000.[89]

The Twenty-fourth Amendment (1964) prohibits a poll tax for voting. Although passage of the Thirteenth, Fourteenth, and Fifteenth Amendments helped remove many of the discriminatory laws left over from slavery, they did not eliminate all forms of discrimination. Along with literacy tests and durational residency requirements, poll taxes were used to keep low-income (primarily African American) citizens from participating in elections. The Supreme Court has since struck down these discriminatory measures, opening democratic participation to all.[90]

The Twenty-sixth Amendment (1971) prohibits the government from denying the right of United States citizens, eighteen years of age or older, to vote on account of age. The drive to lower the voting age was driven in large part by the broader student activism movement protesting the Vietnam War. It gained strength following the Supreme Court's decision in *Oregon v. Mitchell* (1970).[91]

Government processes and procedures (Amendments 12, 17, 20, 22, 25, and 27)

The Twelfth Amendment (1804) modifies the way the Electoral College chooses the President and Vice President. It stipulates that each elector must cast a distinct vote for president and Vice President, instead of two votes for president. It also suggests that the President and Vice President should not be from the same state. Article II, Section 1, Clause 3 is superseded by this amendment, which also extends the eligibility requirements to become president to the Vice President.[92]

The Seventeenth Amendment (1913) modifies the way senators are elected. It stipulates that senators are to be elected by direct popular vote. The amendment supersedes Article 1, Section 2, Clauses 1 and 2, under which the two senators from each state were elected by the state legislature. It also allows state legislatures to permit their governors to make temporary appointments until a special election can be held.[93]

The Twentieth Amendment (1933) changes the date on which a new president, Vice President and Congress take office, thus shortening the time between Election Day and the beginning of Presidential, Vice Presidential and Congressional terms.[94] Originally, the Constitution provided that the annual meeting was to be on the first Monday in December unless otherwise provided by law. This meant that, when a new Congress was elected in November, it did not come into office until the following March, with a "lame duck" Congress convening in the interim. By moving the beginning of the president's new term from March 4 to January 20 (and in the case of Congress, to January 3), proponents hoped to put an end to lame duck sessions, while allowing for a speedier transition for the new administration and legislators.[95]

The Twenty-second Amendment (1951) limits an elected president to two terms in office, a total of eight years. However, under some circumstances it is possible for an individual to serve more than eight years. Although nothing in the original frame of government limited how many presidential terms one could serve, the nation's first president, George Washington, declined to run for a third term, suggesting that two terms of four years were enough for any president. This precedent remained an unwritten rule of the presidency until broken by Franklin D. Roosevelt, who was elected to a third term as president 1940 and in 1944 to a fourth.[96]

The Twenty-fifth Amendment (1967) clarifies what happens upon the death, removal, or resignation of the President or Vice President and how the Presidency is temporarily filled if the President becomes disabled and cannot fulfill the responsibilities of the office. It supersedes the ambiguous succession rule established in Article II, Section 1, Clause 6. A concrete plan of succession has been needed on multiple occasions since 1789. However, for nearly 20% of U.S. history, there has been no vice president in office who can assume the presidency.[97]

The Twenty-seventh Amendment (1992) prevents members of Congress from granting themselves pay raises during the current session. Rather, any raises that are adopted must take effect during the next session of Congress. Its proponents believed that Federal legislators would be more likely to be cautious about increasing congressional pay if they have no personal stake in the vote. Article One, section 6, Clause 1 has been affected by this amendment, which remained pending for over two centuries as it contained no time limit for ratification.[98]

Unratified amendments

Collectively, members of the House and Senate typically propose around 150 amendments during each two-year term of Congress.[99] Most however, never get out of the Congressional committees in which they were proposed, and only a fraction of those that do receive enough support to win Congressional approval to actually go through the constitutional ratification process.

Six amendments approved by Congress and proposed to the states for consideration have not been ratified by the required number of states to become part of the Constitution. Four of these are technically still pending, as Congress did not set a time limit (see also *Coleman v. Miller*) for their ratification. The other two are no longer pending, as both had a time limit attached and in both cases the time period set for their ratification expired.

Pending

- The Congressional Apportionment Amendment (proposed 1789) would, if ratified, establish a formula for determining the appropriate size of the House of Representatives and the appropriate apportionment of representatives among the states following each constitutionally mandated decennial census. At the time it was sent to the states for ratification, an affirmative vote by ten states would have made this amendment operational. In 1791 and 1792, when Vermont and Kentucky joined the Union, the number climbed to twelve. Thus, the amendment remained one state shy of the number needed for it to become part of the Constitution. No additional states have ratified this amendment since. To become part of the Constitution today, ratification by an additional twenty-seven would be required. The Apportionment Act of 1792 apportioned the House of Representatives at 33,000 persons per representative in consequence of the 1790 census. Reapportionment has since been effected by statute.
- The Titles of Nobility Amendment (proposed 1810) would, if ratified, strip United States citizenship from any citizen who accepted a title of nobility from a foreign country. When submitted to the states, ratification by thirteen states was required for it to become part of the Constitution; eleven had done so by early 1812. However, with the addition of Louisiana into the Union that year (April 30, 1812), the ratification threshold rose to fourteen. Thus, when New Hampshire ratified it in December 1812, the amendment again came within two states of being ratified. No additional states have ratified this amendment since. To become part of the Constitution today, ratification by an additional twenty-six would be required.
- The Corwin Amendment (proposed 1861) would, if ratified, shield "domestic institutions" of the states (which in 1861 included slavery) from the constitutional amendment process and from abolition or interference by Congress. This proposal was one of several measures considered by Congress in an ultimately unsuccessful attempt to attract the seceding states back into the Union and to entice border slave states to stay.[100] Five states ratified the amendment in the early 1860s, but none have since. To become part of the Constitution today, ratification by an additional 33 states would be required. The subject of this proposal was subsequently addressed by the 1865 Thirteenth Amendment, which abolished slavery.
- The Child Labor Amendment (proposed 1924) would, if ratified, specifically authorize Congress to limit, regulate and prohibit labor of persons less than eighteen years of age. The amendment was proposed in response to Supreme Court rulings in *Hammer v. Dagenhart* (1918) and *Bailey v. Drexel Furniture Co.* (1922) that found federal laws regulating and taxing goods produced by employees under the ages of 14 and 16 unconstitutional. When submitted to the states, ratification by 36 states was required for it to become part of the Constitution, as there were forty-eight states. Twenty-eight had ratified the amendment by early 1937, but none have done so since. To become part of the Constitution today, ratification by an additional ten would be required.[101] A federal statute approved June 25, 1938, regulated the employment of those under 16 or 18 years of age in interstate commerce. The Supreme Court, by unanimous vote in *United States v. Darby Lumber Co.* (1941), found this law constitutional, effectively overturning *Hammer v. Dagenhart*. As a result of this development, the movement pushing for the amendment concluded.[102]

Status contested

The Equal Rights Amendment (proposed 1972) would have prohibited deprivation of equality of rights (discrimination) by the federal or state governments on account of sex. A seven-year ratification time limit was initially placed on the amendment, but as the deadline approached, Congress granted a three-year extension. Thirty-five states ratified the proposed amendment prior to the original deadline, three short of the number required for it to be implemented (five of them later voted to rescind their ratification). No further states ratified the amendment within the extended deadline. In 2017, Nevada became the first state to ratify the ERA after the expiration of both deadlines,[103] followed by Illinois in 2018,[104] and Virginia in 2020,[105][106] purportedly bringing the number of ratifications to 38. However, experts and advocates have acknowledged legal uncertainty about the consequences of these ratifications, due to the expired deadlines and the five states' purported revocations.[h]

No longer pending

The District of Columbia Voting Rights Amendment (proposed 1978) would have granted the District of Columbia full representation in the United States Congress as if it were a state, repealed the Twenty-third Amendment, granted the District unconditional Electoral College voting rights, and allowed its participation in the process by which the Constitution is amended. A seven-year ratification time limit was placed on the amendment. Sixteen states ratified the amendment (twenty-two short of the number required for it to be implemented) prior to the deadline, thus it failed to be adopted.

Judicial review

The way the Constitution is understood is influenced by court decisions, especially those of the Supreme Court. These decisions are referred to as precedents. Judicial review is the power of the Court to examine federal legislation, federal executive, and all state branches of government, to decide their constitutionality, and to strike them down if found unconstitutional.

Judicial review includes the power of the Court to explain the meaning of the Constitution as it applies to particular cases. Over the years, Court decisions on issues ranging from governmental regulation of radio and television to the rights of the accused in criminal cases have changed the way many constitutional clauses are interpreted, without amendment to the actual text of the Constitution.

Legislation passed to implement the Constitution, or to adapt those implementations to changing conditions, broadens and, in subtle ways, changes the meanings given to the words of the Constitution. Up to a point, the rules and regulations of the many federal executive agencies have a similar effect. If an action of Congress or the agencies is challenged, however, it is the court system that ultimately decides whether these actions are permissible under the Constitution.

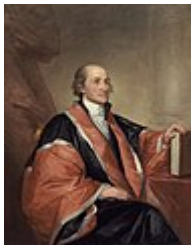
The Supreme Court has indicated that once the Constitution has been extended to an area (by Congress or the Courts), its coverage is irrevocable. To hold that the political branches may switch the Constitution on or off at will would lead to a regime in which they, not this Court, say "what the law is".[i]

Scope and theory

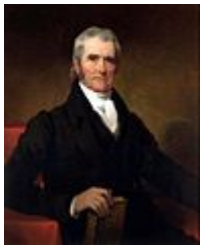
Courts established by the Constitution can regulate government under the Constitution, the supreme law of the land. First, they have jurisdiction over actions by an officer of government and state law. Second, federal courts may rule on whether coordinate branches of national government conform to the Constitution. Until the twentieth century, the Supreme Court of the United States may have been the only high tribunal in the world to use a court for constitutional interpretation of fundamental law, others generally depending on their national legislature.[108]

The basic theory of American Judicial review is summarized by constitutional legal scholars and historians as follows: the written Constitution is fundamental law. It can change only by extraordinary legislative process of national proposal, then state ratification. The powers of all departments are limited to enumerated grants found in the Constitution. Courts are expected (a) to enforce provisions of the Constitution as the supreme law of the land, and (b) to refuse to enforce anything in conflict with it.[109]

Early Court roots in the founding



John Jay, 1789–1795
New York co-author
The Federalist Papers



John Marshall, 1801–1835
Fauquier County delegate
Virginia Ratification Convention

In Convention. As to judicial review and the Congress, the first proposals by Madison (Va) and Wilson (Pa) called for a supreme court veto over national legislation. In this it resembled the system in New York, where the Constitution of 1777 called for a "Council of Revision" by the Governor and Justices of the state supreme court. The council would review and in a way, veto any passed legislation violating the spirit of the Constitution before it went into effect. The nationalist's proposal in Convention was defeated three times, and replaced by a presidential veto with Congressional over-ride. Judicial review relies on the jurisdictional authority in Article III, and the Supremacy Clause.[110]

The justification for judicial review is to be explicitly found in the open ratifications held in the states and reported in their newspapers. John Marshall in Virginia, James Wilson in Pennsylvania and Oliver Ellsworth of Connecticut all argued for Supreme Court judicial review of acts of state legislature. In Federalist No. 78, Alexander Hamilton advocated the doctrine of a written document held as a superior enactment of the people. "A limited constitution can be preserved in practice no other way" than through courts which can declare void any legislation contrary to the Constitution. The preservation of the people's authority over legislatures rests "particularly with judges".[111][j]

The Supreme Court was initially made up of jurists who had been intimately connected with the framing of the Constitution and the establishment of its government as law. John Jay (New York), a co-author of *The Federalist Papers*, served as Chief Justice for the first six years. The second and third Chief Justices, Oliver Ellsworth (Connecticut) and John Rutledge (South Carolina), were delegates to the Constitutional Convention. Washington's recess appointment as Chief Justice who served in 1795. John Marshall (Virginia), the fourth Chief Justice, had served in the Virginia Ratification Convention in 1788. His 34 years of service on the Court would see some of the most important rulings to help establish the nation the Constitution had begun. Other early members of the Supreme Court who had been delegates to the Constitutional Convention included James Wilson (Pennsylvania) for ten years, John Blair Jr. (Virginia) for five, and John Rutledge (South Carolina) for one year as Justice, then Chief Justice in 1795.

Establishment

When John Marshall followed Oliver Ellsworth as Chief Justice of the Supreme Court in 1801, the federal judiciary had been established by the Judiciary Act, but there were few cases, and less prestige. "The fate of judicial review was in the hands of the Supreme Court itself." Review of state legislation and appeals from state supreme courts was understood. But the Court's life, jurisdiction over state legislation was limited. The Marshall Court's landmark *Barron v. Baltimore* held that the Bill of Rights restricted only the federal government, and not the states.[111]

In the landmark *Marbury v. Madison* case, the Supreme Court asserted its authority of judicial review over Acts of Congress. Its findings were that Marbury and the others had a right to their commissions as judges in the District of Columbia. Marshall, writing the opinion for the majority, announced his discovered conflict between Section 13 of the Judiciary Act of 1789 and Article III.[k][113][l] In this case, both the Constitution and the statutory law applied to the particulars at the same time. "The very essence of judicial duty" according to Marshall was to determine which of the two conflicting rules should govern. The Constitution enumerates powers of the judiciary to extend to cases arising "under the Constitution". Further, justices take a Constitutional oath to uphold it as "Supreme law of the land".[114] Therefore, since the United States government as created by the Constitution is a limited government, the Federal courts were required to choose the Constitution over Congressional law if there were deemed to be a conflict.

