

# From Confederation to Constitution: The Debate that Changed the Course of America<sup>1</sup>

Elizabeth Eastman, September 17, 2023, Constitution Day, Wimberley, Texas

## Introduction

We are gathered to celebrate the day in 1787 when the delegates to the Constitutional Convention presented a newly drafted Constitution to the public.<sup>2</sup> The title of my talk is “From Confederation to Constitution: The Debate that Changed the Course of America.” America had lived under British rule as a group of colonies, some for as long as 150 years, before declaring independence in 1776, then became a confederation of states for about a dozen years, and finally a constitutional republic that is based upon the Constitution that we celebrate today.

The debates that initiated the change from British colonies to a confederation of states to a constitutional republic and contributed to the new foundations of government are the themes of my talk. Other nations have changed their governments through revolution and oftentimes bloody revolutions, but this was not the case in America when the country adopted the Constitution that governs us today. Alexis de Tocqueville, a Frenchman who traveled to America in the 1830’s and wrote the famous book *Democracy in America*, described this change of government.

New in the history of societies is to see a great people warned by its lawgivers that the wheels of the government are stopping, turn its regard on itself without haste and without fear, sound the depth of the ill, contain itself for two entire years in order to discover the remedy at leisure, and when the remedy is pointed out, submit voluntarily to it without its costing humanity one tear or drop of blood.<sup>3</sup>

Tocqueville was talking about Americans when he referred to a great people; the lawgivers who gave warnings were James Madison, George Washington, and others; it was the wheels of the confederation of states that were stopping; and those who joined the discussions without haste and fear included private citizens, elected representatives, and convention delegates.

Tocqueville’s description of a voluntary transition from the old confederation of states to a new constitutional republic is correct, but the debates were fierce between advocates supporting a new form of government and others who believed the solution was in modifying the Articles of Confederation. We know these arguments today as the Federalist and Anti-Federalist debates. There were also debates within the Confederation Congress, between state representatives, and among citizens. This period is one of the best examples in American history when robust debates contributed to one of the greatest events: the transition from a confederation of states to a constitutional republic and to repeat Tocqueville’s words: “without its costing humanity (Americans) one tear or drop of blood.”

To appreciate the distinct features of the Constitution that we celebrate today, let’s begin by asking the question, Why was the first government after declaring independence a confederation of states instead of the constitutional republic that we have today?

## The Confederation of States

In the month prior to declaring independence from the British, the Second Continental Congress called upon the thirteen colonial assemblies to craft constitutions. Note this reference to the Second Continental Congress. There was also a First Continental Congress and prior to that a Stamp Act Congress.<sup>4</sup> Although the colonies were independent of one another, the colonists saw the value of coming together when the British took actions that they believed infringed upon their rights. The 1765 Stamp Act Congress in New York had twenty-seven representatives from nine of the thirteen colonies attend. After deliberation, they issued a Declaration of Rights and Grievances, but King George III rejected the petition because it was deemed an unconstitutional assembly.<sup>5</sup> Continued conflict between the British and the American colonists regarding colonial revenue, representation, and governance saw the convening of the First Continental Congress nine years later in 1774. Delegates from twelve of thirteen British colonies attended. Less than a year later, delegates from all thirteen colonies attended the Second Continental Congress, again to respond to British actions in the colonies.<sup>6</sup> Note the progression of colonial participation, from nine to twelve to all thirteen of the colonies in 1775.

Efforts to resolve the growing differences between the British and the colonists failed. The refusal of the British to engage in such a debate led the colonists to debate among themselves. The choice soon became clear: remain subjects of the British Crown or declare independence. On May 15, 1776, the Second Continental Congress sent a request to the colonial assemblies to draft constitutions. The Resolution read, “That it be recommended to the respective assemblies and conventions of the United Colonies, where no government sufficient to the exigencies of their affairs have been hitherto established, to adopt such a government as shall, in the opinion of the representatives of the people, best conduce to the happiness and safety of the constituents in particular, and America in general.”<sup>7</sup> The call for “representatives of the people” suggests a direction toward representative government instead of a direct democracy or a hereditary form of government like the British monarchy.

