

# The United States Constitution

## A Historical Overview

When the U.S. Constitution was signed on September 17, 1787, only the members of the Philadelphia Convention and a handful of printers and clerks had read it or knew what it contained. The public eagerly anticipated the results of the meeting's deliberations, but didn't learn until the Convention ended just how new its proposals were.

Anyone needing proof that these proposals were indeed revolutionary had only to turn to the last article in the plan. "The Ratification," it read, "of the Constitution of nine states, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same." To amend the Articles of Confederation, for which the Convention had been called in the first place, required the *unanimous* consent of the state legislatures. The framers had taken the bold step of calling for an expression of national popular opinion on a new plan of government.

The political struggle over ratification was a critical moment in American history, for its outcome – and our history – could easily have taken another turn. It was both a contest of political strategy and maneuver and a contest of ideas. Opponents of the Constitution narrowly missed opportunities to defeat it; its friends narrowly gained several victories. The Constitution could have been tabled by Congress. State Legislatures could have opted not to call conventions. Had Antifederalist candidates defeated ten Federalists in Massachusetts, or six in New Hampshire or Virginia, or two in New York, their states would not have ratified. Indeed, North Carolina and Rhode Island originally voted against the Constitution.

Each Federalist victory was the result of careful preparation of the political ground, requiring the shrewd manipulation of political organization, power, ambition, and personal loyalties and interests – in short, a skillful application of the art of politics. In politics the one who sets the agenda often gains the advantage. In this contest, that advantage belonged to the Federalists. For example, they took the positive label "Federalists" and labeled their opponents "Anti," suggesting that the latter had no program other than opposition to the plan of the Convention.

Both sides understood that human nature and history supplied evidence for either optimism or pessimism about the chances of the new government's success. But one thing was clear: the political situation could not continue as it was. The very proposing of the Constitution spelled the end of the Articles of Confederation, since even if the Constitution had been defeated, the Articles would have lost their legitimacy. Federalist rhetoric was very plain: Americans faced a choice between the Constitution and anarchy.

The Federalists won five quick and relatively easy ratification victories in Delaware, Pennsylvania, New Jersey, Georgia and Connecticut. But then the Federalist momentum began to waver as Antifederalist counter-strategies started to take hold. The first sign of serious trouble came in Massachusetts where the western counties that had supported Daniel Shays' rebellion just two years before sent a solidly Antifederalist delegation to the ratifying convention. Only when the federalists agreed to transmit to the new Congress a list of recommended amendments along with their 187 "yeas" could they secure ratification by a slim margin of 19.

The Massachusetts vote encouraged Antifederalists but also provided Federalists with a strategy. Antifederalists hoped they could force another constitutional convention and another round of ratification by having the states vote for *required* amendments. The Federalists learned from the vote in Massachusetts, however, that moderate or wavering Antifederalists could be persuaded to vote for the Constitution if they included *recommended* amendments to be submitted in the new Congress. This strategy in the summer of 1788 provided the margin of victory in the key states of Virginia and New York.\* In 1789, James Madison would persuade the first U.S. Congress to distill the amendments recommended by the states into 12 proposals, ten of which were finally ratified as the Bill of Rights.

Although the Federalists “won” the contest for ratification, the Antifederalists left their mark on the document and its interpretation as well, particularly in the provision of a Bill of Rights, a tribute to their stubborn defense of individual liberty and their distrust of centralized power. Indeed, the value they attached to states and local communities helped to preserve the unique system of American federalism and the vitality of local governments. Many of the issues they raised are with us still.

The nation celebrated the adoption of the Constitution in the customary manner of the day: bells were rung, bonfires were lit, and in some places the celebrating crowds became unruly mobs. Even then Americans loved parades and floats, and this celebratory vehicle became very popular during the ratification period. In New York City, parade officials employed the popular 18<sup>th</sup> Century practice of comparing a government with a ship. The Constitution and the Union were symbolized by a model frigate called the *Hamilton* and the Federal ship *Union*.

While the celebrations continued, the Confederation Congress was preparing to transfer power to its successor. On September 13, 1788, Congress designated New York City as the site of the new government and set January 7, 1789, as the date for appointing the Presidential electors. The electors were to cast their ballots on February 4, 1789, and the new Congress would meet for the first time on March 4. The dates for the elections of Representatives and Senators were set by each state, and throughout the fall and winter the people and legislatures voted.

On March 4, 1789, the new Congress met, but with only eight Senators and 13 Representatives present it lacked a quorum. Not until April 1 could the House of Representatives elect a Speaker and begin to organize itself; the Senate had to wait until April 6, when it counted ballots and declared George Washington President and John Adams Vice President.

Despite this slow start, the First U.S. Congress proved to be one of the most creative and productive in American history. In 1789 Congress established four executive departments – State, War, Treasury and Justice – and created the office of Postmaster General. It also organized the federal judiciary, providing for the organization of the Supreme Court as well as three Circuit Courts and 13 District Courts. On September 26, 1789, John Jay was confirmed by the Senate as the first Chief Justice of the United States.\*\*

In the states, meanwhile, the Bill of Rights moved toward ratification. On December 15, 1791, Virginia became the 11<sup>th</sup> state to ratify (the admission of Vermont made 11 votes necessary), and the Bill of Rights became part of the Constitution.

Since the adoption of the Bill of Rights in 1791, the Constitution has been amended only sixteen times (and two of those changes, having to do with prohibition, cancel each other out). It remains not only the world’s most enduring written constitution, but a frame of government that has proved to be extraordinarily adaptable to the needs of an ever-changing society. The federal system devised by the Framers incorporated a separation of powers with checks and balances among the various branches and levels of government. It made possible for the first time in history a republic on a continental scale and a political society of well-ordered liberty, combining unity with diversity and the strength of the whole with freedom of the individual. The words of British Prime Minister William Gladstone a hundred years ago are still true today: the Constitution (in its application to political affairs) is “the most remarkable work known...in modern times to have been produced by the human intellect, at a single stroke.”

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\*Although New Hampshire had been the ninth state to ratify, technically putting the Constitution into effect, in practice the new government would never have been established had Virginia and New York failed to ratify.

\*\*The day before, Congress had approved 12 amendments for submission to the states; of these, ten were ratified and became the Bill of Rights.