"This argument has been ratified by time and by practice ..."[m][n] The Supreme Court did not declare another Act of Congress unconstitutional until the controversial Dred Scott decision in 1857, held after the voided Missouri Compromise statute had already been repealed. In the eighty years following the Civil War to World War II, the Court voided Congressional statutes in 77 cases, on average almost one a year.[116]

Something of a crisis arose when, in 1935 and 1936, the Supreme Court handed down twelve decisions voiding Acts of Congress relating to the New Deal. President Franklin D. Roosevelt then responded with his abortive "court packing plan". Other proposals have suggested a Court super-majority to overturn Congressional legislation, or a Constitutional Amendment to require that the Justices retire at a specified age by law. To date, the Supreme Court's power of judicial review has persisted.[112]

Self-restraint

The power of judicial review could not have been preserved long in a democracy unless it had been "wielded with a reasonable measure of judicial restraint, and with some attention, as Mr. Dooley said, to the election returns." Indeed, the Supreme Court has developed a system of doctrine and practice that self-limits its power of judicial review.[117]

The Court controls almost all of its business by choosing what cases to consider, writs of certiorari. In this way, it can avoid opinions on embarrassing or difficult cases. The Supreme Court limits itself by defining for itself what is a "justiciable question". First, the Court is fairly consistent in refusing to make any "advisory opinions" in advance of actual cases.[o] Second, "friendly suits" between those of the same legal interest are not considered. Third, the Court requires a "personal interest", not one generally held, and a legally protected right must be immediately threatened by government action. Cases are not taken up if the litigant has no standing to sue. Simply having the money to sue and being injured by government action are not enough.[117]

These three procedural ways of dismissing cases have led critics to charge that the Supreme Court delays decisions by unduly insisting on technicalities in their "standards of litigability". They say cases are left unconsidered which are in the public interest, with genuine controversy, and resulting from good faith action. "The Supreme Court is not only a court of law but a court of justice."[118]

Separation of powers

The Supreme Court balances several pressures to maintain its roles in national government. It seeks to be a co-equal branch of government, but its decrees must be enforceable. The Court seeks to minimize situations where it asserts itself superior to either President or Congress, but federal officers must be held accountable. The Supreme Court assumes power to declare acts of Congress as unconstitutional but it self-limits its passing on constitutional questions.[119] But the Court's guidance on basic problems of life and governance in a democracy is most effective when American political life reinforce its rulings.[120]

Justice Brandeis summarized four general guidelines that the Supreme Court uses to avoid constitutional decisions relating to Congress:[p] The Court will not anticipate a question of constitutional law nor decide open questions unless a case decision requires it. If it does, a rule of constitutional law is formulated only as the precise facts in the case require. The Court will choose statutes or general law for the basis of its decision if it can without constitutional grounds. If it does, the Court will choose a constitutional construction of an Act of Congress, even if its constitutionality is seriously in doubt. [119]

Likewise with the Executive Department, Edwin Corwin observed that the Court does sometimes rebuff presidential pretensions, but it more often tries to rationalize them. Against Congress, an Act is merely "disallowed". In the executive case, exercising judicial review produces "some change in the external world" beyond the ordinary judicial sphere.[121] The "political question" doctrine especially applies to questions which present a difficult enforcement issue. Chief Justice Charles Evans Hughes addressed the Court's limitation when political process allowed future policy change, but a judicial ruling would "attribute finality". Political questions lack "satisfactory criteria for a judicial determination".[122]

John Marshall recognized that the president holds "important political powers" which as executive privilege allows great discretion. This doctrine was applied in Court rulings on President Grant's duty to enforce the law during Reconstruction. It extends to the sphere of foreign affairs. Justice Robert Jackson explained, Foreign affairs are inherently political, "wholly confided by our Constitution to the political departments of the government ... [and] not subject to judicial intrusion or inquiry."[123]

Critics of the Court object in two principal ways to self-restraint in judicial review, deferring as it does as a matter of doctrine to Acts of Congress and Presidential actions.

1. Its inaction is said to allow "a flood of legislative appropriations" which permanently create an imbalance between the states and federal government.
2. Supreme Court deference to Congress and the executive compromises American protection of civil rights, political minority groups and aliens.[124]

Subsequent Courts

Supreme Courts under the leadership of subsequent Chief Justices have also used judicial review to interpret the Constitution among individuals, states and federal branches. Notable contributions were made by the Chase Court, the Taft Court, the Warren Court, and the Rehnquist Court.

Salmon P. Chase was a Lincoln appointee, serving as Chief Justice from 1864 to 1873. His career encompassed service as a U.S. senator and Governor of Ohio. He coined the slogan, "Free soil, free Labor, free men." One of Lincoln's "team of rivals", he was appointed Secretary of Treasury during the Civil War, issuing "greenbacks". To appease radical Republicans, Lincoln appointed him to replace Chief Justice Roger B. Taney of Dred Scott case fame.

In one of his first official acts, Chase admitted John Rock, the first African-American to practice before the Supreme Court. The "Chase Court" is famous for *Texas v. White*, which asserted a permanent Union of indestructible states. *Veazie Bank v. Fenno* upheld the Civil War tax on state banknotes. *Hepburn v. Griswold* found parts of the Legal Tender Acts unconstitutional, though it was reversed under a late Supreme Court majority.

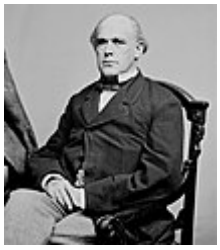
Scope of judicial review expanded

William Howard Taft was a Harding appointment to Chief Justice from 1921 to 1930. A Progressive Republican from Ohio, he was a one-term President.

As Chief Justice, he advocated the Judiciary Act of 1925 that brought the Federal District Courts under the administrative jurisdiction of the Supreme Court. Taft successfully sought the expansion of Court jurisdiction over non-states such as District of Columbia and Territories of Alaska and Hawaii.

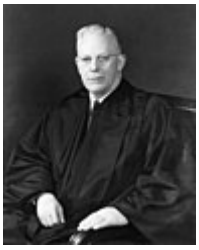
In 1925, the Taft Court issued a ruling overturning a Marshall Court ruling on the Bill of Rights. In *Gitlow v. New York*, the Court established the doctrine of "incorporation which applied the Bill of Rights to the states. Important cases included the *Board of Trade of City of Chicago v. Olsen* that upheld Congressional regulation of commerce. *Olmstead v. United States* allowed exclusion of evidence obtained without a warrant based on application of the 14th Amendment proscription against unreasonable searches. *Wisconsin v. Illinois* ruled the equitable power of the United States can impose positive action on a state to prevent its inaction from damaging another state.

Earl Warren was an Eisenhower nominee, Chief Justice from 1953 to 1969. Warren's Republican career in the law reached from County Prosecutor, California state attorney general, and three consecutive terms as Governor. His programs stressed progressive efficiency, expanding state education, re-integrating returning veterans, infrastructure and highway construction.

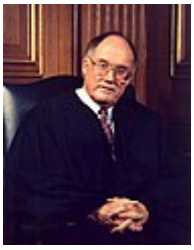


Salmon P. Chase [q]
Union, Reconstruction

William Howard Taft [r]
commerce, incorporation



Earl Warren [s]
due process, civil rights



William Rehnquist [t]
federalism, privacy

In 1954, the Warren Court overturned a landmark Fuller Court ruling on the Fourteenth Amendment interpreting racial segregation as permissible in government and commerce providing "separate but equal" services. Warren built a coalition of Justices after 1962 that developed the idea of natural rights as guaranteed in the Constitution. *Brown v. Board of Education* banned segregation in public schools. *Baker v. Carr* and *Reynolds v. Sims* established Court ordered "one-man-one-vote". Bill of Rights Amendments were incorporated into the states. Due process was expanded in *Gideon v. Wainwright* and *Miranda v. Arizona*. First Amendment rights were addressed in *Griswold v. Connecticut* concerning privacy, and *Engel v. Vitale* relative to free speech.

William Rehnquist was a Reagan appointment to Chief Justice, serving from 1986 to 2005. While he would concur with overthrowing a state supreme court's decision, as in *Bush v. Gore*, he built a coalition of Justices after 1994 that developed the idea of federalism as provided for in the Tenth Amendment. In the hands of the Supreme Court, the Constitution and its Amendments were to restrain Congress, as in *City of Boerne v. Flores*.

Nevertheless, the Rehnquist Court was noted in the contemporary "culture wars" for overturning state laws relating to privacy prohibiting late-term abortions in *Stenberg v. Carhart*, prohibiting sodomy in *Lawrence v. Texas*, or ruling so as to protect free speech in *Texas v. Johnson* or affirmative action in *Grutter v. Bollinger*.

Civic religion

There is a viewpoint that some Americans have come to see the documents of the Constitution, along with the Declaration of Independence and the Bill of Rights, as being a cornerstone of a type of civil religion. This is suggested by the prominent display of the Constitution, along with the Declaration of Independence and the

Bill of Rights, in massive, bronze-framed, bulletproof, moisture-controlled glass containers vacuum-sealed in a rotunda by day and in multi-ton bomb-proof vaults by night at the National Archives Building.[125]

The idea of displaying the documents struck one academic critic looking from the point of view of the 1776 or 1789 America as "idolatrous, and also curiously at odds with the values of the Revolution".[125] By 1816, Jefferson wrote that "[s]ome men look at constitutions with sanctimonious reverence and deem them like the Ark of the Covenant, too sacred to be touched". But he saw imperfections and imagined that there could potentially be others, believing as he did that "institutions must advance also".[126]

Some commentators depict the multi-ethnic, multi-sectarian United States as held together by a political orthodoxy, in contrast with a nation state of people having more "natural" ties.[127][128]

Worldwide influence

The United States Constitution has been a notable model for governance around the world. Its international influence is found in similarities of phrasing and borrowed passages in other constitutions, as well as in the principles of the rule of law, separation of powers and recognition of individual rights.

José Rizal

Sun Yat-sen

The American experience of fundamental law with amendments and judicial review has motivated constitutionalists at times when they were considering the possibilities for their nation's future.[129] It informed Abraham Lincoln during the American Civil War,[u] his contemporary and ally Benito Juárez of Mexico,[v] and the second generation of 19th-century constitutional nationalists, José Rizal of the Philippines[w] and Sun Yat-sen of China.[x] The framers of the Australian constitution integrated federal ideas from the U.S. and other constitutions.[135]

Since the latter half of the 20th century, the influence of the United States Constitution may be waning as other countries have revised their constitutions with new influences.[136][137]

Criticisms

The United States Constitution has faced various criticisms since its inception in 1787.

The Constitution did not originally define who was eligible to vote, allowing each state to determine who was eligible. In the early history of the U.S., most states allowed only white male adult property owners to vote.[138][139][140] Until the Reconstruction Amendments were adopted between 1865 and 1870, the five years immediately following the Civil War, the Constitution did not abolish slavery, nor give citizenship and voting rights to former slaves.[141] These amendments did not include a specific prohibition on discrimination in voting on the basis of sex; it took another amendment—the Nineteenth, ratified in 1920—for the Constitution to prohibit any United States citizen from being denied the right to vote on the basis of sex.[142]

According to a 2012 study by David Law of Washington University published in the *New York University Law Review*, the U.S. Constitution guarantees relatively few rights compared to the constitutions of other countries and contains fewer than half (26 of 60) of the provisions listed in the average bill of rights. It is also one of the few in the world today that still features the right to keep and bear arms; the only others are the constitutions of Guatemala and Mexico.[136][137]

See also

- Timeline of drafting and ratification of the United States Constitution
- *Commentaries on the Constitution of the United States* by Joseph Story (1833, three volumes)
- Congressional power of enforcement
- Constitution Day (United States)
- *The Constitution of the United States of America: Analysis and Interpretation*
- Constitutionalism in the United States
- Gödel's Loophole
- History of democracy
- List of national constitutions (world countries)
- List of proposed amendments to the United States Constitution
- List of sources of law in the United States
- Pocket Constitution
- Second Constitutional Convention of the United States
- UK constitutional law

Related documents

- Mayflower Compact (1620)
- Fundamental Orders of Connecticut (1639)
- Massachusetts Body of Liberties (1641)
- Virginia Statute for Religious Freedom (1779)
- Constitution of Massachusetts (1780)

Notes

a. Historically, the first written constitution of an independent polity which was adopted by representatives elected by the people was the 1755 Corsican Constitution, despite being short-lived, drafted by Pasquale Paoli, whose work was an inspiration for many American patriots,[10] including the Hearts of Oak, originally named "The Corsicans", and the Sons of Liberty.[11]

   Earlier written constitutions of independent states exist but were not adopted by bodies elected by the people, such as the Swedish Constitution of 1772, adopted by the king, the Constitution of San Marino of 1600 which is the oldest surviving constitution in the world, or the Constitution of Pylyp Orlyk, the first establishing separation of powers.

b. The Judiciary Act of 1789 established six Supreme Court justices. The number was periodically increased, reaching ten in 1863, allowing Lincoln additional appointments. After the Civil War, vacancies reduced the number to seven. Congress finally fixed the number at nine.

c. The four concepts which determine "justiciability", the formula for a federal court taking and deciding a case, are the doctrines of (a) standing, (b) real and substantial interests, (c) adversity, and (d) avoidance of political questions.[50]

d. Judicial Review is explained in Hamilton's Federalist No. 78. It also has roots in Natural Law expressions in the Declaration of Independence. The Supreme Court first ruled an act of Congress unconstitutional in *Marbury v. Madison*, the second was Dred Scott.[50]

e. For instance, 'collateral estoppel' directs that when a litigant wins in a state court, they cannot sue in federal court to get a more favorable outcome.

f. Recently numerous habeas corpus reforms have tried to preserve a working "relationship of comity" and simultaneously streamline the process for state and lower courts to apply Supreme Court interpretations.[50]

g. Contrary to this source when viewed, the Constitution provides that punishments, including forfeiture of income and property, must apply to the person convicted. "No attainder of treason shall work corruption of blood or forfeiture" on the convicted traitor's children or heirs. This avoids the perpetuation of civil war into the generations by Parliamentary majorities as in the Wars of the Roses.[50]

h. Three states have ratified the ERA in recent years (Virginia, Illinois and Nevada), purportedly bringing the number of ratifications to 38. In January 2020, after the Justice Department issued an opinion that the deadline for passage of the amendment expired at the time of the original 1979 deadline, the attorneys general of those three states filed suit in U.S. District Court in Washington, D.C. challenging that opinion. As reported by CNN, they are asking the court to force the archivist of the United States to "carry out his statutory duty of recognizing the complete and final adoption" of the ERA as the Twenty-eighth Amendment to the Constitution.[107]

i. Downes v. Bidwell, 182 U.S. 244, 261 (1901), commenting on an earlier Supreme Court decision, Loughborough v. Blake, 18 U.S. (5 Wheat.) 317 (1820); Rasmussen v. United States, 197 U.S. 516, 529–530, 536 (1905)(concurring opinions of Justices Harlan and Brown), that once the Constitution has been extended to an area, its coverage is irrevocable; Boumediene v. Bush—That where the Constitution has been once formally extended by Congress to territories, neither Congress nor the territorial legislature can enact laws inconsistent therewith. The Constitution grants Congress and the President the power to acquire, dispose of, and govern territory, not the power to decide when and where its terms apply.