The movement toward independence continued. On June 7, 1776, Richard Henry Lee from Virginia presented a formal resolution in the Second Continental Congress: “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.”<sup>8</sup> The representatives in the Continental Congress voted to declare independence a month later, what we celebrate each year on the 4<sup>th</sup> of July.

There were two other parts to Lee’s resolution. It also included a call to take measures to form foreign alliances and that “a plan of confederation be prepared and transmitted to the respective Colonies for their consideration and approbation.”<sup>9</sup> The colonists would need foreign recognition if they were going to be successful in becoming an independent nation as well as foreign support to fight the British. They also needed a new foundation of government. The three parts of Lee’s resolution—independence, foreign alliances, and a government—were necessary for America to become a free and independent nation.

An initial response to why a confederation was the first government is found in discussions that preceded independence. In 1754 at the Albany Congress, Benjamin Franklin introduced a general government in America called the Albany Plan of Union. It was not in conjunction with independence from Britain but rather application would be made to the Parliament of Great Britain. It would include all the colonies with the provision that each would retain its constitution. There was a proposed organizational structure and provisions for expansion, defense, legislation, and taxation. Neither Parliament nor the colonial assemblies approved it. In July 1775, Franklin drafted “Proposed Articles of Confederation,” calling the confederacy The United Colonies of North America. He shared the proposed articles with members of the Continental Congress, but no vote was taken. Franklin again argued for a federation in January 1776, but it was not until Lee’s resolution that a committee was formed to draft a plan of confederation. Franklin’s proposals, while not successful, advanced the idea of political independence from Britain and stressed the independence of the colonies from each other under a federation.<sup>10</sup>

Establishing a confederacy after declaring independence and formalizing the relations between the colonies were also present in Thomas Jefferson’s notes during the period following Lee’s resolution. He recorded the following comments by Dr. Witherspoon: “Dr. Witherspoon opposed every alteration of the article [on colonial voting]. all men admit that a confederacy is necessary. should the idea get abroad that there is likely to be no union among us, it will damp the minds of the people, diminish the glory of our struggle, & lessen its importance, because it will open to our view future prospects of war & dissension among ourselves.” Jefferson further wrote, “the colonies should in fact be considered as individuals; and that as such in all disputes they should have an equal vote. that they are now collected as individuals making a bargain with each other, & of course had a right to vote as individuals.”<sup>11</sup> John Adams also recorded a resolution in his notes, reportedly in February 1776, that a committee prepare a “Draught of firm Confederation” and report back to the Congress.<sup>12</sup>

These notes and proposals confirm that alternatives to confederation style government were not being advanced. The colonies had been independent of one another since their inception and a confederation, or an alliance, would preserve the independence that each colony had previously experienced under British rule. It would also formalize the working relationship that had developed in the three Congresses described previously when the independent colonies joined forces to respond to British policies (what the King called an unconstitutional assembly in the first instance). Each colony had sent delegates to these Congresses to represent them. Upon declaring independence from the British, the former colonies became states. The Declaration of Independence begins with the words: “The unanimous Declaration of the thirteen united States of America.”<sup>13</sup> The signatures on the Declaration of Independence were grouped according to the former colonies, now states. The signers of the Articles of Confederation and the US Constitution also followed this practice.

The Continental Congress’s request prior to declaring independence that the thirteen states (then colonies) draft their own Constitutions underscores the autonomy of the states as it was the residents and their representatives who would design and submit to constitutional governance within their borders. Among the best-known efforts to advance this debate was by John Adams. William Hooper and John Penn, delegates to the Continental Congress from North

Carolina, asked him for suggestions on a plan of government. He wrote his ideas in the form of letters, which he also shared with George Wythe of Virginia and Jonathan Dickinson Sergeant of New Jersey.<sup>14</sup>

Adams recognized the greatness of the moment. He included this reflection in his letter. You and I, my dear Friend, have been sent into life, at a time when the greatest law-givers of antiquity would have wished to have lived. How few of the human race have ever enjoyed an opportunity of making an election of government more than of air, soil, or climate, for themselves or their children. When! Before the present epocha, had three millions of people full power and a fair opportunity to form and establish the wisest and happiest government that human wisdom can contrive? I hope you will avail yourself and your country of that extensive learning and indefatigable industry which you possess, to assist her in the formations of the happiest governments, and the best character of a great People.

