



The Constitutional Convention



A 1940 painting hanging in the U.S. Capitol portrays George Washington presiding over the 1787 signing of the Constitution in Philadelphia.
Courtesy of the Architect of the U.S. Capitol

Against a backdrop of geographic and political factionalism, unpaid troops and a weak economy only beginning to recover from years of war and trade embargoes, devising a new form of government is a considerable challenge.

That was the situation facing the United States in 1787, four years after achieving independence from Great Britain.

“Anarchy and Confusion”

The United States’ 1781 Articles of Confederation left most power, including the ability to tax and regulate commerce, to 13 states that functioned almost as independent countries, even to the point of engaging in trade wars among themselves.

When the American Revolutionary War ended in 1783, the national government had no president and consisted of a unicameral

Congress, which coordinated common concerns such as security. The system proved inadequate because Congress could neither collect taxes nor enforce laws.

To fund the national treasury and a standing military, Congress depended on unreliable payments by the 13 states. Without funds to adequately support a military force, the national legislature was powerless to deal with

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situations such as land encroachments by Great Britain and Spain, whose territories bordered the United States.

On September 11, 1786, a conference in Annapolis, Maryland, convened to discuss interstate commerce, called instead for an enlarged gathering of state delegates in Philadelphia in 1787 “to devise such further provisions as shall appear to them necessary to render the constitution of the Federal Government adequate to the exigencies of the Union.”

The seriousness of the situation was highlighted in January 1787 by Shay’s Rebellion, in which 2,000 Revolutionary War veterans took up arms and seized an arsenal in Massachusetts to protest high taxes and the loss of their farms due to debt.

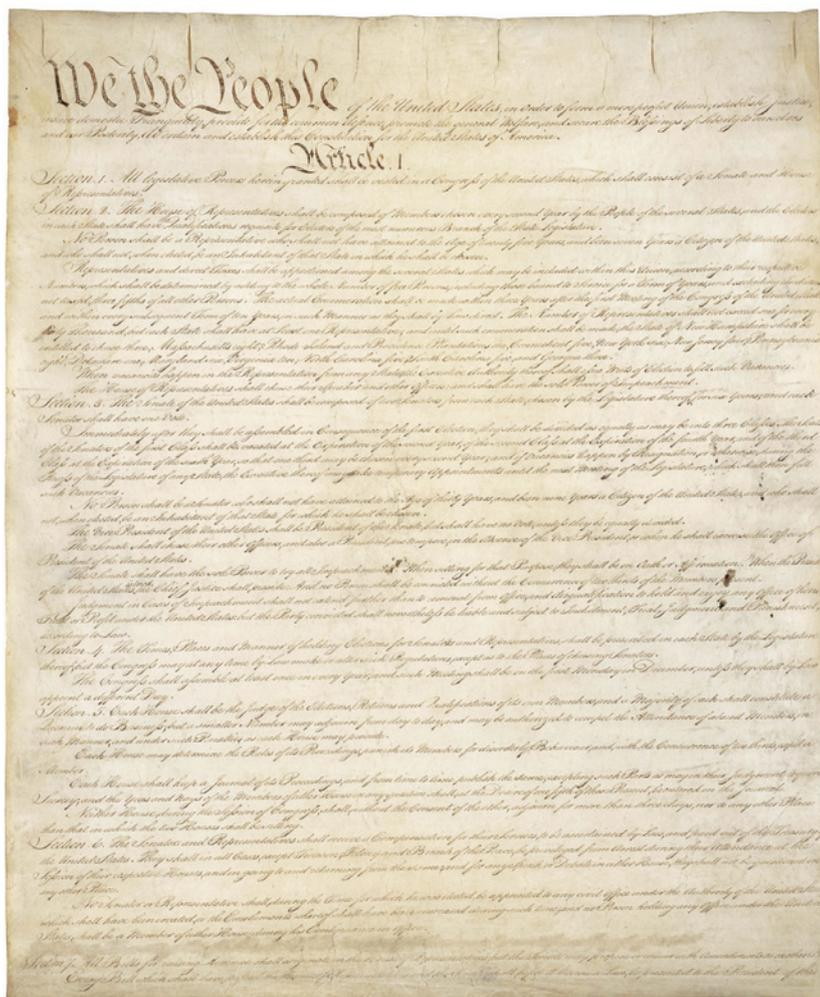
The revolt, which underscored the weakness of the central government and its lack of a standing army, alarmed many American leaders, including former revolutionary commander George Washington, who wrote, “Unless a remedy is soon applied, anarchy and confusion will inevitably ensue.”