j. The Supreme Court found 658 cases of invalid state statutes from 1790 to 1941 before the advent of civil rights cases in the last half of the twentieth century[112]

k. In this, John Marshall leaned on the argument of Hamilton in Federalist No. 78.

l. Although it may be that the true meaning of the Constitution to the people of the United States in 1788 can only be divined by a study of the state ratification conventions, the Supreme Court has used *The Federalist Papers* as a supplemental guide to the Constitution since their co-author, John Jay, was the first Chief Justice.

m. The entire quote reads, "This argument has been ratified by time and by practice, and there is little point in quibbling with it. Of course, the President also takes an oath to support the Constitution."[115]

n. The presidential reference is to Andrew Jackson's disagreement with Marshall's Court over *Worcester v. Georgia*, finding Georgia could not impose its laws in Cherokee Territory. Jackson replied, "John Marshall has made his decision; now let him enforce it!", and the Trail of Tears proceeded. Jackson would not politically interpose the U.S. Army between Georgia and the Cherokee people as Eisenhower would do between Arkansas and the integrating students.

o. "Advisory opinions" are not the same as "declaratory judgments". (a) These address rights and legal relationships in cases of "actual controversy", and (b) the holding has the force and effect of a final judgment. (c) There is no coercive order, as the parties are assumed to follow the judgment, but a "declaratory judgment" is the basis of any subsequent ruling in case law.

p. Louis Brandeis concurring opinion, *Ashwander v. Tennessee Valley Authority*, 1936.

q. The Chase Court, 1864–1873, in 1865 were the Hon. Salmon P. Chase, Chief Justice, U.S.; Hon. Nathan Clifford, Maine; Stephen J. Field, Justice Supreme Court, U.S.; Hon. Samuel F. Miller, U.S. Supreme Court; Hon. Noah H. Swayne, Justice Supreme Court, U.S.; Judge Morrison R. Waite

r. The Taft Court, 1921–1930, in 1925 were James Clark McReynolds, Oliver Wendell Holmes Jr., William Howard Taft (Chief Justice), Willis Van Devanter, Louis Brandeis. Edward Sanford, George Sutherland, Pierce Butler, Harlan Fiske Stone

s. The Warren Court, 1953–1969, in 1963 were Felix Frankfurter; Hugo Black; Earl Warren (Chief Justice); Stanley Reed; William O. Douglas. Tom Clark; Robert H. Jackson; Harold Burton; Sherman Minton

t. The Rehnquist Court, 1986–2005.

u. "Secession was indeed unconstitutional ... military resistance to secession was not only constitutional but also morally justified.[130] "the *primary* purpose of the Constitution was ... to create 'a more perfect union' ... the Constitution was an exercise in nation building.[131]

v. Juarez regarded the United States as a model of republican democracy and consistently supported Abraham Lincoln.[132]

w. The institutions of the two countries which have most influenced constitutional development are Spain and the United States". One of the reforms, "sine quibus non", to use the words of Rizal and Mabini, always insisted upon by the Filipinos, was Philippine representation in the Spanish Cortez, the promulgation in the Islands of the Spanish Constitution, and the complete assimilation equal to that of any in the Spanish provinces on the continent.[133]

x. In the modern history of China, there were many revolutionaries who tried to seek the truth from the West in order to overthrow the feudal system of the Qing dynasty. Dr. Sun Yat-sen, for example, was much influenced by American democracy, especially the U.S. Constitution.[134]

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1. 16 Am. Jur. 2d Constitutional Law § 10; "The Constitution went into effect in March of 1789." Referring to Owings v. Speed, 18 U.S. 420, 5 L. Ed. 124 (1820), "The present Constitution of the United States did not commence its operation until the first Wednesday in March, 1789."
2. Maier 2010, p. 35
3. Goodlatte says U.S. has the oldest working national constitution (http://www.politifact.com/virginia/statements/2014/sep/22/bob-goodlatte/goodlatte-says-us-has-oldest-working-national-cons/), Politifact Virginia website, September 22, 2014.
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- Mobile friendly (https://uscon.mobi/) version of the Constitution
- National Constitution Center (https://www.constitutioncenter.org/)

United States Bill of Rights

The **United States Bill of Rights** comprises the first ten amendments to the United States Constitution. Proposed following the often bitter 1787–88 debate over the ratification of the Constitution, and written to address the objections raised by Anti-Federalists, the Bill of Rights amendments add to the Constitution specific guarantees of personal freedoms and rights, clear limitations on the government's power in judicial and other proceedings, and explicit declarations that all powers not specifically granted to the U.S. Congress by the Constitution are reserved for the states or the people. The concepts codified in these amendments are built upon those found in earlier documents, especially the Virginia Declaration of Rights (1776), as well as the Northwest Ordinance (1787),[1] the English Bill of Rights (1689), and the Magna Carta (1215).[2]

Due largely to the efforts of Representative James Madison, who studied the deficiencies of the Constitution pointed out by anti-federalists and then crafted a series of corrective proposals, Congress approved twelve articles of amendment on September 25, 1789, and submitted them to the states for ratification. Contrary to Madison's proposal that the proposed amendments be incorporated into the main body of the Constitution (at the relevant articles and sections of the document), they were proposed as supplemental additions (codicils) to it.[3] Articles Three through Twelve were ratified as additions to the Constitution on December 15, 1791, and became Amendments One through Ten of the Constitution. Article Two became part of the Constitution on May 5, 1992, as the Twenty-seventh Amendment. Article One is still pending before the states.

United States Bill of Rights

First page of an original copy of the twelve proposed articles of amendment, as passed by Congress

Created	September 25, 1789
Ratified	December 15, 1791
Location	National Archives
Author(s)	1st United States Congress, mainly James Madison

Although Madison's proposed amendments included a provision to extend the protection of some of the Bill of Rights to the states, the amendments that were finally submitted for ratification applied only to the federal government. The door for their application upon state governments was opened in the 1860s, following ratification of the Fourteenth Amendment. Since the early 20th century both federal and state courts have used the Fourteenth Amendment to apply portions of the Bill of Rights to state and local governments. The process is known as incorporation.[4]

There are several original engrossed copies of the Bill of Rights still in existence. One of these is on permanent public display at the National Archives in Washington, D.C.

Contents

Background
- Philadelphia Convention
- Anti-Federalists
- Federalists
- Massachusetts compromise

New York Circular Letter
Proposal and ratification
Anticipating amendments
Madison's proposed amendments
Crafting amendments
Ratification process
Application and text
First Amendment
Second Amendment
Third Amendment
Fourth Amendment
Fifth Amendment
Sixth Amendment
Seventh Amendment
Eighth Amendment
Ninth Amendment
Tenth Amendment
Display and honoring of the Bill of Rights
See also
Notes
References
Citations
Bibliography
Further reading
External links

Background

Philadelphia Convention

Prior to the ratification and implementation of the United States Constitution, the thirteen sovereign states followed the Articles of Confederation, created by the Second Continental Congress and ratified in 1781. However, the national government that operated under the Articles of Confederation was too weak to adequately regulate the various conflicts that arose between the states.[5] The Philadelphia Convention set out to correct weaknesses of the Articles that had been apparent even before the American Revolutionary War had been successfully concluded.[5]

The convention took place from May 14 to September 17, 1787, in Philadelphia, Pennsylvania. Although the Convention was purportedly intended only to revise the Articles, the

> I go further, and affirm that bills of rights, in the sense and to the extent in which they are contended for, are not only unnecessary in the proposed Constitution, but would even be dangerous. They would contain various exceptions to powers not granted; and, on this very account, would afford a colorable pretext to claim more than were granted. For why declare that things shall not be done which there is no power to do? Why, for instance, should it be said that the liberty of the press shall not be restrained, when no

intention of many of its proponents, chief among them James Madison of Virginia and Alexander Hamilton of New York, was to create a new government rather than fix the existing one. The convention convened in the Pennsylvania State House, and George Washington of Virginia was unanimously elected as president of the convention.[6] The 55 delegates who drafted the Constitution are among the men known as the Founding Fathers of the new nation. Thomas Jefferson, who was Minister to France during the convention, characterized the delegates as an assembly of "demi-gods."[5] Rhode Island refused to send delegates to the convention.[7]

On September 12, George Mason of Virginia suggested the addition of a Bill of Rights to the Constitution modeled on previous state declarations, and Elbridge Gerry of Massachusetts made it a formal motion.[8] However, after only a brief discussion where Roger Sherman pointed out that State Bills of Rights were not repealed by the new Constitution,[9][10] the motion was defeated by a unanimous vote of the state delegations. Madison, then an opponent of a Bill of Rights, later explained the vote by calling the state bills of rights "parchment barriers" that offered only an illusion of protection against tyranny.[11] Another delegate, James Wilson of Pennsylvania, later argued that the act of enumerating the rights of the people would have been dangerous, because it would imply that rights not explicitly mentioned did not exist;[11] Hamilton echoed this point in *Federalist* No. 84.[12]

> power is given by which restrictions may be imposed? I will not contend that such a provision would confer a regulating power; but it is evident that it would furnish, to men disposed to usurp, a plausible pretense for claiming that power. They might urge with a semblance of reason, that the Constitution ought not to be charged with the absurdity of providing against the abuse of an authority which was not given, and that the provision against restraining the liberty of the press afforded a clear implication, that a power to prescribe proper regulations concerning it was intended to be vested in the national government. This may serve as a specimen of the numerous handles which would be given to the doctrine of constructive powers, by the indulgence of an injudicious zeal for bills of rights.
>
> —Alexander Hamilton's opposition to the Bill of Rights, from *Federalist No. 84*.

Because Mason and Gerry had emerged as opponents of the proposed new Constitution, their motion—introduced five days before the end of the convention—may also have been seen by other delegates as a delaying tactic.[13] The quick rejection of this motion, however, later endangered the entire ratification process. Author David O. Stewart characterizes the omission of a Bill of Rights in the original Constitution as "a political blunder of the first magnitude"[13] while historian Jack N. Rakove calls it "the one serious miscalculation the framers made as they looked ahead to the struggle over ratification".[14]

Thirty-nine delegates signed the finalized Constitution. Thirteen delegates left before it was completed, and three who remained at the convention until the end refused to sign it: Mason, Gerry, and Edmund Randolph of Virginia.[15] Afterward, the Constitution was presented to the Articles of Confederation Congress with the request that it afterwards be submitted to a convention of delegates, chosen in each State by the people, for their assent and ratification.[16]

Anti-Federalists

Following the Philadelphia Convention, some leading revolutionary figures such as Patrick Henry, Samuel Adams, and Richard Henry Lee publicly opposed the new frame of government, a position known as "Anti-Federalism".[17] Elbridge Gerry wrote the most popular Anti-Federalist tract, "Hon. Mr. Gerry's Objections", which went through 46 printings; the essay particularly focused on the lack of a bill of rights in the proposed Constitution.[18] Many were concerned that a strong national government was a threat to individual rights and

that the President would become a king. Jefferson wrote to Madison advocating a Bill of Rights: "Half a loaf is better than no bread. If we cannot secure all our rights, let us secure what we can."[19] The pseudonymous Anti-Federalist "Brutus" (probably Robert Yates)[20] wrote,

On June 5, 1788, Patrick Henry spoke before Virginia's ratification convention in opposition to the Constitution.

> We find they have, in the ninth section of the first article declared, that the writ of habeas corpus shall not be suspended, unless in cases of rebellion—that no bill of attainder, or ex post facto law, shall be passed—that no title of nobility shall be granted by the United States, etc. If every thing which is not given is reserved, what propriety is there in these exceptions? Does this Constitution any where grant the power of suspending the habeas corpus, to make ex post facto laws, pass bills of attainder, or grant titles of nobility? It certainly does not in express terms. The only answer that can be given is, that these are implied in the general powers granted. With equal truth it may be said, that all the powers which the bills of rights guard against the abuse of, are contained or implied in the general ones granted by this Constitution.[21]

He continued with this observation:

> Ought not a government, vested with such extensive and indefinite authority, to have been restricted by a declaration of rights? It certainly ought. So clear a point is this, that I cannot help suspecting that persons who attempt to persuade people that such reservations were less necessary under this Constitution than under those of the States, are wilfully endeavoring to deceive, and to lead you into an absolute state of vassalage.[22]

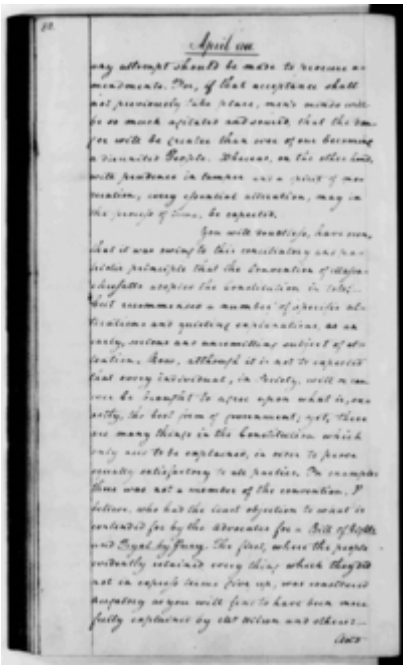
Federalists

Supporters of the Constitution, known as Federalists, opposed a bill of rights for much of the ratification period, in part due to the procedural uncertainties it would create.[23] Madison argued against such an inclusion, suggesting that state governments were sufficient guarantors of personal liberty, in No. 46 of *The Federalist Papers*, a series of essays promoting the Federalist position.[24] Hamilton opposed a bill of rights in *The Federalist No. 84*, stating that "the constitution is itself in every rational sense, and to every useful purpose, a bill of rights." He stated that ratification did not mean the American people were surrendering their rights, making protections unnecessary: "Here, in strictness, the people surrender nothing, and as they retain everything, they have no need of particular reservations." Patrick Henry criticized the Federalist point of view, writing that the legislature must be firmly informed "of the extent of the rights retained by the people ... being in a state of uncertainty, they will assume rather than give up powers by implication."[25] Other anti-Federalists pointed out that earlier political documents, in particular the Magna Carta, had protected specific rights. In response, Hamilton argued that the Constitution was inherently different:

> Bills of rights are in their origin, stipulations between kings and their subjects, abridgments of prerogative in favor of privilege, reservations of rights not surrendered to the prince. Such was the Magna Charta, obtained by the Barons, swords in hand, from King John.[26]

Massachusetts compromise

In December 1787 and January 1788, five states—Delaware, Pennsylvania, New Jersey, Georgia, and Connecticut—ratified the Constitution with relative ease, though the bitter minority report of the Pennsylvania opposition was widely circulated.[27] In contrast to its predecessors, the Massachusetts convention was angry and contentious, at one point erupting into a fistfight between Federalist delegate Francis Dana and Anti-Federalist Elbridge Gerry when the latter was not allowed to speak.[28] The impasse was resolved only when revolutionary heroes and leading Anti-Federalists Samuel Adams and John Hancock agreed to ratification on the condition that the convention also propose amendments.[29] The convention's proposed amendments included a requirement for grand jury indictment in capital cases, which would form part of the Fifth Amendment, and an amendment reserving powers to the states not expressly given to the federal government, which would later form the basis for the Tenth Amendment.[30]



George Washington's 1788 letter to the Marquis de Lafayette observed, "the Convention of Massachusetts adopted the Constitution in toto; but recommended a number of specific alterations and quieting explanations." Source: Library of Congress

Following Massachusetts' lead, the Federalist minorities in both Virginia and New York were able to obtain ratification in convention by linking ratification to recommended amendments.[31] A committee of the Virginia convention headed by law professor George Wythe forwarded forty recommended amendments to Congress, twenty of which enumerated individual rights and another twenty of which enumerated states' rights.[32] The latter amendments included limitations on federal powers to levy taxes and regulate trade.[33]

A minority of the Constitution's critics, such as Maryland's Luther Martin, continued to oppose ratification.[34] However, Martin's allies, such as New York's John Lansing, Jr., dropped moves to obstruct the Convention's process. They began to take exception to the Constitution "as it was," seeking amendments. Several conventions saw supporters for "amendments before" shift to a position of "amendments after" for the sake of staying in the Union. Ultimately, only North Carolina and Rhode Island waited for amendments from Congress before ratifying.[31]

Article Seven of the proposed Constitution set the terms by which the new frame of government would be established. The new Constitution would become operational when ratified by at least nine states. Only then would it replace the existing government under the Articles of Confederation and would apply only to those states that ratified it.

Following contentious battles in several states, the proposed Constitution reached that nine-state ratification plateau in June 1788. On September 13, 1788, the Articles of Confederation Congress certified that the new Constitution had been ratified by more than enough states for the new system to be implemented and directed the new government to meet in New York City on the first Wednesday in March the following year.[35] On March 4, 1789, the new frame of government came into force with eleven of the thirteen states participating.

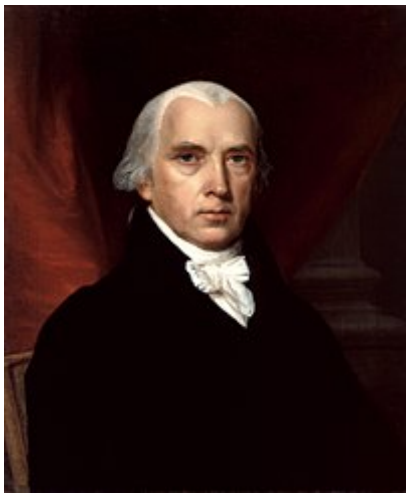
New York Circular Letter

In New York, the majority of the Ratifying Convention was Anti-Federalist and they were not inclined to follow the Massachusetts Compromise. Led by Melancton Smith, they were inclined to make the ratification of New York conditional on prior proposal of amendments or, perhaps, insist on the right to secede from the union if amendments are not promptly proposed. Hamilton, after consulting with Madison, informed the Convention that this would not be accepted by Congress.

After ratification by the ninth state, New Hampshire, followed shortly by Virginia, it was clear the Constitution would go into effect with or without New York as a member of the Union. In a compromise, the New York Convention proposed to ratify with in confidence that the states would call for new amendments using the convention procedure in Article V, rather than making this a condition of ratification by New York. John Jay wrote the New York Circular Letter calling for the use of this procedure, which was then sent to all the States. The legislatures in New York and Virginia passed resolutions calling for the convention to propose amendments that had been demanded by the States while several other states tabled the matter to consider in a future legislative session. Madison wrote the Bill of Rights partially in response to this action from the States.

Proposal and ratification

Anticipating amendments



James Madison, primary author and chief advocate for the Bill of Rights in the First Congress

The 1st United States Congress, which met in New York City's Federal Hall, was a triumph for the Federalists. The Senate of eleven states contained 20 Federalists with only two Anti-Federalists, both from Virginia. The House included 48 Federalists to 11 Anti-Federalists, the latter of whom were from only four states: Massachusetts, New York, Virginia and South Carolina.[36] Among the Virginia delegation to the House was James Madison, Patrick Henry's chief opponent in the Virginia ratification battle. In retaliation for Madison's victory in that battle at Virginia's ratification convention, Henry and other Anti-Federalists, who controlled the Virginia House of Delegates, had gerrymandered a hostile district for Madison's planned congressional run and recruited Madison's future presidential successor, James Monroe, to oppose him.[37] Madison defeated Monroe after offering a campaign pledge that he would introduce constitutional amendments forming a bill of rights at the First Congress.[38]

Originally opposed to the inclusion of a bill of rights in the Constitution, Madison had gradually come to understand the importance of doing so during the often contentious ratification debates. By taking the initiative to propose amendments himself through the Congress, he hoped to preempt a second constitutional convention that might, it was feared, undo the difficult compromises of 1787, and open the entire Constitution to reconsideration, thus risking the dissolution of the new federal government. Writing to Jefferson, he stated, "The friends of the Constitution, some from an approbation of particular amendments, others from a spirit of conciliation, are generally agreed that the System should be revised. But they wish the revisal to be carried no farther than to supply additional guards for liberty."[39] He also felt that amendments guaranteeing personal liberties would "give to the Government its due popularity and stability".[40] Finally, he hoped that the amendments "would acquire by degrees the character of fundamental maxims of free government, and as they become incorporated with the national sentiment, counteract the impulses of interest and passion".[41] Historians continue to debate the

degree to which Madison considered the amendments of the Bill of Rights necessary, and to what degree he considered them politically expedient; in the outline of his address, he wrote, "Bill of Rights—useful—not essential—".[42]

On the occasion of his April 30, 1789 inauguration as the nation's first president, George Washington addressed the subject of amending the Constitution. He urged the legislators,

> whilst you carefully avoid every alteration which might endanger the benefits of an united and effective government, or which ought to await the future lessons of experience; a reverence for the characteristic rights of freemen, and a regard for public harmony, will sufficiently influence your deliberations on the question, how far the former can be impregnably fortified or the latter be safely and advantageously promoted.[43][44]

Madison's proposed amendments

James Madison introduced a series of Constitutional amendments in the House of Representatives for consideration. Among his proposals was one that would have added introductory language stressing natural rights to the preamble.[45] Another would apply parts of the Bill of Rights to the states as well as the federal government. Several sought to protect individual personal rights by limiting various Constitutional powers of Congress. Like Washington, Madison urged Congress to keep the revision to the Constitution "a moderate one", limited to protecting individual rights.[45]

Madison was deeply read in the history of government and used a range of sources in composing the amendments. The English Magna Carta of 1215 inspired the right to petition and to trial by jury, for example, while the English Bill of Rights of 1689 provided an early precedent for the right to keep and bear arms (although this applied only to Protestants) and prohibited cruel and unusual punishment.[33]

The greatest influence on Madison's text, however, was existing state constitutions.[46][47] Many of his amendments, including his proposed new preamble, were based on the Virginia Declaration of Rights drafted by Anti-Federalist George Mason in 1776.[48] To reduce future opposition to ratification, Madison also looked for recommendations shared by many states.[47] He did provide one, however, that no state had requested: "No state shall violate the equal rights of conscience, or the freedom of the press, or the trial by jury in criminal cases."[49] He did not include an amendment that every state had asked for, one that would have made tax assessments voluntary instead of contributions.[50] Madison proposed the following constitutional amendments:

> First. That there be prefixed to the Constitution a declaration, that all power is originally vested in, and consequently derived from, the people.
>
> That Government is instituted and ought to be exercised for the benefit of the people; which consists in the enjoyment of life and liberty, with the right of acquiring and using property, and generally of pursuing and obtaining happiness and safety.
>
> That the people have an indubitable, unalienable, and indefeasible right to reform or change their Government, whenever it be found adverse or inadequate to the purposes of its institution.
>
> Secondly. That in article 1st, section 2, clause 3, these words be struck out, to wit: "The number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one Representative, and until such enumeration shall be made;" and in place thereof be inserted these words, to wit: "After the first actual enumeration, there shall be one Representative for every

thirty thousand, until the number amounts to—, after which the proportion shall be so regulated by Congress, that the number shall never be less than—, nor more than—, but each State shall, after the first enumeration, have at least two Representatives; and prior thereto."

Thirdly. That in article 1st, section 6, clause 1, there be added to the end of the first sentence, these words, to wit: "But no law varying the compensation last ascertained shall operate before the next ensuing election of Representatives."

Fourthly. That in article 1st, section 9, between clauses 3 and 4, be inserted these clauses, to wit: The civil rights of none shall be abridged on account of religious belief or worship, nor shall any national religion be established, nor shall the full and equal rights of conscience be in any manner, or on any pretext, infringed.

The people shall not be deprived or abridged of their right to speak, to write, or to publish their sentiments; and the freedom of the press, as one of the great bulwarks of liberty, shall be inviolable.

The people shall not be restrained from peaceably assembling and consulting for their common good; nor from applying to the legislature by petitions, or remonstrances for redress of their grievances.

The right of the people to keep and bear arms shall not be infringed; a well armed and well regulated militia being the best security of a free country: but no person religiously scrupulous of bearing arms shall be compelled to render military service in person.

No soldier shall in time of peace be quartered in any house without the consent of the owner; nor at any time, but in a manner warranted by law.

No person shall be subject, except in cases of impeachment, to more than one punishment, or one trial for the same offence; nor shall be compelled to be a witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor be obliged to relinquish his property, where it may be necessary for public use, without a just compensation.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

The rights of the people to be secured in their persons, their houses, their papers, and their other property, from all unreasonable searches and seizures, shall not be violated by warrants issued without probable cause, supported by oath or affirmation, or not particularly describing the places to be searched, or the persons or things to be seized.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, to be informed of the cause and nature of the accusation, to be confronted with his accusers, and the witnesses against him; to have a compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defence.

The exceptions here or elsewhere in the Constitution, made in favor of particular rights, shall not be so construed as to diminish the just importance of other rights retained by the people, or as to enlarge the powers delegated by the Constitution; but either as actual limitations of such powers, or as inserted merely for greater caution.

Fifthly. That in article 1st, section 10, between clauses 1 and 2, be inserted this clause, to wit: No State shall violate the equal rights of conscience, or the freedom of the press, or the trial by jury in criminal cases.

Sixthly. That, in article 3d, section 2, be annexed to the end of clause 2d, these words, to wit: But no appeal to such court shall be allowed where the value in controversy shall not amount to — dollars: nor shall any fact triable by jury, according to the course of common law, be otherwise re-examinable than may consist with the principles of common law.

Seventhly. That in article 3d, section 2, the third clause be struck out, and in its place be inserted the clauses following, to wit: The trial of all crimes (except in cases of impeachments, and cases arising in the land or naval forces, or the militia when on actual service, in time of war or public danger) shall be by an impartial jury of freeholders of the vicinage, with the requisite of unanimity for conviction, of the right with the requisite of unanimity for conviction, of the right of challenge, and other accustomed requisites; and in all crimes punishable with loss of life or member, presentment or indictment by a grand jury shall be an essential preliminary, provided that in cases of crimes committed within any county which may be in possession of an enemy, or in which a general insurrection may prevail, the trial may by law be authorized in some other county of the same State, as near as may be to the seat of the offence.
In cases of crimes committed not within any county, the trial may by law be in such county as the laws shall have prescribed. In suits at common law, between man and man, the trial by jury, as one of the best securities to the rights of the people, ought to remain inviolate.

Eighthly. That immediately after article 6th, be inserted, as article 7th, the clauses following, to wit: The powers delegated by this Constitution are appropriated to the departments to which they are respectively distributed: so that the Legislative Department shall never exercise the powers vested in the Executive or Judicial, nor the Executive exercise the powers vested in the Legislative or Judicial, nor the Judicial exercise the powers vested in the Legislative or Executive Departments.

The powers not delegated by this Constitution, nor prohibited by it to the states, are reserved to the States respectively.