It was a momentous period in American history when, on the eve of independence, delegates approached the task of drafting constitutions with the seriousness required. Adams, though, requested that his name not be made known in this effort: “I must beg you to keep my name out of sight, for this feeble attempt.” His request was not fulfilled.

In April 1776, Adams’s letter was published and widely distributed as a pamphlet under the name of “Thoughts on Government.”<sup>15</sup> Though addressed to those drafting state Constitutions, similar issues would also arise in drafting the US Constitution ten years later. He began by considering the end of government, which he argued was the happiness of society. He linked it to the end of man, which he asserted was also happiness. He rejected fear and honor as a foundation or frame of government because neither would produce happiness and instead looked to virtue as the principle and foundation. Adams reinforced the connection between citizens and government. “The noblest principles and most generous affections in our nature then, have the fairest chance to support the noblest and most generous models of government.”

Adams invoked English philosophers—Sidney, Harrington, Locke, Milton and others—whose principles and reasonings pointed to the republican form of government as the best. He defined it as “an Empire of Laws, and not of men.” The best of republics is “that particular arrangement of powers of society, or in other words that form of government, which is best contrived to secure an impartial and exact execution of the laws.” Adams was writing in early 1776 when relations with the British were at their lowest point and talk of independence was at its highest. He referred to “the wretched condition of this country … for ten or fifteen years past” in his letter. Recall the words of the Declaration of Independence that were to be penned within weeks of the publication of Adams’s pamphlet on government. “The history of the present King of Great Britan is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States.”<sup>16</sup> Examples of injuries and usurpations include a denial of law. The thoughts on government that he put forth were aimed at avoiding tyranny taking hold anywhere in America.

Adams began with the observation that a large republic as would be present in America would not permit the whole to participate in making laws. The solution, he argued, was a

representative assembly. The most wise and good would have authority from the many to make laws. He recommended that the representative assembly “be in miniature an exact portrait of the people at large. It should think, feel, reason, and act like them.” He added, “that it may be the interest of this assembly to do strict justice at all times, it should be an equal representation, or in other words, equal interest among the people should have equal interest in it.” He emphasized that “great care should be taken to effect this, and to prevent unfair, partial, and corrupt elections.”

Adams counseled against having all the powers of government—legislative, executive, and judicial—in one assembly. Among his reasons were tendencies toward vices, follies, frailties, hasty results, absurd judgments, avarice, and ambition. In other words, those human failings that we have seen and wish to avoid in our elected officials. Similar to dividing the legislative power that would be included in the future US Constitution, Adams suggested that within the larger assembly, a council with twenty or thirty members have a “free and independent exercise of judgment, and consequently a negative voice in the legislature.” This would make for a dialogue of sorts between the assembly and council or serve as a check. He also argued for a separation based upon responsibilities. From a practical point of view, the legal skills needed for a judiciary or the necessity for secrecy and dispatch in an executive power would be lacking or difficult to execute in one large assembly. He argued that the judicial power ought to be “distinct from both the legislative and executive.” The judiciary could serve as a check on the other branches. He called for a lifetime appointment of judges during good behavior and the power of impeachment before the governor and council as the means to address misbehavior of judges.

The two bodies in the assembly would annually elect a governor, a lieutenant-governor, secretary, treasurer, commissary, and attorney-general. The governor should have the power to nominate and appoint judges, justices, and all other offices, civil and military “with the advice and consent of council.” The assembly and council should also stand for annual election. Adams’s reason was that “where annual elections end, there slavery begins.” He gave a colorful image to accompany his maxim.

These great men, in this respect, should be, once a year,  
Like bubbles on the sea of matter borne,  
They rise, they break, and to that sea return.

This will teach them the great political virtues of humility, patience, and moderation, without which every man in power becomes a ravenous beast of prey.

He recognized that an annual term may be found inconvenient and allowed that modification should be made if necessary. He also admitted the possibility of a more popular form of government that would allow for some positions to be filled by ballot of both houses or one house and the consent of the other. Freeholders of the counties should choose sheriffs, registers of deeds, and county clerks.