Meeting in Philadelphia

On May 25, 1787, delegates convened in Philadelphia and nominated Washington as chair of the constitutional convention. Washington’s presence, as a beloved national hero, enhanced the convention’s legitimacy, a key consideration because the delegates decided to keep their discussions secret so they could speak frankly as they devised a new document to replace the Articles of Confederation.

No women, free blacks or men without property were allowed to take part in the convention; the state of Rhode Island chose not to send delegates. Most of the delegates were lawyers, farmers or merchants, with differing political philosophies and agendas.

Dispute and compromise characterized the constitutional process, which lasted nearly four months. At one point, with debate at an impasse, Washington wrote, “I almost despair of seeing a favorable issue to



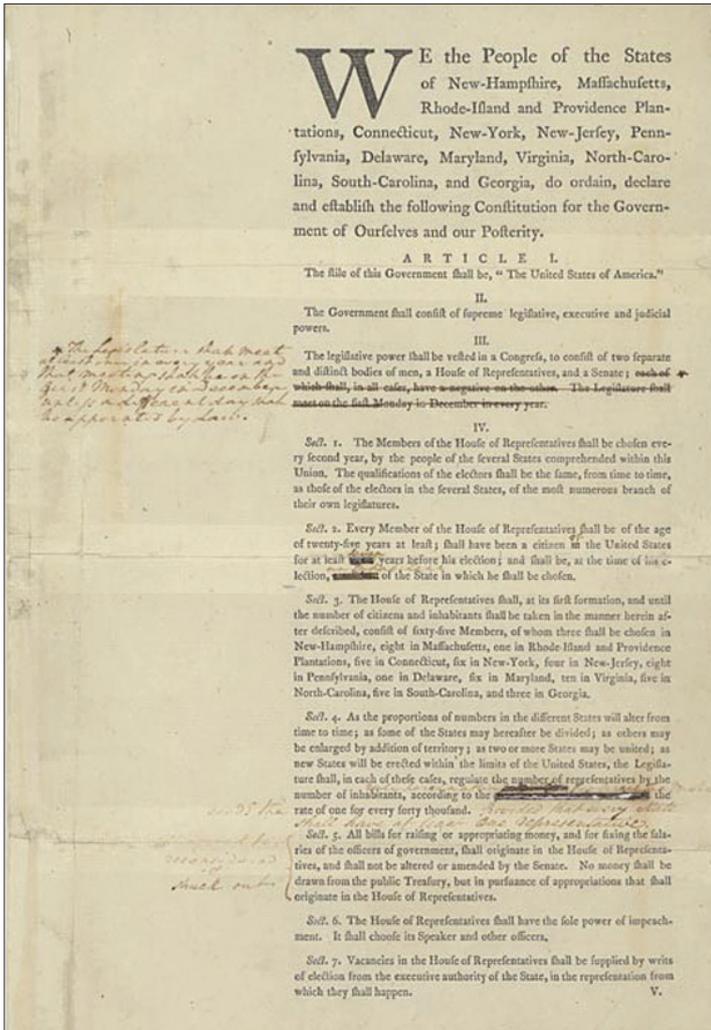
The first page of the Constitution credits “We the People of the United States” as the source of all national political power. *Courtesy of National Archives*

the proceedings of the Convention, and do therefore repent having had any agency in the business.”

In the discussions, large states favored legislative representation based upon population size while smaller states advocated assigning each state an equal number of delegates.

