
THE FEDERALIST

BY

Alexander Hamilton,
John Jay,

AND

James Madison

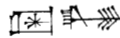
The Gideon Edition

Edited

with an Introduction, Reader's Guide,
Constitutional Cross-reference, Index, and Glossary

by

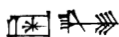
George W. Carey
and
James McClellan



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The cuneiform inscription that serves as our logo and as the design motif for our endpapers is the earliest-known written appearance of the word “freedom” (*amagi*), or “liberty.” It is taken from a clay document written about 2300 B.C. in the Sumerian city-state of Lagash.

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Editors' Introduction

The American Constitution is the oldest written national constitution in the world.¹ Its durability and veneration over the years would seem to affirm Thomas Jefferson's estimate that the fundamental law of the American people "is unquestionably the wisest ever yet presented to men."²

1. But the oldest written constitution still in force is the Massachusetts Constitution of 1780. The first written constitutions were the State constitutions adopted in 1776. See note 13, *infra*. The first national constitution to appear in a single document was the Articles of Confederation (1777). The American Constitution came a decade later. The third national constitution was promulgated in Poland on May 3, 1791; the fourth was the French Constitution of September 3, 1791. The two European constitutions sought to establish a constitutional monarchy, but neither lasted even two years. The British Constitution is the oldest among nations, dating back at least as far as the Magna Charta (1215); but it is "unwritten" in the sense that it is not limited to a single document. It consists, rather, of fundamental principles of free government drawn from a complex maze of parliamentary statutes, common law judicial precedents, and ancient political customs or conventions. See A. V. Dicey, *Introduction to the Study of the Law of the Constitution* (Indianapolis: Liberty Fund, 1982).

2. Thomas Jefferson to David Humphreys, March 18, 1789, in *Papers of Thomas Jefferson*, ed. Julian Boyd (Princeton: Princeton University Press, 1958), 14: 678. "[T]his is the best Government that has ever yet been offered to the world," said Charles Pinckney of South Carolina in 1788, "and instead of being alarmed at its consequences we should be astonishingly pleased that one so perfect could have been formed from discordant and unpromising materials." (Jonathan Elliot, ed., *The Debates in the Several State Conventions on the Adoption of the Federal Constitution* [Philadelphia: J. B. Lippincott, 1836], IV: 261). Pinckney served as a delegate to both the Federal Convention and the South Carolina ratifying convention. For contemporaneous views on the Constitution among leaders of the founding generation, see Charles Warren, *The Making of the Constitution* (Cambridge: Harvard University Press, 1928), 733–782. "Let us look to America," advised Alexis de Tocqueville, "let us borrow from her the principles . . . of order, of the balance of powers, of true liberty, of deep and sincere respect for right [which] are indispensable to all republics." (author's preface to the 12th ed., 1848, *Democracy in America* [New York: Alfred Knopf, 1948], cvi–cvii). The British statesman William Gladstone described the American Constitution as "the most remarkable work known to me in modern times to have been produced by the human intellect." (quoted in Albert P. Blaustein, *The Influence of the*

Editors' Introduction

At the time of its adoption, however, Americans were deeply divided over its merits. When the delegates to the Federal Convention of 1787 completed their work in Philadelphia and voted on September 17 to approve the new Constitution and submit it to the people in the several States for ratification, three leading members of the convention—Edmund Randolph and George Mason of Virginia, and Elbridge Gerry of Massachusetts—refused to sign. Others simply left the convention before the proceedings ended. Of the fifty-five delegates who actually attended the convention, only thirty-nine affixed their signatures to the final draft.

No less disconcerting was the fact that a number of influential political leaders, including Patrick Henry, Richard Henry Lee, and James Monroe of Virginia, Samuel Adams and John Hancock of Massachusetts, and John Jay and Governor George Clinton of New York, had either boycotted the convention or were excluded from it. At least some of them could now be expected to oppose or lead the fight against ratification.

Moreover, the nation's two most experienced constitutional architects, John Adams of Massachusetts and Thomas Jefferson of Virginia, both of them leaders of pivotal states in the ratification struggle and warm supporters of the new Constitution, were on diplomatic assignment in Europe. Thus, they could not participate in the convention's deliberations or in the public debates over ratification. They nevertheless corresponded with friends back home and with each other, readily exchanging views on the Constitution's strengths and weaknesses. "We agree perfectly," Adams wrote Jefferson, "that the many should have a full, fair, and perfect representation. You are apprehensive of Monarchy, I of Aristocracy. I would therefore have given more Power to the President and less to the Senate."³ A few of the Framers also

United States Constitution Abroad [Washington, D.C.: Washington Institute for Values in Public Policy, 1986], 32). With few exceptions, contends Blaustein, "every nation that has a one-document constitution (or is committed in principle to having one) is inevitably following the United States precedent-model" (*Ibid.*, 7). We are reminded, however, that "Of the many systems of free and popular government in operation in the world today, there are few, if any, which do not bear, in a variety of features, the unmistakable marks of derivation from the Constitution of England in some stage of its development from 1688 to the present day." (Maurice Amos, *The English Constitution* [London: Longmans, Green, 1930], 14).