Adams called for a militia to defend the country against invasion and laws for the liberal education of youth. For those who think that Adams was only speaking to a higher or wealthier class, his recommendations regarding education suggested the opposite. “Laws for the liberal

education of youth, especially of the lower class of people, are so extremely wise and useful, that, to a humane and generous mind, no expense for this purpose would be thought extravagant." America was on the precipice of establishing a new foundation for their government and a broad scope of education would support it. These examples from Adams's pamphlet—an assembly divided into two bodies; a separation of the legislative, executive, and judicial branches; governing officials; advise and consent; terms in office; a militia—illustrate how the foundations of the US Constitution reach back to 1776 when Americans were forging a new path and drafting state constitutions.

While Adams directed his remarks to those states that were drafting constitutions, he made a reference to government that would encompass all the states.

If the colonies should assume governments separately, they should be left entirely to their own choice of the forms; and if a continental constitution should be formed, it should be a congress, containing a fair and adequate representation of the colonies, and its authority should sacredly be confined to these cases, namely, war, trade, disputes between colony, the post-office, and the unappropriated lands of the crown, as they used to be called.

Adams wrote "Thoughts on Government" before the 1776 vote on independence and referred to colonies instead of states. He highlighted their power to fashion their own governments, though his recommendation was a republican form of government. The "continental constitution" was reminiscent of what Franklin proposed some twenty years previously, but presently it would be drafted by a committee of delegates appointed by the Congress and called the Articles of Confederation and Perpetual Union.

A brief explanation of the content of the Articles highlights the design of the Confederation, the representation of each state in the Congress, and the intentional grant of limited power to a central government in light of the nation having just gained independence from an all-powerful authority—the British Monarchy and Empire.

The opening statement announced the government of the newly independent nation: "The style of this confederacy shall be 'The United States of America'" (Article I).<sup>17</sup> Each state retained its "sovereignty, freedom and independence" (Article II). The relationship between the states was characterized as "a firm league of friendship." The league was intended to provide 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 pretence whatever" (Article III). Provisions were made "to secure and perpetuate mutual friendship and intercourse among the people of the different states in this union." These included privileges and immunities of free citizens in the several states, free ingress and regress to and from any other state, privileges of trade and commerce, extradition of fugitives, and a full faith and credit provision in each of these states (Article IV).

The Articles also had provisions for organizing the Congressional body (each state made annual appointments of the delegates), state representation, and speech and debate protections. Their responsibilities included foreign affairs, the common defense, financing expenses of war

from a common treasury, settling disputes between states, regulating coin, fixing the standard of weights and measures, establishing post offices from one state to another, and appointing a Committee of the States to manage general affairs. A vote by the majority of the states was required to engage in war, enter into treaties and alliances, borrow money, and other actions related to defense of the nation (Articles VI-IX). The last Article expressed the sentiment that “every state shall abide by the determinations of the united states in congress assembled . . . and the Articles . . . shall be inviolably observed by every state.” Any alterations to the Articles required agreement by the congress and the legislatures of every state. (Article XIII).

The delegates of the United States of America in Congress adopted the Articles of Confederation on November 15, 1777 and sent them to the states for ratification. By March 1, 1781, all the states had signed the Articles.<sup>18</sup> The years following independence had put the new nation to the test. The Americans established forces to fight a war of independence, forged alliances with other nations, and expanded its borders while operating under a loose confederation of states. This loose confederation, however, proved to be unworkable as the deficiencies of the Articles of Confederation became apparent.

Contrary to John Adams’s recommendations for state constitutions, the Confederation Congress had only one chamber and did not have an executive or a judicial branch. The Articles delineated specific tasks, but central authority and enforcement were limited. There was no provision for mandatory contributions to the common treasury, which led to the country’s inability to provide sufficient support for a military force or debt repayment. There was no uniform or common currency between the central government and the states. Also lacking were the means to enforce foreign policy responsibilities that the Articles assigned to the central government, leaving the states with the freedom to act independently. There was not a national force to respond to internal rebellion, such as the tax protests by Massachusetts’s farmers known as Shays’ rebellion, only a state militia response. The thresholds of legislation requiring the support of nine of the thirteen states and amendments requiring unanimous consent also contributed to impractical governing practices. These deficiencies impeded the country’s unification, economy, defense, and stature among other nations.<sup>19</sup>