In June 1787, when the convention debated a proposal by Virginia’s James Madison that called for a bicameral (two-chambered) legislature with representatives in both chambers determined by population, smaller states threatened to dissolve not only the convention but the union itself.

One month later, Connecticut’s Roger Sherman offered a compromise under which each state would have one vote in a Senate, while population would determine the number of representatives in a House



George Washington's own copy of an early draft version during the Constitutional Convention shows his notations. *Courtesy of National Archives*

of Representatives. Many credit that proposal with saving the U.S. Constitution.

Historian Robert Middlekauff says in his book *The Glorious Cause* (1982, Oxford University Press) that the convention “generated its own forces, chiefly through discussion and argument. In all these deliberations, reason and intellect made their impress, just as did irrationality and passion, chance and accident.”

The delegates also disagreed over how to select representatives and how long they should serve. The debate pitted those who mistrusted the ability of common people to make wise choices against those who cherished more egalitarian principles.

As a compromise, the convention decided that the larger House of Representatives, with its representatives determined by population distribution, would

include members directly elected by the public and serving two-year terms. Members of the smaller Senate would be appointed by state legislatures and serve six-year terms. (In 1913, many years after concerns over the competence of voters were put to rest, an amendment to the Constitution allowed the direct election of senators.)

Despite bitter debates and seemingly irreconcilable positions, Middlekauff writes that delegates ultimately were “much too imaginative to allow an opportunity to pass without examining once again the major divisions among them.

“They were men of pride; some may have believed that they might change the minds of the opposition. In any case almost all dreaded failure — and they were staring at failure. They had no choice but to argue out their differences,” he wrote.

Ratification

After months of debate, the delegates unanimously accepted and signed the final document on September 17, 1787, completing the first step in establishing a new form of government. Because the document now required ratification by three-quarters (nine) of the 13 states, the debate moved from Philadelphia to the state legislatures.

In a society that had just fought a war to achieve fair representation and greatly distrusted any form of central authority, opposition to the new document was natural. Middlekauff writes, “Confronted by a major change in governing arrangements, the revolutionaries would have betrayed themselves and their recent achievements had they not asked questions about the change.”

The opposition fought ratification by voting for anti-constitutional delegates to the state legislatures and by publishing pamphlets that decried the lack of protection for individual freedoms such as speech, religion and trial by jury.

Arguing for the Constitution, men such as Alexander Hamilton, John Jay and James Madison wrote counterarguments, now known as the Federalist Papers, seeking to explain how the new system would work and reassuring Americans that their liberties would be protected under the new federal system.



The National Archives' Rotunda for the Charters of Freedom in Washington is the permanent home of the Constitution as well as the Bill of Rights and Declaration of Independence. *Courtesy of National Archives*

On December 7, 1787, Delaware became the first state to ratify the Constitution, but rioting against the document broke out in Carlisle, Pennsylvania, only days later and, in March 1788, Rhode Island rejected ratification.

Eventually, despite heated debates throughout 1788 by U.S. patriots on both sides of the issue, the Constitution's proponents prevailed in most state legislatures and the new form of government took effect March 4, 1789.

A Dynamic Document

The U.S. Constitution, since its inception, has been a dynamic document, amended to serve the country's changing needs while

preserving fundamental principles. Beginning with the 1789 Bill of Rights, comprising the first 10 amendments, the U.S. Constitution has been changed 27 times, with amendments ranging from the prohibition of slavery to granting 18-year-old men and women the right to vote.

Middlekauff writes that the constitutional debate during the summer of 1787 "solved the problem of power" in post-revolutionary America. Although the national government was strengthened, the states, including the smaller ones, believed that they would have a hand in the exercise of power.

Also, the convention and its resulting Constitution "confined

power," which was seen as a threat to both virtue and liberty. "It aimed to thwart majoritarian tyranny, but it did not deny that sovereignty resided in the people," Middlekauff says.

In the end, he said, the new constitution established a government "which seemed capable of restraining some of the worst impulses of man, especially his instinct to dominate others."