Ninthly. That article 7th, be numbered as article 8th.[51]

Crafting amendments

Federalist representatives were quick to attack Madison's proposal, fearing that any move to amend the new Constitution so soon after its implementation would create an appearance of instability in the government.[52] The House, unlike the Senate, was open to the public, and members such as Fisher Ames warned that a prolonged "dissection of the constitution" before the galleries could shake public confidence.[53] A procedural battle followed, and after initially forwarding the amendments to a select committee for revision, the House agreed to take Madison's proposal up as a full body beginning on July 21, 1789.[54][55]

The eleven-member committee made some significant changes to Madison's nine proposed amendments, including eliminating most of his preamble and adding the phrase "freedom of speech, and of the press".[56] The House debated the amendments for eleven days. Roger Sherman of Connecticut persuaded the House to place the amendments at the Constitution's end so that the document would "remain inviolate", rather than adding them throughout, as Madison had proposed.[57][58] The amendments, revised and condensed from twenty to seventeen, were approved and forwarded to the Senate on August 24, 1789.[59]

The Senate edited these amendments still further, making 26 changes of its own. Madison's proposal to apply parts of the Bill of Rights to the states as well as the federal government was eliminated, and the seventeen amendments were condensed to twelve, which were approved on September 9, 1789.[60] The Senate also eliminated the last of Madison's proposed changes to the preamble.[61]

On September 21, 1789, a House–Senate Conference Committee convened to resolve the numerous differences between the two Bill of Rights proposals. On September 24, 1789, the committee issued this report, which finalized 12 Constitutional Amendments for House and Senate to consider. This final version was approved by joint resolution of Congress on September 25, 1789, to be forwarded to the states on September 28.[62][63]

By the time the debates and legislative maneuvering that went into crafting the Bill of Rights amendments was done, many personal opinions had shifted. A number of Federalists came out in support, thus silencing the Anti-Federalists' most effective critique. Many Anti-Federalists, in contrast, were now opposed, realizing that Congressional approval of these amendments would greatly lessen the chances of a second constitutional convention.[64] Anti-Federalists such as Richard Henry Lee also argued that the Bill left the most objectionable portions of the Constitution, such as the federal judiciary and direct taxation, intact.[65]

Madison remained active in the progress of the amendments throughout the legislative process. Historian Gordon S. Wood writes that "there is no question that it was Madison's personal prestige and his dogged persistence that saw the amendments through the Congress. There might have been a federal Constitution without Madison but certainly no Bill of Rights."[66][67]

Approval of the Bill of Rights in Congress and the States[68]

Seventeen Articles Approved by the House August 24, 1789	Twelve Articles Approved by the Senate September 9, 1789	Twelve Articles Approved by Congress September 25, 1789	Ratification Status
First Article: After the first enumeration, required by the first Article of the Constitution, there shall be one Representative for every thirty thousand, until the number shall amount to one hundred, after which the proportion shall be so regulated by Congress, that there shall be not less than one hundred Representatives, nor less than one Representative for every forty thousand persons, until the number of Representatives	**First Article:** After the first enumeration, required by the first article of the Constitution, there shall be one Representative for every thirty thousand, until the number shall amount to one hundred; to which number one Representative shall be added for every subsequent increase of forty thousand, until the Representatives shall amount to two hundred, to which number one Representative shall be added for every subsequent	**First Article:** After the first enumeration required by the first article of the Constitution, there shall be one Representative for every thirty thousand, until the number shall amount to one hundred, after which the proportion shall be so regulated by Congress, that there shall be not less than one hundred Representatives, nor less than one Representative for every forty thousand persons, until the number of Representatives	**Pending:** Congressional Apportionment Amendment

shall amount to two hundred, after which the proportion shall be so regulated by Congress, that there shall not be less than two hundred Representatives, nor less than one Representative for every fifty thousand persons.	increase of sixty thousand persons.	shall amount to two hundred; after which the proportion shall be so regulated by Congress, that there shall not be less than two hundred Representatives, nor more than one Representative for every fifty thousand persons.	
Second Article: No law varying the compensation to the members of Congress, shall take effect, until an election of Representatives shall have intervened.	**Second Article:** No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened.	**Second Article:** No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened.	**Later ratified:** May 5, 1992 Twenty-seventh Amendment
Third Article: Congress shall make no law establishing religion or prohibiting the free exercise thereof, nor shall the rights of Conscience be infringed.	**Third Article:** Congress shall make no law establishing articles of faith, or a mode of worship, or prohibiting the free exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition to the government for a redress of grievances.	**Third Article:** Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.	**Ratified:** December 15, 1791 First Amendment
Fourth Article: The Freedom of Speech, and of the Press, and the right of the People peaceably to assemble, and	*(see Third Article above)*		

consult for their common good, and to apply to the Government for a redress of grievances, shall not be infringed.			
Fifth Article: A well regulated militia, composed of the body of the People, being the best security of a free State, the right of the People to keep and bear arms, shall not be infringed, but no one religiously scrupulous of bearing arms, shall be compelled to render military service in person.	**Fourth Article:** A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.	**Fourth Article:** A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.	**Ratified:** December 15, 1791 Second Amendment
Sixth Article: No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.	**Fifth Article:** No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.	**Fifth Article:** No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.	**Ratified:** December 15, 1791 Third Amendment
Seventh Article: The right of the People to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause supported by oath or affirmation, and	**Sixth Article:** The right of the People to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause supported by oath or affirmation, and	**Sixth Article:** The right of the People to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause supported by oath or affirmation, and	**Ratified:** December 15, 1791 Fourth Amendment

particularly describing the place to be searched, and the persons or things to be seized.	particularly describing the place to be searched, and the persons or things to be seized.	particularly describing the place to be searched, and the persons or things to be seized.	
Eighth Article: No person shall be subject, except in case of impeachment, to more than one trial, or one punishment for the same offense, nor shall be compelled in any criminal case, to be a witness against himself, nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use without just compensation.	**Seventh Article:** No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case, to be a witnesses against himself, nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use without just compensation.	**Seventh Article:** No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.	**Ratified:** December 15, 1791 Fifth Amendment
Ninth Article: In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the	**Eighth Article:** In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the	**Eighth Article:** In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed,	**Ratified:** December 15, 1791 Sixth Amendment

witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence.	witnesses against him, to have compulsory process for obtaining witnesses in his favour, and to have the assistance of counsel for his defence.	which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.	
Tenth Article: The trial of all crimes (except in cases of impeachment, and in cases arising in the land or naval forces, or in the militia when in actual service in time of War or public danger) shall be by an Impartial Jury of the Vicinage, with the requisite of unanimity for conviction, the right of challenge, and other accostomed [*sic*] requisites; and no person shall be held to answer for a capital, or otherways [*sic*] infamous crime, unless on a presentment or indictment by a Grand Jury; but if a crime be committed in a place in the possession of an enemy, or in which	*(see Seventh Article above)*		

an insurrection may prevail, the indictment and trial may by law be authorised in some other place within the same State.			
Eleventh Article: No appeal to the Supreme Court of the United States, shall be allowed, where the value in controversy shall not amount to one thousand dollars, nor shall any fact, triable by a Jury according to the course of the common law, be otherwise re-examinable, than according to the rules of common law.	**Ninth Article:** In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by Jury shall be preserved, and no fact, tried by a Jury, shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.	**Ninth Article:** In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by Jury shall be preserved, and no fact, tried by a Jury, shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.	**Ratified:** December 15, 1791 Seventh Amendment
Twelfth Article: In suits at common law, the right of trial by Jury shall be preserved.	*(see Ninth Article above)*		
Thirteenth Article: Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.	**Tenth Article:** Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.	**Tenth Article:** Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.	**Ratified:** December 15, 1791 Eighth Amendment
Fourteenth Article: No State shall infringe the right of trial by Jury in criminal cases, nor the rights of conscience, nor the			

freedom of speech, or of the press.			
Fifteenth Article: The enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people.	**Eleventh Article:** The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.	**Eleventh Article:** The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.	**Ratified:** December 15, 1791 Ninth Amendment
Sixteenth Article: The powers delegated by the Constitution to the government of the United States, shall be exercised as therein appropriated, so that the Legislative shall never exercise the powers vested in the Executive or Judicial; nor the Executive the powers vested in the Legislative or Judicial; nor the Judicial the powers vested in the Legislative or Executive.			
Seventeenth Article: The powers not delegated by the Constitution, nor prohibited by it, to the States, are reserved to the States respectively.	**Twelfth Article:** 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.	**Twelfth Article:** 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.	**Ratified:** December 15, 1791 Tenth Amendment

Ratification process

The twelve articles of amendment approved by congress were officially submitted to the Legislatures of the several States for consideration on September 28, 1789. The following states ratified some or all of the amendments:[69][70][71]

1. New Jersey: Articles One and Three through Twelve on November 20, 1789, and Article Two on May 7, 1992
2. Maryland: Articles One through Twelve on December 19, 1789
3. North Carolina: Articles One through Twelve on December 22, 1789
4. South Carolina: Articles One through Twelve on January 19, 1790
5. New Hampshire: Articles One and Three through Twelve on January 25, 1790, and Article Two on March 7, 1985
6. Delaware: Articles Two through Twelve on January 28, 1790
7. New York: Articles One and Three through Twelve on February 24, 1790
8. Pennsylvania: Articles Three through Twelve on March 10, 1790, and Article One on September 21, 1791
9. Rhode Island: Articles One and Three through Twelve on June 7, 1790, and Article Two on June 10, 1993
10. Vermont: Articles One through Twelve on November 3, 1791
11. Virginia: Article One on November 3, 1791, and Articles Two through Twelve on December 15, 1791[72]
    (After failing to ratify the 12 amendments during the 1789 legislative session.)

Having been approved by the requisite three-fourths of the several states, there being 14 States in the Union at the time (as Vermont had been admitted into the Union on March 4, 1791),[65] the ratification of Articles Three through Twelve was completed and they became Amendments 1 through 10 of the Constitution. President Washington informed Congress of this on January 18, 1792.[73]

As they had not yet been approved by 11 of the 14 states, the ratification of Article One (ratified by 10) and Article Two (ratified by 6) remained incomplete. The ratification plateau they needed to reach soon rose to 12 of 15 states when Kentucky joined the Union (June 1, 1792). On June 27, 1792, the Kentucky General Assembly ratified all 12 amendments, however this action did not come to light until 1996.[74]

Article One came within one state of the number needed to become adopted into the Constitution on two occasions between 1789 and 1803. Despite coming close to ratification early on, it has never received the approval of enough states to become part of the Constitution.[66] As Congress did not attach a ratification time limit to the article, it is still pending before the states. Since no state has approved it since 1792, ratification by an additional 27 states would now be necessary for the article to be adopted.

Article Two, initially ratified by seven states through 1792 (including Kentucky), was not ratified by another state for eighty years. The Ohio General Assembly ratified it on May 6, 1873 in protest of an unpopular Congressional pay raise.[75] A century later, on March 6, 1978, the Wyoming Legislature also ratified the article.[76] Gregory Watson, a University of Texas at Austin undergraduate student, started a new push for the article's ratification with a letter-writing campaign to state legislatures.[75] As a result, by May 1992, enough states had approved Article Two (38 of the 50 states in the Union) for it to become the Twenty-seventh Amendment to the United States Constitution. The amendment's adoption was certified by Archivist of the United States Don W. Wilson and subsequently affirmed by a vote of Congress on May 20, 1992.[77]

Three states did not complete action on the twelve articles of amendment when they were initially put before the states. Georgia found a Bill of Rights unnecessary and so refused to ratify. Both chambers of the Massachusetts General Court ratified a number of the amendments (the Senate adopted 10 of 12 and the House 9 of 12), but failed to reconcile their two lists or to send official notice to the Secretary of State of the

ones they did agree upon.[78][65] Both houses of the Connecticut General Assembly voted to ratify Articles Three through Twelve but failed to reconcile their bills after disagreeing over whether to ratify Articles One and Two.[79] All three later ratified the Constitutional amendments originally known as Articles Three through Twelve as part of the 1939 commemoration of the Bill of Rights' sesquicentennial: Massachusetts on March 2, Georgia on March 18, and Connecticut on April 19.[65] Connecticut and Georgia would also later ratify Article Two, on May 13, 1987 and February 2, 1988 respectively.

Application and text

The Bill of Rights had little judicial impact for the first 150 years of its existence; in the words of Gordon S. Wood, "After ratification, most Americans promptly forgot about the first ten amendments to the Constitution."[80][81] The Court made no important decisions protecting free speech rights, for example, until 1931.[82] Historian Richard Labunski attributes the Bill's long legal dormancy to three factors: first, it took time for a "culture of tolerance" to develop that would support the Bill's provisions with judicial and popular will; second, the Supreme Court spent much of the 19th century focused on issues relating to intergovernmental balances of power; and third, the Bill initially only applied to the federal government, a restriction affirmed by *Barron v. Baltimore* (1833).[83][84][85] In the twentieth century, however, most of the Bill's provisions were applied to the states via the Fourteenth Amendment—a process known as incorporation—beginning with the freedom of speech clause, in *Gitlow v. New York* (1925).[86] In *Talton v. Mayes* (1896), the Court ruled that Constitutional protections, including the provisions of the Bill of Rights, do not apply to the actions of American Indian tribal governments.[87] Through the incorporation process the United States Supreme Court succeeded in extending to the States almost all of the protections in the Bill of Rights, as well as other, unenumerated rights.[88] The Bill of Rights thus imposes legal limits on the powers of governments and acts as an anti-majoritarian/minoritarian safeguard by providing deeply entrenched legal protection for various civil liberties and fundamental rights.[a][90][91][92] The Supreme Court for example concluded in the *West Virginia State Board of Education v. Barnette* (1943) case that the founders intended the Bill of Rights to put some rights out of reach from majorities, ensuring that some liberties would endure beyond political majorities.[90][91][92][93] As the Court noted, the idea of the Bill of Rights "was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts."[93][94] This is why "fundamental rights may not be submitted to a vote; they depend on the outcome of no elections."[93][94]

First Amendment

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.[95]

The First Amendment prohibits the making of any law respecting an establishment of religion, impeding the free exercise of religion, abridging the freedom of speech, infringing on the freedom of the press, interfering with the right to peaceably assemble or prohibiting the petitioning for a governmental redress of grievances. Initially, the First Amendment applied only to laws enacted by Congress, and many of its provisions were interpreted more narrowly than they are today.[96]

In *Everson v. Board of Education* (1947), the Court drew on Thomas Jefferson's correspondence to call for "a wall of separation between church and State", though the precise boundary of this separation remains in dispute.[96] Speech rights were expanded significantly in a series of 20th- and 21st-century court decisions that protected various forms of political speech, anonymous speech, campaign financing, pornography, and school speech; these rulings also defined a series of exceptions to First Amendment protections. The Supreme Court

overturned English common law precedent to increase the burden of proof for libel suits, most notably in *New York Times Co. v. Sullivan* (1964).[97] Commercial speech is less protected by the First Amendment than political speech, and is therefore subject to greater regulation.[96]

The Free Press Clause protects publication of information and opinions, and applies to a wide variety of media. In *Near v. Minnesota* (1931)[98] and *New York Times v. United States* (1971),[99] the Supreme Court ruled that the First Amendment protected against prior restraint—pre-publication censorship—in almost all cases. The Petition Clause protects the right to petition all branches and agencies of government for action. In addition to the right of assembly guaranteed by this clause, the Court has also ruled that the amendment implicitly protects freedom of association.[96]

Second Amendment

> A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.[95]

The Second Amendment protects the individual right to keep and bear arms. The concept of such a right existed within English common law long before the enactment of the Bill of Rights.[100] First codified in the English Bill of Rights of 1689 (but there only applying to Protestants), this right was enshrined in fundamental laws of several American states during the Revolutionary era, including the 1776 Virginia Declaration of Rights and the Pennsylvania Constitution of 1776. Long a controversial issue in American political, legal, and social discourse, the Second Amendment has been at the heart of several Supreme Court decisions.