The design of the Confederation did not reflect the Declaration’s intention of a unified people as evidenced in its language: “one people [dissolving] the political bands which have connected them with one another,” “the good people of these colonies” declaring that these “united colonies are, and of right ought to be free and independent states,” and the mutual pledge of the signers representing the former colonies of their lives, fortunes, and honor to support the Declaration. The pronouncement of equality among human beings and their inalienable rights also unified them. There were no references to specific colonies in the list of the injuries and usurpations, rather the infringements supported the claim that the King was establishing “an absolute Tyranny over these States.”<sup>20</sup> Many of the states incorporated the language of the Declaration into their state constitutions and designed governments that were consistent with its precepts, but the plan of confederation was informed more by their colonial practices in which they were united against the British King and Parliament instead of the future as a free and united people. The intention may have been to transform the country into the United States of America, but the Confederation’s design and language did not support this as evidenced by the

Article's reaffirmation of each state's sovereignty, freedom, and independence, their friendship with each other, and their pledge to defend each against attack.

Washington expressed his concerns about the Confederation to Alexander Hamilton: "My wish to see the Union of these States established upon liberal & permanent principles—& inclination to contribute my mite in pointing out the defects of the present Constitution, are equally great—All my private letters have teemed with these Sentiments, & whenever this topic has been the Subject of conversation." He continued, "No Man in the United States is, or can be more deeply impressed with the necessity of a reform in our present Confederation than myself—No Man perhaps has felt the bad effects of it more sensibly; for to the defects thereof, & want of Powers in Congress may justly be ascribed the prolongation of the War, & consequently the Expences occasioned by it."<sup>21</sup> Washington's direct experience with the shortcomings was from his position as Commander of the Continental Army during the revolutionary war. As the nation's independence was secured at the conclusion of the war, Washington described future options open to the country: "that it is in their choice and depends upon their conduct, whether they will be respectable and prosperous or contemptible and Miserable as a Nation. This is the time of their political probation: this is the moment when the eyes of the whole World are turned upon them—This is the moment to establish or ruin their National Character for ever." He listed four things as essential to the well-being of the United States, the fourth is most relevant to this discussion: "The prevalence of that pacific and friendly disposition among the people of the United States, which will induce them to forget their local prejudices and policies, to make those mutual concessions which are requisite to the general prosperity, and, in some instances, to sacrifice their individual advantages to the interest of the community."<sup>22</sup> The provisions of the Confederation did little to encourage the people or the states to forget their local prejudices and politics.

Two attempts to address these shortcomings were made at the Mount Vernon Conference in 1785 and the Annapolis Convention in 1786. Regulating foreign and interstate commerce was beyond the authority of the Confederation. Some states established proprietary regulations, tariffs, and currency, which hindered the nation's economic development. Legislators from Maryland and Virginia sought to avoid conflict by seeking jurisdictional agreements to support commerce on the Potomac and Pocomoke Rivers, and the Chesapeake Bay, which bordered their states. Commissioners from both states reached an agreement at Washington's Mount Vernon home and the states subsequently sought further agreements with Delaware and Pennsylvania.<sup>23</sup> A year later, a gathering called A Meeting of Commissioners to Remedy Defects of the Federal Government saw delegates from five states meet in Annapolis to discuss uniform commercial regulations. The lack of greater state representation resulted in no action being taken, but acknowledgement of the defects in the Federal Government led to a call for a Convention of Deputies from the different states. The record of the proceedings referred to the situation of the United States as "delicate and critical" and called for "an exertion of the united virtue and wisdom of all the members of the Confederacy." The date of May 2, 1787 in Philadelphia was set to address the following: "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."<sup>24</sup> That convention came to be known as the Constitutional Convention, though in 1786, few could have predicted that the result would be a new foundation of government for the country.

There was much debate in the months preceding the convention. Washington wrote to Madison on March 31, 1787 “that a thorough reform of the present system is indispensable, none who have capacities to judge will deny and with hand and heart I hope the business will be essayed in a full Convention.” Madison outlined the defects of the Articles of Confederation in his essay, “Vices of the Political System of the United States” (April 1787), which served as a comprehensive statement that listed eleven defects in the Articles of Confederation.<sup>25</sup> In a letter to Washington on April 16, 1787, it was clear that Madison was already considering alternatives to the Confederation.