3. John Adams to Thomas Jefferson, December 6, 1787, in *The Works of John Adams*, ed. Charles Francis Adams (Boston: Little Brown, 1853), VII: 464. Adams was responding to Jefferson's letter of November 13, in which Jefferson had indicated that he would have

solicited the opinions of Adams and Jefferson. James Madison of Virginia, for example, corresponded regularly with Jefferson, and Roger Sherman of Connecticut exchanged views with Adams on a number of constitutional points. Adams told Jay at the outset of the ratification struggle that “the public mind cannot be occupied about a nobler object than the proposed plan of government. It appears to be admirably calculated to cement all America in an affection and interest, as one great nation.” Like so many friends of the Constitution, Adams acknowledged its imperfections but accepted the new Constitution as probably the best compromise possible under the circumstances. “A result of accommodation and compromise cannot be supposed perfectly to coincide with everyone’s idea of perfection,” he reminded Jay. “But, as all the great principles necessary to order, liberty, and safety are respected in it, and provision is made for corrections and amendments as they may be found necessary, I confess I hope to hear of its adoption by all the states.”⁴

THE MOVEMENT TOWARD CONSTITUTIONAL REFORM

The Framers of the American Constitution confronted three major tasks. The first was to improve the relationship among the States, or to create “a more perfect union.” The second was to design a federal government with limited, delegated, and enumerated powers sufficient to govern effectively, reserving to the States and the people thereof those powers not delegated, in order to protect their rights and liberties and prevent the central government from usurping them. The third task was to implement the principle of “government by consent” and to confer legitimacy upon the new government by building it upon a solid foundation of popular sovereignty, with-

been content to add “three or four new articles . . . to the good, old and venerable fabric [i.e., the Articles of Confederation], which should have been preserved even as a religious relic.” In particular, he favored giving the Senate a stronger voice in both foreign and domestic affairs, and limiting the President to a single term. “How do you like our new Constitution?” queried Jefferson. “Their President seems a bad edition of a Polish king. He may be reelected from 4 years to 4 years for life. Reason and experience prove to us that a chief magistrate, so continuable, is an officer for life.” (Jefferson, *Papers*, 12: 350–351). Jefferson’s concern was addressed more than a century later when in 1951 the States ratified the 22nd Amendment to the Constitution, thereby constitutionalizing the custom established by George Washington for limiting the President to two terms.

4. John Adams to John Jay, December 16, 1787, in *Works of John Adams*, VIII: 467.

out sacrificing the sovereignty of the States that agree to join the Union. How the Framers accomplished these objectives is the story of the American founding.

The Federal, or Philadelphia, Convention, as it is sometimes called, was the culmination of a struggle dating back to the American Revolution to provide central direction to American affairs and promote closer cooperation among the then-thirteen colonies. Even before the outbreak of armed hostilities, colonial leaders had recognized the importance of coordinated opposition to British domination, as witnessed by the convening of the Stamp Act Congress in 1765 to challenge the constitutionality of the Act, and the formation between 1772 and 1774 of intercolonial Committees of Correspondence to exchange information and unite the colonies against George III and the British Parliament.

These efforts laid the groundwork for concerted action that led directly to the creation of the first Continental Congress in 1774. This remarkable body sat for fifteen years, first in Carpenters' Hall in Philadelphia and later in a number of other cities, completing its final session in New York City in 1788. Though regarded at first as only a temporary assembly, the Continental Congress met for seven years (1774–1781) before its powers were ever clearly defined. During this period, it exercised many of the powers of a sovereign state, such as declaring the independence of the United States, issuing currency, borrowing large sums of money, entering into an alliance with France, building a navy, and raising an army. It also drafted America's first instrument of government, styled "The Articles of Confederation and Perpetual Union." Described as a "league of friendship" among the thirteen States, each retaining "its sovereignty, freedom and independence," the Articles of Confederation were more like a treaty than a genuine constitution delineating the powers and functions of a central government. The document made no provision for an executive or a judiciary branch, and the member States retained most of their original powers. Not the least disconcerting was the failure of the Articles to confer supremacy on the Confederation's laws and treaties, thereby rendering them equal to State constitutions and statutes and making them unenforceable when a State refused to comply.

As early as July 1775 the need for Articles of Confederation was discussed in Congress, and a plan for them was presented by Benjamin Franklin. But no action was taken until June 7, 1776, when Richard Henry Lee offered a