- In *United States v. Cruikshank* (1876), the Court ruled that "[t]he right to bear arms is not granted by the Constitution; neither is it in any manner dependent upon that instrument for its existence. The Second Amendment means no more than that it shall not be infringed by Congress, and has no other effect than to restrict the powers of the National Government."[101]
- In *United States v. Miller* (1939), the Court ruled that the amendment "[protects arms that had a] reasonable relationship to the preservation or efficiency of a well regulated militia".[102]
- In *District of Columbia v. Heller* (2008), the Court ruled that the Second Amendment "codified a pre-existing right" and that it "protects an individual right to possess a firearm unconnected with service in a militia, and to use that arm for traditionally lawful purposes, such as self-defense within the home" but also stated that "the right is not unlimited. It is not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose".[103]
- In *McDonald v. Chicago* (2010),[104] the Court ruled that the Second Amendment limits state and local governments to the same extent that it limits the federal government.[105]

Third Amendment

> No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.[95]

The Third Amendment restricts the quartering of soldiers in private homes, in response to Quartering Acts passed by the British parliament during the Revolutionary War. The amendment is one of the least controversial of the Constitution, and, as of 2018, has never been the primary basis of a Supreme Court decision.[106][107][108]

Fourth Amendment

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.[95]

The Fourth Amendment guards against unreasonable searches and seizures, along with requiring any warrant to be judicially sanctioned and supported by probable cause. It was adopted as a response to the abuse of the writ of assistance, which is a type of general search warrant, in the American Revolution. Search and seizure (including arrest) must be limited in scope according to specific information supplied to the issuing court, usually by a law enforcement officer who has sworn by it. The amendment is the basis for the exclusionary rule, which mandates that evidence obtained illegally cannot be introduced into a criminal trial.[109] The amendment's interpretation has varied over time; its protections expanded under left-leaning courts such as that headed by Earl Warren and contracted under right-leaning courts such as that of William Rehnquist.[110]

Fifth Amendment

> No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.[95]

The Fifth Amendment protects against double jeopardy and self-incrimination and guarantees the rights to due process, grand jury screening of criminal indictments, and compensation for the seizure of private property under eminent domain. The amendment was the basis for the court's decision in *Miranda v. Arizona* (1966), which established that defendants must be informed of their rights to an attorney and against self-incrimination prior to interrogation by police.[111]

Sixth Amendment

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.[95]

The Sixth Amendment establishes a number of rights of the defendant in a criminal trial:

- to a speedy and public trial
- to trial by an impartial jury
- to be informed of criminal charges

- to confront witnesses
- to compel witnesses to appear in court
- to assistance of counsel[112]

In *Gideon v. Wainwright* (1963), the Court ruled that the amendment guaranteed the right to legal representation in all felony prosecutions in both state and federal courts.[112]

Seventh Amendment

> In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.[95]

The Seventh Amendment guarantees jury trials in federal civil cases that deal with claims of more than twenty dollars. It also prohibits judges from overruling findings of fact by juries in federal civil trials. In *Colgrove v. Battin* (1973), the Court ruled that the amendment's requirements could be fulfilled by a jury with a minimum of six members. The Seventh is one of the few parts of the Bill of Rights not to be incorporated (applied to the states).[113]

Eighth Amendment

> Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.[95]

The Eighth Amendment forbids the imposition of excessive bails or fines, though it leaves the term "excessive" open to interpretation.[114] The most frequently litigated clause of the amendment is the last, which forbids cruel and unusual punishment.[115][116] This clause was only occasionally applied by the Supreme Court prior to the 1970s, generally in cases dealing with means of execution. In *Furman v. Georgia* (1972), some members of the Court found capital punishment itself in violation of the amendment, arguing that the clause could reflect "evolving standards of decency" as public opinion changed; others found certain practices in capital trials to be unacceptably arbitrary, resulting in a majority decision that effectively halted executions in the United States for several years.[117] Executions resumed following *Gregg v. Georgia* (1976), which found capital punishment to be constitutional if the jury was directed by concrete sentencing guidelines.[117] The Court has also found that some poor prison conditions constitute cruel and unusual punishment, as in *Estelle v. Gamble* (1976) and *Brown v. Plata* (2011).[115]

Ninth Amendment

> The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.[95]

The Ninth Amendment declares that there are additional fundamental rights that exist outside the Constitution. The rights enumerated in the Constitution are not an explicit and exhaustive list of individual rights. It was rarely mentioned in Supreme Court decisions before the second half of the 20th century, when it was cited by

several of the justices in *Griswold v. Connecticut* (1965). The Court in that case voided a statute prohibiting use of contraceptives as an infringement of the right of marital privacy.[118] This right was, in turn, the foundation upon which the Supreme Court built decisions in several landmark cases, including, *Roe v. Wade* (1973), which overturned a Texas law making it a crime to assist a woman to get an abortion, and *Planned Parenthood v. Casey* (1992), which invalidated a Pennsylvania law that required spousal awareness prior to obtaining an abortion.

Tenth Amendment

> 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.[95]

The Tenth Amendment reinforces the principles of separation of powers and federalism by providing that powers not granted to the federal government by the Constitution, nor prohibited to the states, are reserved to the states or the people. The amendment provides no new powers or rights to the states, but rather preserves their authority in all matters not specifically granted to the federal government nor explicitly forbidden to the states.[119]

Display and honoring of the Bill of Rights

George Washington had fourteen handwritten copies of the Bill of Rights made, one for Congress and one for each of the original thirteen states.[120] The copies for Georgia, Maryland, New York, and Pennsylvania went missing.[121] The New York copy is thought to have been destroyed in a fire.[122] Two unidentified copies of the missing four (thought to be the Georgia and Maryland copies) survive; one is in the National Archives, and the other is in the New York Public Library.[123][124] North Carolina's copy was stolen from the State Capitol by a Union soldier following the Civil War. In an FBI sting operation, it was recovered in 2003.[125][126] The copy retained by the First Congress has been on display (along with the Constitution and the Declaration of Independence) in the *Rotunda for the Charters of Freedom* room at the National Archives Building in Washington, D.C. since December 13, 1952.[127]

After fifty years on display, signs of deterioration in the casing were noted, while the documents themselves appeared to be well preserved.[128] Accordingly, the casing was updated and the Rotunda rededicated on September 17, 2003. In his dedicatory remarks, President George W. Bush stated, "The true [American] revolution was not to defy one earthly power, but to declare principles that stand above every earthly power—the equality of each person before God, and the responsibility of government to secure the rights of all."[129]

In 1941, President Franklin D. Roosevelt declared December 15 to be Bill of Rights Day, commemorating the 150th anniversary of the ratification of the Bill of Rights.[130] In 1991, the Virginia copy of the Bill of Rights toured the country in honor of its bicentennial, visiting the capitals of all fifty states.[131]

See also

- Anti-Federalism
- Constitutionalism in the United States
- Four Freedoms
- Institute of Bill of Rights Law
- Patients' [bill of] rights
- Second Bill of Rights

- States' rights
- Substantive due process
- Taxpayer Bill of Rights
- Virginia Statute for Religious Freedom
- *We Hold These Truths*

Notes

a. In *Robertson v. Baldwin*, 165 U.S. 275 (https://supreme.justia.com/cases/federal/us/165/275/) (1897), the United States Supreme Court stated that there are exceptions for the civil liberties and fundamental rights secured by the Bill of Rights: "The law is perfectly well settled that the first ten amendments to the Constitution, commonly known as the "Bill of Rights," were not intended to lay down any novel principles of government, but simply to embody certain guaranties and immunities which we had inherited from our English ancestors, and which had, from time immemorial, been subject to certain well recognized exceptions arising from the necessities of the case. In incorporating these principles into the fundamental law, there was no intention of disregarding the exceptions, which continued to be recognized as if they had been formally expressed. Thus, the freedom of speech and of the press (Article I) does not permit the publication of libels, blasphemous or indecent articles, or other publications injurious to public morals or private reputation; the right of the people to keep and bear arms (Article II) is not infringed by laws prohibiting the carrying of concealed weapons."[89]

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12. Rakove, p. 327.
13. Stewart, p. 226.
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33. Brookhiser, p. 80.
34. Maier, p. 430.
35. Maier, p. 429.
36. Maier, p. 433.
37. Brookhiser, p. 76.
38. Labunski, pp. 159, 174.
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External links

- National Archives: The full text of the United States Bill of Rights (https://www.archives.gov/exhibits/charters/bill_of_rights_transcript.html)
- Footnote.com (partners with the National Archives): Online viewer with High-resolution image of the original document (http://www.footnote.com/viewer.php?image=4346711)
- Library of Congress: Bill of Rights and related resources (https://www.loc.gov/rr/program/bib/ourdocs/billofrights.html)
- Alexander Hamilton, Federalist, no. 84, 575–81 (http://press-pubs.uchicago.edu/founders/documents/bill_of_rightss7.html), on opposition to the Bill of Rights
- TeachingAmericanHistory.org – Bill of Rights (http://teachingamericanhistory.org/bor/)
- *United States Bill of Rights (https://gutenberg.org/ebooks/2)* at Project Gutenberg
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The Federalist Papers

The Federalist Papers is a collection of 85 articles and essays written by Alexander Hamilton, James Madison, and John Jay under the collective pseudonym "Publius" to promote the ratification of the United States Constitution. The collection was commonly known as ***The Federalist*** until the name *The Federalist Papers* emerged in the 20th century.

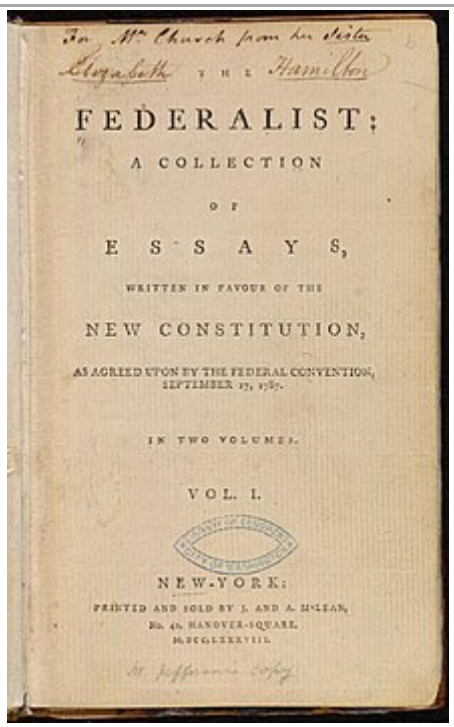
The first 77 of these essays were published serially in the *Independent Journal*, the *New York Packet*, and *The Daily Advertiser* between October 1787 and April 1788.[1] A compilation of these 77 essays and eight others were published in two volumes as ***The Federalist: A Collection of Essays, Written in Favour of the New Constitution, as Agreed upon by the Federal Convention, September 17, 1787*** by publishing firm J. & A. McLean in March and May 1788.[2][3] The last eight papers (Nos. 78–85) were republished in the New York newspapers between June 14 and August 16, 1788.

The authors of *The Federalist* intended to influence the voters to ratify the Constitution. In Federalist No. 1, they explicitly set that debate in broad political terms:

> It has been frequently remarked, that it seems to have been reserved to the people of this country, by their conduct and example, to decide the important question, whether societies of men are really capable or not, of establishing good government from reflection and choice, or whether they are forever destined to depend, for their political constitutions, on accident and force.[4]

In Federalist No. 10, Madison discusses the means of preventing rule by majority faction and advocates a large, commercial republic. This is complemented by Federalist No. 14, in which Madison takes the measure of the United States, declares it appropriate for an extended republic, and concludes with a memorable defense of the constitutional and political creativity of the Federal Convention.[5] In Federalist No. 84, Hamilton makes the case that there is no need to amend the Constitution by adding a Bill of Rights, insisting that the various provisions in the proposed Constitution protecting liberty amount to a "bill of rights". Federalist No. 78, also written by Hamilton, lays the groundwork for the doctrine of judicial review by federal courts of federal legislation or executive acts. Federalist No. 70 presents Hamilton's case for a one-man chief executive. In Federalist No. 39, Madison presents the clearest exposition of what has come to be called "Federalism". In Federalist No. 51, Madison distills arguments for checks and balances in an essay often quoted for its justification of government as "the greatest of all reflections on

The Federalist Papers



Title page of the first collection of *The Federalist* (1788). This particular volume was a gift from Alexander Hamilton's wife Elizabeth Schuyler Hamilton to her sister Angelica

Authors	Alexander Hamilton · James Madison · John Jay (all under the pseudonym 'Publius')
Original title	*The Federalist*
Country	United States
Language	English
Publisher	*The Independent Journal* · *New York Packet* · *The Daily Advertiser* · J. & A. McLean
Publication date	October 27, 1787 – May 28, 1788

human nature." According to historian Richard B. Morris, the essays that make up *The Federalist Papers* are an "incomparable exposition of the Constitution, a classic in political science unsurpassed in both breadth and depth by the product of any later American writer."[6]

Media type	Newspaper · book

On June 21, 1788, the proposed Constitution was ratified by the minimum of nine states required under Article VII. Towards the end of July 1788, with eleven states having ratified the new Constitution, the process of organizing the new government began.

