

Chapter 1 Writing a Constitution

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 men, deriving their just powers from the consent of the governed."

So wrote Thomas Jefferson in the Declaration of Independence, the renowned document penned and published in 1776 that officially proclaimed the independence of the colonies from Great Britain. These time-honored words reflect much about the colonists' continuing struggle with King George III and Parliament. In the eyes of Jefferson and many others, the British government had failed to guarantee the colonists the rights they deserved. In declaring independence, Jefferson and his compatriots set out to free the colonies from oppressive overseas rule and establish governments that fulfilled the desires of the people and guaranteed them necessary rights. To that end, Jefferson proceeded to insist in



Independence Hall

the Declaration that each colony have the power to establish an independent government." [A]s free and independent states," he wrote, "[the former colonies] have full power to do all acts and things which independent states may of right do."

Having overthrown one government, the new nation immediately began creating fourteen new governments. As each colony assumed statehood, it appointed committees to draw up a state constitution in order to define and establish the duties, powers, and organization of the government. In the meantime, Congress appointed a committee to write a national constitution that would govern all these "free and independent states."

The Articles of Confederation

Furthermore, the Articles of Confederation allowed for a different relationship between state governments and the national government than it does today. The powers granted Congress were severely limited – it had the power to coin money, make treaties, raise armies, and wage war, but it lacked the authority to collect taxes, impose tariffs, suppress rebellions, draft soldiers, or to regulate trade between the states and with foreign countries. The states had many of the powers the Articles had denied them: coining money, taxing imports (even from other states), raising armies, and enforcing treaties. Congress's reliance on states for law enforcement made the central government weak and the state governments strong. If Congress lacked money, for instance, it would ask the states for the necessary funds and the states could decide whether to supply the national government with the money it needed.

As time wore on, the government created by the Articles of Confederation proved less and less effective. In 1786, a rebellion led by Daniel Shays of Massachusetts demonstrated the weaknesses of the Confederation. Farmers, who had suffered monetary losses in the years following the Revolution, wanted their debts canceled and demanded that the state legislature print paper money. When the legislature refused, the rebels attacked the federal arsenal in Springfield. The rebellion was suppressed only after Boston merchants raised enough money to put together an army to oppose Shays.

Many American leaders looked to the incident in Massachusetts as proof that America needed a stronger central government – a government that could put down rebellions, solve financial problems, and resist

the demand for paper money. Having witnessed the U.S. government's problems in winning the Revolution, collecting taxes, regulating trade, and conducting foreign policy, other colonists shared this lack of confidence in the government of the Confederation. They called for a new constitution to remedy the problems that plagued the nation.

Alexander Hamilton, James Madison, and George Washington led the movement for a new constitution. In February of 1787, Congress called for a convention to meet in Philadelphia in order to "revise" the Articles of Confederation. Ignoring their limited instructions, fifty-five delegates, representing twelve different states, decided that the US. needed a completely different plan of government. They scrapped the Articles and proceeded to take on the daunting task of writing what became the constitution that has governed this nation since its ratification in 1788.

Issues before the Convention

The men who gathered at the Convention considered an endless number of issues as they pieced together the new constitution. Five of the major problems they faced included:

Representation by state or by population: Large and populous states, including Pennsylvania, Massachusetts, and Virginia, wanted each state to have votes in Congress in proportion to their population. Thus, Virginia, with 821,000 inhabitants, would have 16 votes, while Delaware, with 59,000 people, would have but one vote. Sparsely populated states, such as Delaware, New Jersey, and Georgia, insisted that each state have one vote, as they had under the Articles. Some of the middle-sized states, like Connecticut, were prepared to offer a compromise – a House of Representatives based on population and a Senate based upon equal votes for all states.

Local control (states' rights) vs. national authority: All the delegates wanted to give the national government more power than it had under the Articles of Confederation, but the question remained: how much more? Extremists like Alexander Hamilton of New York and Gouverneur Morris of Pennsylvania wanted to abolish state governments completely. States' rights advocates such as John Lansing of New York and Luther Martin of Maryland, on the other hand, felt that "the General Government was meant merely to support the State governments." The Convention worked hard to find a solution somewhere between these opposing positions and had a difficult time arriving at an acceptable solution.

Democracy vs. checks and balances: Some of the founding fathers, including Morris and John Dickinson of Delaware, had little faith in the general public who, they felt, "can be little trusted with the public interest." They wished to limit the common people's power in the government and suggested four ways of accomplishing this goal:

1. restricting the right to vote to white males with property
2. not allowing the voters to elect the president, senators or judges
3. guaranteeing the chief executive immunity from impeachment

The democratic faction, headed by James Wilson and Benjamin Franklin of Pennsylvania, Hugh Williamson of North Carolina, and Luther Martin of Maryland, tended to favor short terms for elected officials, universal manhood suffrage, direct elections of senators and the president, and giving congress power to impeach the chief executive. Most delegates stood somewhere in between these extremes, and they took it upon themselves to engineer a series of compromises on the issue.

The Bill of Rights: Several delegates, including Martin, Elbridge Gerry of Massachusetts and George Mason of Virginia, wanted a bill of rights that would limit the powers of the government by protecting

the rights of the people. Others, such as Hamilton, Wilson, and Nathaniel Gorham of Massachusetts, opposed such a bill. Charles Pinckney of South Carolina had concrete suggestions for a bill protecting certain rights. The convention had to decide whether it wanted or needed a bill of rights, and what rights should be protected.

Slavery and the slave trade: The question of slavery — and, in particular, the slave trade — stood out as one of the most controversial issues at the convention. Several slave owners (including Martin, Mason, and James Madison of Virginia) wanted to end the slave trade. Some delegates favored outright abolition of slavery. Pinckney and Edmund Rutledge of South Carolina voiced strong objections to anti-slavery sentiment, however, and threatened to walk out of the Convention if the slave trade were abolished. Many northern delegates feared that this issue might split the Union, paid close attention to the opinions of pro-slavery southerners.

Suggested Student Exercises:

1. Briefly restate the five major issues which were raised in seeking to revise the Articles of Confederation.
2. Read at least eight of the biographies in the next chapter to help you decide whose views you would like to represent in a simulated reenactment of the Constitutional Convention.