Conceiving that an individual independence of the States is utterly irreconcileable with their aggregate sovereignty; and that a consolidation of the whole into one simple republic would be as inexpedient as it is unattainable, I have sought for some middle ground, which may at once support a due supremacy of the national authority, and not exclude the local authorities wherever they can be subordinately useful.<sup>26</sup>

Madison would play a leading role in the Constitutional Convention.

### **The US Constitution**

The delegates that attended the Constitutional Convention that began on May 25, 1787 initiated a debate that was as consequential as the debate that resulted in proclaiming independence from Britain. Just as a declaration was drafted, so too a constitution was drafted. Records of the proceedings shed light on the exchanges about governance in a convention that was conducted behind closed doors. The issues that framed the debate included bicameral versus unicameral legislatures, a strong national government divided into three branches versus equal representation for each state, increased Congressional powers over interstate commerce and taxation, and essentially retaining the Articles of Confederation. The compromise was a bicameral legislative structure with House members chosen by popular vote and Senators chosen by the states, a unitary executive, and an independent judiciary. The restructuring of the union included a guaranty of a republican form of government, separation of powers, federalism, an executive power vested in a President, and an unprecedented authority given to the national government. The shift in authority from the Confederation to the Constitutional Republic is evident in the contrast between the Confederation’s second Article that affirmed each state retaining its sovereignty, freedom, and independence, and every Power, Jurisdiction and right “which is not by this confederation expressly delegated to the United States, in Congress assembled.” The Constitution’s Article I, section 8, listed the enumerated powers of the Congress but sections 9 and 10 listed specific restrictions on the Congress and the states. Article VI proclaimed the Constitution as the supreme law of the land. Ratification of the Constitution would end the confederation of states.

The debates between the Federalists who supported the new Constitution and the Antifederalists who argued against ratification or for modifications to curb its powers happened before, during, and after the convention. These groups became more prominent when the debate entered the public sphere during the state ratification proceedings. The Antifederalist who wrote under the pseudonym Brutus stated a primary concern:

This government is to possess absolute and uncontrollable power, legislative, executive and judicial, with respect to every object to which it extends, for by the last clause of section eight, article one it is declared ‘that the Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution, in the government of the United States; or in any department of office thereof.<sup>27</sup>

This power and the lack of a Bill of Rights were two of the most contentious points. Thirty-nine convention delegates signed the Constitution on September 17, 1787. The document was presented to the people for their consideration through the vehicle of state ratification conventions, thus fulfilling the Declaration’s requirement of consent of the governed.

Pursuant to the terms of the new Constitution’s Article VII, it became the law of the land after nine of the thirteen states ratified it. A constitutional republic replaced the confederation of states as the governing body of the nation and thus changed the course of America.

## Conclusion

The title “From Confederation to Constitution: The Debate that Changed the Course of America” captures the two aims of this essay. The first laid the foundation for continued inquiry into the Constitution by recounting America’s constitutional origins in both the states and the nation, from independence in 1776 to constitutional convention in 1787. The origins of constitutional governance date from declaring independence and drafting state constitutions. John Adams’s “Thoughts on Government” provided guidance to those drafting the documents by advancing principles and practices that the framers of the US Constitution would revisit when the inadequacies of the Confederation imperiled the country. Knowledge of the Constitution’s origins provides a broader platform for understanding the document and constitutional governance more broadly. It also helps to explain why the states jealously guarded their independence considering their long history and its continuation under the Confederation. The subsequent debates related to slavery, tariffs, and nullification, among others are cast in a different light when acquainted with this history.

The second was to explore one of the most significant periods in American history, introduced by Tocqueville in his description of Americans taking two years to discover the remedy for the Confederation’s weaknesses. The review of the confederation period that preceded the drafting of the Constitution highlights Americans’ rich history of debate. Attacks on speech and debate, much like what is becoming commonplace in America today, imperil the means to find solutions without violence and that are consistent with the spirit of liberty that Americans sought in their quest for independence. Americans risks losing practices that enable them to highlight differences and resolve them. The period from 1776 to 1789, when the country moved from independence to adopting a constitutional republic, is a period rich with debate. We must look to these examples and strive to emulate them when faced with inadequacies in our own government.