Contents

History
- Origins
- Authorship
- Publication
- Disputed essays
- Influence on the ratification debates

Structure and content
- Opposition to the Bill of Rights

Judicial use

Complete list

In popular culture

See also

Notes

References

Further reading

External links

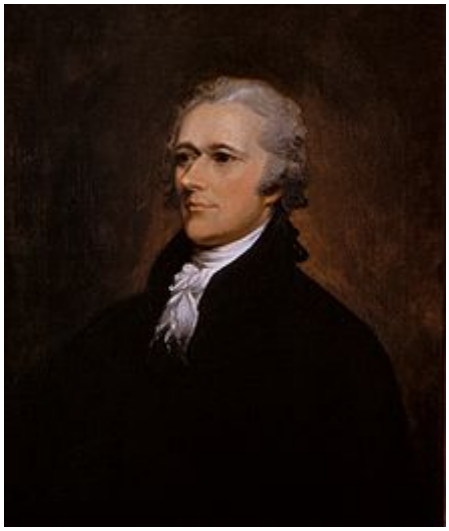
History

Origins

The Federal Convention (Constitutional Convention) sent the proposed Constitution to the Confederation Congress, which in turn submitted it to the states for ratification at the end of September 1787. On September 27, 1787, "Cato" first appeared in the New York press criticizing the proposition; "Brutus" followed on October 18, 1787.[7] These and other articles and public letters critical of the new Constitution would eventually become known as the "Anti-Federalist Papers". In response, Alexander Hamilton decided to launch a measured defense and extensive explanation of the proposed Constitution to the people of the state of New York. He wrote in Federalist No. 1 that the series would "endeavor to give a satisfactory answer to all the objections which shall have made their appearance, that may seem to have any claim to your attention."[8]

Hamilton recruited collaborators for the project. He enlisted John Jay, who after four strong essays (Federalist Nos. 2, 3, 4, and 5), fell ill and contributed only one more essay, Federalist No. 64, to the series. Jay also distilled his case into a pamphlet in the spring of 1788, *An Address to the People of the State of New-York*;[9]

Hamilton cited it approvingly in Federalist No. 85. James Madison, present in New York as a Virginia delegate to the Confederation Congress, was recruited by Hamilton and Jay and became Hamilton's primary collaborator. Gouverneur Morris and William Duer were also considered. However, Morris turned down the invitation, and Hamilton rejected three essays written by Duer.[10] Duer later wrote in support of the three Federalist authors under the name "Philo-Publius", meaning either "Friend of the People" or "Friend of Hamilton" based on Hamilton's pen name *Publius*.

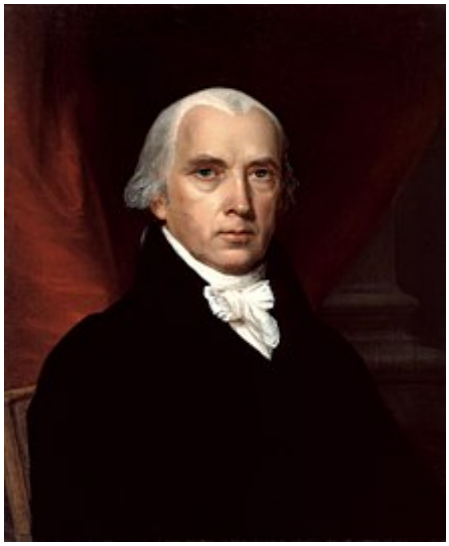


Alexander Hamilton, author of the majority of *The Federalist Papers*

Alexander Hamilton chose the pseudonymous name "Publius". While many other pieces representing both sides of the constitutional debate were written under Roman names, historian Albert Furtwangler contends that "'Publius' was a cut above 'Caesar' or 'Brutus' or even 'Cato'. Publius Valerius helped found the ancient republic of Rome. His more famous name, Publicola, meant 'friend of the people'."[11] Hamilton had applied this pseudonym to three letters in 1778, in which he attacked fellow Federalist Samuel Chase and revealed that Chase had taken advantage of knowledge gained in Congress to try to dominate the flour market.[11]

Authorship

At the time of publication, the authors of *The Federalist Papers* attempted to hide their identities due to Hamilton and Madison having attended the convention.[12] Astute observers, however, correctly discerned the identities of Hamilton, Madison, and Jay. Establishing authorial authenticity of the essays that constitute *The Federalist Papers* has not always been clear. After Alexander Hamilton died in 1804, a list emerged, claiming that he alone had written two-thirds of *The Federalist* essays. Some believe that several of these essays were written by James Madison (Nos. 49–58 and 62–63). The scholarly detective work of Douglass Adair in 1944 postulated the following assignments of authorship, corroborated in 1964 by a computer analysis of the text:[13]



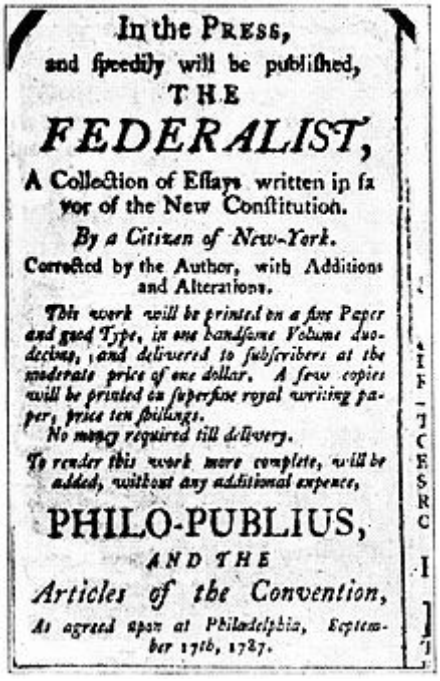
James Madison, Hamilton's major collaborator, later fourth President of the United States (1809-1817)

- Alexander Hamilton (51 articles: Nos. 1, 6–9, 11–13, 15–17, 21–36, 59–61, and 65–85)
- James Madison (29 articles: Nos. 10, 14, 18–20,[14] 37–58 and 62–63)
- John Jay (5 articles: Nos. 2–5 and 64).

In six months, a total of 85 articles were written by the three men. Hamilton, who had been a leading advocate of national constitutional reform throughout the 1780s and was one of the three representatives for New York at the Constitutional Convention, in 1789 became the first Secretary of the Treasury, a post he held until his resignation in 1795. Madison, who is now acknowledged as the father of the Constitution—despite his repeated rejection of this honor during his lifetime,[15] became a leading member of the U.S. House of Representatives from Virginia (1789–1797), Secretary of State (1801–1809), and ultimately the fourth President of the United States (1809–1817).[16] John Jay, who had been secretary for foreign affairs under the

Articles of Confederation from 1784 through their expiration in 1789, became the first Chief Justice of the United States in 1789, stepping down in 1795 to accept election as governor of New York, a post he held for two terms, retiring in 1801.

Publication


In the PRESS,
and ſpeedily will be publiſhed,
THE
FEDERALIST,
A Collection of Eſſays written in fa vor of the New Conſtitution.
By a Citizen of New-York.
Corrected by the Author, with Additions and Alterations.
This work will be printed on a fine Paper and good Type, in one handſome Volume duodecimo, and delivered to ſubſcribers at the moderate price of one dollar. A few copies will be printed on ſuperfine royal writing paper, price ten ſhillings.
No money required till delivery.
To render this work more complete, will be added, without any additional expence,
PHILO-PUBLIUS,
AND THE
Articles of the Convention,
As agreed upon at Philadelphia, September 17th, 1787.

An advertisement for the book edition of *The Federalist*

The Federalist articles appeared in three New York newspapers: *The Independent Journal*, the *New-York Packet*, and the *Daily Advertiser*, beginning on October 27, 1787. Although written and published with haste, *The Federalist* articles were widely read and greatly influenced the shape of American political institutions.[17] Hamilton, Madison and Jay published the essays at a rapid pace. At times, three to four new essays by Publius appeared in the papers in a single week. Garry Wills observes that this fast pace of production "overwhelmed" any possible response: "Who, given ample time could have answered such a battery of arguments? And no time was given."[18] Hamilton also encouraged the reprinting of the essays in newspapers outside New York state, and indeed they were published in several other states where the ratification debate was taking place. However, they were only irregularly published outside New York, and in other parts of the country they were often overshadowed by local writers.[19]

Because the essays were initially published in New York, most of them begin with the same salutation: "To the People of the State of New York".

The high demand for the essays led to their publication in a more permanent form. On January 1, 1788, the New York publishing firm J. & A. McLean announced that they would publish the first 36 essays as a bound volume; that volume was released on March 22, 1788, and was titled *The Federalist* Volume 1.[1] New essays continued to appear in the newspapers; Federalist No. 77 was the last number to appear first in that form, on April 2. A second bound volume was released on May 28, containing Federalist Nos. 37–77 and the previously unpublished Nos. 78–85.[1] The last eight papers (Nos. 78–85) were republished in the New York newspapers between June 14 and August 16, 1788.[1][17]

A 1792 French edition ended the collective anonymity of Publius, announcing that the work had been written by "Mm. Hamilton, Maddisson e Gay, citoyens de l'État de New York".[20] In 1802, George Hopkins published an American edition that similarly named the authors. Hopkins wished as well that "the name of the writer should be prefixed to each number," but at this point Hamilton insisted that this was not to be, and the division of the essays among the three authors remained a secret.[21]

The first publication to divide the papers in such a way was an 1810 edition that used a list left by Hamilton to associate the authors with their numbers; this edition appeared as two volumes of the compiled "Works of Hamilton". In 1818, Jacob Gideon published a new edition with a new listing of authors, based on a list provided by Madison. The difference between Hamilton's list and Madison's formed the basis for a dispute over the authorship of a dozen of the essays.[22]

Both Hopkins's and Gideon's editions incorporated significant edits to the text of the papers themselves, generally with the approval of the authors. In 1863, Henry Dawson published an edition containing the original text of the papers, arguing that they should be preserved as they were written in that particular historical moment, not as edited by the authors years later.[23]

Modern scholars generally use the text prepared by Jacob E. Cooke for his 1961 edition of *The Federalist*; this edition used the newspaper texts for essay numbers 1–76 and the McLean edition for essay numbers 77–85.[24]

Disputed essays

John Jay, author of five of *The Federalist Papers*, later became the first Chief Justice of the United States

While the authorship of 73 of *The Federalist* essays is fairly certain, the identities of those who wrote the twelve remaining essays are disputed by some scholars. The modern consensus is that Madison wrote essays Nos. 49–58, with Nos. 18–20 being products of a collaboration between him and Hamilton; No. 64 was by John Jay. The first open designation of which essay belonged to whom was provided by Hamilton who, in the days before his ultimately fatal gun duel with Aaron Burr, provided his lawyer with a list detailing the author of each number. This list credited Hamilton with a full 63 of the essays (three of those being jointly written with Madison), almost three-quarters of the whole, and was used as the basis for an 1810 printing that was the first to make specific attribution for the essays.[25]

Madison did not immediately dispute Hamilton's list, but provided his own list for the 1818 Gideon edition of *The Federalist*. Madison claimed 29 essays for himself, and he suggested that the difference between the two lists was "owing doubtless to the hurry in which [Hamilton's] memorandum was made out." A known error in Hamilton's list — Hamilton incorrectly ascribed No. 54 to John Jay, when in fact, Jay wrote No. 64 — provided some evidence for Madison's suggestion.[26]

Statistical analysis has been undertaken on several occasions in attempts to accurately identify the author of each individual essay. After examining word choice and writing style, studies generally agree that the disputed essays were written by James Madison. However, there are notable exceptions maintaining that some of the essays which are now widely attributed to Madison were, in fact, collaborative efforts.[13][27][28]

Influence on the ratification debates

The Federalist Papers were written to support the ratification of the Constitution, specifically in New York. Whether they succeeded in this mission is questionable. Separate ratification proceedings took place in each state, and the essays were not reliably reprinted outside of New York; furthermore, by the time the series was well underway, a number of important states had already ratified it, for instance Pennsylvania on December 12. New York held out until July 26; certainly *The Federalist* was more important there than anywhere else, but Furtwangler argues that it "could hardly rival other major forces in the ratification contests" — specifically, these forces included the personal influence of well-known Federalists, for instance Hamilton and Jay, and Anti-Federalists, including Governor George Clinton.[29] Further, by the time New York came to a vote, ten states had already ratified the Constitution and it had thus already passed — only nine states had to ratify it for the new government to be established among them; the ratification by Virginia, the tenth state, placed pressure on New York to ratify. In light of that, Furtwangler observes, "New York's refusal would make that state an odd outsider."[30]

Only 19 Federalists were elected to New York's ratification convention, compared to the Anti-Federalists' 46 delegates. While New York did indeed ratify the Constitution on July 26, the lack of public support for pro-Constitution Federalists has led historian John Kaminski to suggest that the impact of *The Federalist* on New York citizens was "negligible".[31]

As for Virginia, which ratified the Constitution only at its convention on June 25, Hamilton writes in a letter to Madison that the collected edition of *The Federalist* had been sent to Virginia; Furtwangler presumes that it was to act as a "debater's handbook for the convention there", though he claims that this indirect influence would be a "dubious distinction".[32] Probably of greater importance to the Virginia debate, in any case, were George Washington's support for the proposed Constitution and the presence of Madison and Edmund Randolph, the governor, at the convention arguing for ratification.

Structure and content

In Federalist No. 1, Hamilton listed six topics to be covered in the subsequent articles:

1. "The utility of the UNION to your political prosperity" — covered in No. 2 through No. 14
2. "The insufficiency of the present Confederation to preserve that Union" — covered in No. 15 through No. 22
3. "The necessity of a government at least equally energetic with the one proposed to the attainment of this object" — covered in No. 23 through No. 36
4. "The conformity of the proposed constitution to the true principles of republican government" — covered in No. 37 through No. 84
5. "Its analogy to your own state constitution" — covered in No. 85
6. "The additional security which its adoption will afford to the preservation of that species of government, to liberty and to prosperity" — covered in No. 85.[33]

Furtwangler notes that as the series grew, this plan was somewhat changed. The fourth topic expanded into detailed coverage of the individual articles of the Constitution and the institutions it mandated, while the two last topics were merely touched on in the last essay.

The papers can be broken down by author as well as by topic. At the start of the series, all three authors were contributing; the first 20 papers are broken down as 11 by Hamilton, five by Madison and four by Jay. The rest of the series, however, is dominated by three long segments by a single writer: Nos. 21–36 by Hamilton, Nos. 37–58 by Madison, written while Hamilton was in Albany, and No. 65 through the end by Hamilton, published after Madison had left for Virginia.[34]

Opposition to the Bill of Rights

The Federalist Papers (specifically Federalist No. 84) are notable for their opposition to what later became the United States Bill of Rights. The idea of adding a Bill of Rights to the Constitution was originally controversial because the Constitution, as written, did not specifically enumerate or protect the rights of the people, rather it listed the powers of the government and left all that remained to the states and the people. Alexander Hamilton, the author of Federalist No. 84, feared that such an enumeration, once written down explicitly, would later be interpreted as a list of the *only* rights that people had.

However, Hamilton's opposition to a Bill of Rights was far from universal. Robert Yates, writing under the pseudonym "Brutus", articulated this view point in the so-called Anti-Federalist No. 84, asserting that a government unrestrained by such a bill could easily devolve into tyranny. References in *The Federalist* and in the ratification debates warn of demagogues of the variety who through divisive appeals would aim at tyranny. *The Federalist* begins and ends with this issue.[35] In the final paper Hamilton offers "a lesson of moderation to all sincere lovers of the Union, and ought to put them on their guard against hazarding anarchy, civil war, a perpetual alienation of the States from each other, and perhaps the military despotism of a successful demagogue".[36] The matter was further clarified by the Ninth Amendment.

Judicial use

Federal judges, when interpreting the Constitution, frequently use *The Federalist Papers* as a contemporary account of the intentions of the framers and ratifiers.[37] They have been applied on issues ranging from the power of the federal government in foreign affairs (in *Hines v. Davidowitz*) to the validity of ex post facto laws (in the 1798 decision *Calder v. Bull*, apparently the first decision to mention *The Federalist*).[38] By 2000, *The Federalist* had been quoted 291 times in Supreme Court decisions.[39]

The amount of deference that should be given to *The Federalist Papers* in constitutional interpretation has always been somewhat controversial. As early as 1819, Chief Justice John Marshall noted in the famous case *McCulloch v. Maryland*, that "the opinions expressed by the authors of that work have been justly supposed to be entitled to great respect in expounding the Constitution. No tribute can be paid to them which exceeds their merit; but in applying their opinions to the cases which may arise in the progress of our government, a right to judge of their correctness must be retained."[40] In a letter to Thomas Ritchie in 1821, James Madison stated of the Constitution that "the legitimate meaning of the Instrument must be derived from the text itself; or if a key is to be sought elsewhere, it must be not in the opinions or intentions of the Body which planned & proposed the Constitution, but in the sense attached to it by the people in their respective State Conventions where it recd. all the authority which it possesses."[41][42]

Complete list

The colors used to highlight the rows correspond to the author of the paper.

Alexander Hamilton
John Jay
James Madison

#	Date	Title	Author
1	October 27, 1787	General Introduction	Alexander Hamilton
2	October 31, 1787	Concerning Dangers from Foreign Force and Influence	John Jay
3	November 3, 1787	The Same Subject Continued: Concerning Dangers from Foreign Force and Influence	John Jay
4	November 7, 1787	The Same Subject Continued: Concerning Dangers from Foreign Force and Influence	John Jay
5	November 10, 1787	The Same Subject Continued: Concerning Dangers from Foreign Force and Influence	John Jay
6	November 14, 1787	Concerning Dangers from Dissensions Between the States	Alexander Hamilton
7	November 15, 1787	The Same Subject Continued: Concerning Dangers from Dissensions Between the States	Alexander Hamilton
8	November 20, 1787	The Consequences of Hostilities Between the States	Alexander Hamilton
9	November 21, 1787	The Union as a Safeguard Against Domestic Faction and Insurrection	Alexander Hamilton
10	November 22, 1787	The Same Subject Continued: The Union as a Safeguard Against Domestic Faction and Insurrection	James Madison
11	November 24, 1787	The Utility of the Union in Respect to Commercial Relations and a Navy	Alexander Hamilton
12	November 27, 1787	The Utility of the Union In Respect to Revenue	Alexander Hamilton
13	November 28, 1787	Advantage of the Union in Respect to Economy in Government	Alexander Hamilton
14	November 30, 1787	Objections to the Proposed Constitution From Extent of Territory Answered	James Madison
15	December 1, 1787	The Insufficiency of the Present Confederation to Preserve the Union	Alexander Hamilton
16	December 4, 1787	The Same Subject Continued: The Insufficiency of the Present Confederation to Preserve the Union	Alexander Hamilton
17	December 5, 1787	The Same Subject Continued: The Insufficiency of the Present Confederation to Preserve the Union	Alexander Hamilton
18	December 7, 1787	The Same Subject Continued: The Insufficiency of the Present Confederation to Preserve the Union	James Madison[14]
19	December 8, 1787	The Same Subject Continued: The Insufficiency of the Present Confederation to Preserve the Union	James Madison[14]
20	December 11, 1787	The Same Subject Continued: The Insufficiency of the Present Confederation to Preserve the Union	James Madison[14]
21	December 12, 1787	Other Defects of the Present Confederation	Alexander Hamilton
22	December 14, 1787	The Same Subject Continued: Other Defects of the Present Confederation	Alexander Hamilton
23	December 18, 1787	The Necessity of a Government as Energetic as the One Proposed to the Preservation of the Union	Alexander Hamilton
24	December 19,	The Powers Necessary to the Common Defense Further Considered	Alexander

	1787		Hamilton
25	December 21, 1787	The Same Subject Continued: The Powers Necessary to the Common Defense Further Considered	Alexander Hamilton
26	December 22, 1787	The Idea of Restraining the Legislative Authority in Regard to the Common Defense Considered	Alexander Hamilton
27	December 25, 1787	The Same Subject Continued: The Idea of Restraining the Legislative Authority in Regard to the Common Defense Considered	Alexander Hamilton
28	December 26, 1787	The Same Subject Continued: The Idea of Restraining the Legislative Authority in Regard to the Common Defense Considered	Alexander Hamilton
29	January 9, 1788	Concerning the Militia	Alexander Hamilton
30	December 28, 1787	Concerning the General Power of Taxation	Alexander Hamilton
31	January 1, 1788	The Same Subject Continued: Concerning the General Power of Taxation	Alexander Hamilton
32	January 2, 1788	The Same Subject Continued: Concerning the General Power of Taxation	Alexander Hamilton
33	January 2, 1788	The Same Subject Continued: Concerning the General Power of Taxation	Alexander Hamilton
34	January 5, 1788	The Same Subject Continued: Concerning the General Power of Taxation	Alexander Hamilton
35	January 5, 1788	The Same Subject Continued: Concerning the General Power of Taxation	Alexander Hamilton
36	January 8, 1788	The Same Subject Continued: Concerning the General Power of Taxation	Alexander Hamilton
37	January 11, 1788	Concerning the Difficulties of the Convention in Devising a Proper Form of Government	James Madison
38	January 12, 1788	The Same Subject Continued, and the Incoherence of the Objections to the New Plan Exposed	James Madison
39	January 16, 1788	The Conformity of the Plan to Republican Principles	James Madison
40	January 18, 1788	The Powers of the convention to Form a Mixed Government Examined and Sustained	James Madison
41	January 19, 1788	General View of the Powers Conferred by the Constitution	James Madison
42	January 22, 1788	The Powers Conferred by the Constitution Further Considered	James Madison
43	January 23, 1788	The Same Subject Continued: The Powers Conferred by the Constitution Further Considered	James Madison
44	January 25, 1788	Restrictions on the Authority of the Several States	James Madison
45	January 26, 1788	The Alleged Danger From the Powers of the Union to the State Governments Considered	James Madison
46	January 29, 1788	The Influence of the State and Federal Governments Compared	James Madison
47	January 30, 1788	The Particular Structure of the New Government and the Distribution of Power Among Its Different Parts	James Madison
48	February 1, 1788	These Departments Should Not Be So Far Separated as to Have No Constitutional Control Over Each Other	James Madison

49	February 2, 1788	Method of Guarding Against the Encroachments of Any One Department of Government	James Madison[43]
50	February 5, 1788	Periodic Appeals to the People Considered	James Madison[43]
51	February 6, 1788	The Structure of the Government Must Furnish the Proper Checks and Balances Between the Different Departments	James Madison[43]
52	February 8, 1788	The House of Representatives	James Madison[43]
53	February 9, 1788	The Same Subject Continued: The House of Representatives	James Madison[43]
54	February 12, 1788	The Apportionment of Members Among the States	James Madison[43]
55	February 13, 1788	The Total Number of the House of Representatives	James Madison[43]
56	February 16, 1788	The Same Subject Continued: The Total Number of the House of Representatives	James Madison[43]
57	February 19, 1788	The Alleged Tendency of the New Plan to Elevate the Few at the Expense of the Many	James Madison[43]
58	February 20, 1788	Objection That The Number of Members Will Not Be Augmented as the Progress of Population Demands Considered	James Madison[43]
59	February 22, 1788	Concerning the Power of Congress to Regulate the Election of Members	Alexander Hamilton
60	February 23, 1788	The Same Subject Continued: Concerning the Power of Congress to Regulate the Election of Members	Alexander Hamilton
61	February 26, 1788	The Same Subject Continued: Concerning the Power of Congress to Regulate the Election of Members	Alexander Hamilton
62	February 27, 1788	The Senate	James Madison[43]
63	March 1, 1788	The Senate Continued	James Madison[43]
64	March 5, 1788	The Powers of the Senate	John Jay
65	March 7, 1788	The Powers of the Senate Continued	Alexander Hamilton
66	March 8, 1788	Objections to the Power of the Senate To Set as a Court for Impeachments Further Considered	Alexander Hamilton
67	March 11, 1788	The Executive Department	Alexander Hamilton
68	March 12, 1788	The Mode of Electing the President	Alexander Hamilton
69	March 14, 1788	The Real Character of the Executive	Alexander Hamilton
70	March 15, 1788	The Executive Department Further Considered	Alexander Hamilton
71	March 18, 1788	The Duration in Office of the Executive	Alexander Hamilton
72	March 19, 1788	The Same Subject Continued, and Re-Eligibility of the Executive Considered	Alexander Hamilton

73	March 21, 1788	The Provision For The Support of the Executive, and the Veto Power	Alexander Hamilton
74	March 25, 1788	The Command of the Military and Naval Forces, and the Pardoning Power of the Executive	Alexander Hamilton
75	March 26, 1788	The Treaty Making Power of the Executive	Alexander Hamilton
76	April 1, 1788	The Appointing Power of the Executive	Alexander Hamilton
77	April 2, 1788	The Appointing Power Continued and Other Powers of the Executive Considered	Alexander Hamilton
78	May 28, 1788 (book) June 14, 1788 (newspaper)	The Judiciary Department	Alexander Hamilton
79	May 28, 1788 (book) June 18, 1788 (newspaper)	The Judiciary Continued	Alexander Hamilton
80	June 21, 1788	The Powers of the Judiciary	Alexander Hamilton
81	June 25, 1788; June 28, 1788	The Judiciary Continued, and the Distribution of the Judicial Authority	Alexander Hamilton
82	July 2, 1788	The Judiciary Continued	Alexander Hamilton
83	July 5, 1788; July 9, 1788; July 12, 1788	The Judiciary Continued in Relation to Trial by Jury	Alexander Hamilton
84	July 16, 1788; July 26, 1788; August 9, 1788	Certain General and Miscellaneous Objections to the Constitution Considered and Answered	Alexander Hamilton
85	August 13, 1788; August 16, 1788	Concluding Remarks	Alexander Hamilton

In popular culture

The purposes and authorship of *The Federalist Papers* were prominently highlighted in the lyrics of "Non-Stop", the finale of Act One in the 2015 Broadway musical *Hamilton*, written by Lin-Manuel Miranda.[44]

See also

- American philosophy
- *The Anti-Federalist Papers*
- *The Complete Anti-Federalist*
- List of pseudonyms used in the American Constitutional debates

Notes

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4. *The Federalist Papers* (https://archive.org/details/federalistpaper000alex). Toronto: Bantam Books. 1982.
5. Wills, x.
6. Richard B. Morris, *The Forging of the Union: 1781–1789* (1987) p. 309
7. Furtwangler, pp. 48–49 (https://books.google.com/books?id=mfWGAAAAMAAJ&pg=PA48).
8. Gunn, Giles B. (1994). *Early American Writing* (https://books.google.com/books?id=OlphD37HAY4C&pg=PA540). Penguin Classics. p. 540. ISBN 978-0-14-039087-2.
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10. Furtwangler, pp. 51–56 (https://books.google.com/books?id=mfWGAAAAMAAJ&pg=PA51).
11. Furtwangler, p. 51 (https://books.google.com/books?id=mfWGAAAAMAAJ&pg=PA51).
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14. Nos. 18, 19, 20 are frequently indicated as being jointly written by Hamilton and Madison. However, Adair concurs with previous historians that these are Madison's writing alone: "Madison had certainly written all of the essays himself, including in revised form only a small amount of pertinent information submitted by Hamilton from his rather sketchy research on the same subject." Adair, 63.
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29. Furtwangler, p. 21 (https://books.google.com/books?id=mfWGAAAAMAAJ&pg=PA21).
30. Furtwangler, p. 22 (https://books.google.com/books?id=mfWGAAAAMAAJ&pg=PA22).
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33. This scheme of division is adapted from Charles K. Kesler's introduction to *The Federalist Papers* (New York: Signet Classic, 1999) pp. 15–17. A similar division is indicated by Furtwangler, pp. 57–58 (https://books.google.com/books?id=mfWGAAAAMAAJ&pg=PA57).
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External links

- *The Federalist Papers (https://standardebooks.org/ebooks/alexander-hamilton_john-jay_james-madison/the-federalist-papers)* at Standard Ebooks
- "The federalist: a collection of essays" (https://tile.loc.gov/storage-services/service/rbc/rbc0001/2014/2014jeff21562v1/2014jeff21562v1.pdf)
- "Full Text of The Federalist Papers" (https://guides.loc.gov/federalist-papers/full-text)
- *The Federalist Papers*, original 1788 printing (http://pudl.princeton.edu/objects/4t64gn930#page/380/mode/2up)
- *(https://gutenberg.org/ebooks/1404)*The Federalist Papers (https://gutenberg.org/ebooks/1404) at Project Gutenberg
- National Archives on *The Federalist* (https://founders.archives.gov/documents/Hamilton/01-04-02-0151-0001)
- *The Federalist Papers* on the Bill of Rights (http://press-pubs.uchicago.edu/founders/documents/bill_of_rightss7.html)
- Teaching *The Federalist Papers* (http://www.ericdigests.org/pre-928/papers.htm)
- *Booknotes* interview with Robert Scigliano on Scigliano's Modern Library edition of *The Federalist Papers*, January 21, 2001. (https://www.c-span.org/video/?161212-1/federalist)
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- EDSITEment on *The Federalist* and Anti-Federalist debates on diversity and the extended republic (http://edsitement.neh.gov/curriculum-unit/federalist-and-anti-federalist-debates-diversity-and-extended-republic)

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