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1. Prepared for delivery at Constitution Day, Wimberley, Texas, September 17, 2023. Introductory Remarks: “It is an honor and a privilege to have the opportunity to participate in the first annual celebration of

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Constitution Day in Wimberley, Texas. I would like to thank the organizers and all who are joining us today to participate in this acknowledgment of one of the most important documents in American history.

This is my first visit to the city of Wimberley, and I cannot think of a better reason to spend an afternoon here. I was pleased to see the reference to teacher on the poster advertising this event. I have taught over a span of thirty years at the university level, and I did my best to avoid the title of professor. I never thought that “professing” was the best atmosphere for a classroom. I aimed to invite, to encourage, my students to join an inquiry that would span the semester and perhaps the years following the end of their university studies. I am taking the same approach today.”

This essay is a revised version of the Constitution Day presentation.

2. US Constitution, National Archives, America’s Founding Documents,  
<https://www.archives.gov/founding-docs/constitution-transcript>.

3. Alexis de Tocqueville, *Democracy in America*, trans. Harvey C. Mansfield and Delba Winthrop (Chicago: University of Chicago Press, 2000), I.1.8, 106.

4. Records of the Continental and Confederation Congresses and the Constitutional Convention, 1765-1821, National Archives, <https://www.archives.gov/research/guide-fed-records/groups/360.html>. Britannica, T. Editors of Encyclopaedia, “Stamp Act Congress,” *Encyclopedia Britannica*, March 21, 2023, <https://www.britannica.com/topic/Stamp-Act-Congress>. First, Second, and Confederation Congresses, 1774-1789, National Archives, <https://catalog.archives.gov/id/10678082>.

5. Resolutions of the Continental Congress October 19, 1765, The Avalon Project,  
[https://avalon.law.yale.edu/18th\\_century/resolu65.asp](https://avalon.law.yale.edu/18th_century/resolu65.asp).

.6 Britannica, T. Editors of Encyclopaedia, “Continental Congress,” *Encyclopedia Britannica*, July 3, 2023, <https://www.britannica.com/topic/Continental-Congress>.

7. Jack P., Greene, ed., *Colonies to Nation 1763 – 1789: A Documentary History of the American Revolution* (New York: W. W. Norton, 1975), 283. [Original source: *Journals of the Continental Congress*, vol. IV, pp. 342, 357-358.] The language of safety and happiness also appears in the Declaration of Independence.

8. Greene, 284-85. [Original source: *Journals of the Continental Congress*, vol. V, pp. 425.]

9. Greene, 284-85. [Original source: *Journals of the Continental Congress*, vol. V, pp. 425.]

10. Albany Plan of Union 1754, The Avalon Project,  
[https://avalon.law.yale.edu/18th\\_century/albany.asp#b1](https://avalon.law.yale.edu/18th_century/albany.asp#b1). Britannica, T. Editors of Encyclopaedia, “Albany Congress,” *Encyclopedia Britannica*, September 14, 2023, <https://www.britannica.com/event/Albany-Congress>. Proposed Articles of Confederation, [on or before 21 July 1775], <https://founders.archives.gov/documents/Franklin/01-22-02-0069#BNFN-01-22-02-0069-fn-0002>.

11. “Notes of Proceedings in the Continental Congress, 7 June–1 August 1776,” [Thomas Jefferson], *Founders Online*, National Archives, <https://founders.archives.gov/documents/Jefferson/01-01-02-0160>. [Original source: *The Papers of Thomas Jefferson*, vol. 1, 1760–1776, ed. Julian P. Boyd. Princeton: Princeton University Press, 1950, pp. 299–329.]

12. “February 1776, from the Diary of John Adams,” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Adams/01-02-02-0006-0002>. [Original source: *The Adams Papers*, Diary and Autobiography of John Adams, vol. 2, 1771–1781, ed. L. H. Butterfield. Cambridge, MA: Harvard University Press, 1961, pp. 229–234.]

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