

## Forging a Stronger Union

**M**ost Americans know little or nothing about their country's first written Constitution. They could probably not even tell you what it was called.

America's Declaration of Independence, which was approved on the 4th of July, 1776, was *not* a constitution. It did not set up a Government over the Thirteen Colonies, or as they came to be known, the thirteen states. It merely announced that the Thirteen Colonies had dissolved all ties with the Mother Country, and were taking their rightful place among the nations as a free, independent nation.

### *Government or Anarchy?*

But no nation can survive, much less thrive, unless it has some kind of active government. Without a viable government, any nation will descend into chaos and anarchy. *Government* is as vital to a national body as *air* is to the human body!

What were the colonists going to do with their independence? What form of government would they choose? Would the thirteen states each maintain its own sovereignty, or would they unite and give up some of their powers to a central government, thereby forming greater strength and stability?

The Second Continental Congress not only adopted the Declaration of Independence, but they also authorized the creation of their first constitution, the Articles of Confederation.

The first constitution of the U.S. was written in 1776-77, but was not ratified by all the states until March 1, 1781. All during this period the Continental Congress served as the supreme authority (weak as it was) of the thirteen united states. The Congress was known as the *Congress of the Confederation* — but it continued to be popularly referred to as the Continental Congress.

This first constitution of the U.S. formed the states into a kind of league. Americans knew they must form some kind of common government, but to begin with, they had only a very foggy idea of what kind of government they would devise.

The colonists were familiar with the central government of

England. But they, having seen many abuses of the government of Great Britain, were fearful of relinquishing too much power to a strong central government. Many believed that when fallible men gain political power, they *inevitably* try to get even more power, and in so doing, they usually corrupt the government and subvert the people's liberties.

Basically, they believed the maxim that power corrupts and absolute power corrupts absolutely.

Since all of the thirteen states were fearful of losing their own sovereignty, and were equally distrustful of any national government becoming too powerful, they therefore created and ratified the type of *weak government* which would insure that their fears were never realized.

The Articles of Confederation was the result of such thinking. This constitution provided for a strictly "federal" type of government, but it had no real authority over the states or their citizens.

Under this first constitution, Congress had little authority, and was even denied the power of *taxation*. It didn't even have power to regulate *trade*, although it could make commercial treaties.

After much debate, it was decided that this first constitution should allow each state to have just one vote — thereby giving the small states equal power with the larger, more populous states. This proved an irritation to the larger states, who had argued for more votes because of their greater population.

The Articles of Confederation, however, did somewhat limit the independence of the individual states, while granting significant authority to the Congress in certain matters.

The Articles said that the citizens of one state were entitled to the full rights of the citizens of every other state. And the power of extradition of criminals from one state to another was provided for. Disputes among the states were to be settled by a court of arbitration. The Congress had sole power of declaring war, making peace and making appointments of certain officers.

Furhermore, it had complete control over diplomatic negotiations. The Continental Congress was empowered to borrow money, issue paper money, and determine the value of money coined either by the states or by the Congress.

The Articles of Confederation were ratified by all the states by March 1, 1781, and continued as America's constitution until superseded by our present U.S. Constitution on March 4, 1789.

Though the Continental Congress and the weak government it provided performed fairly well during the Revolutionary War of Independence, and for some short time afterward, nevertheless it soon became abundantly clear that the Continental government didn't have enough strength to long hold the union together.



The Articles of Confederation were, however, a step in the right direction. They stated:

TO ALL TO WHOM THESE PRESENTS SHALL COME, WE THE UNDER-SIGNED DELEGATES OF THE STATES AFFIXED TO OUR NAMES, SEND GREETING — Whereas the Delegates of the United States of America in Congress assembled did on the 15th day of November in the Year of our Lord 1777, and in the Second Year of the Independence of America agree to certain articles of Confederation and *perpetual Union* between the States of . . . .

Then follows an enumeration of the thirteen states. The second paragraph again states that the Union was to be *perpetual*: “ARTICLES OF CONFEDERATION AND PERPETUAL UNION BETWEEN THE STATES . . . .”

The first three articles are perhaps the most important ones:

ARTICLE I. The Stile of this confederacy shall be ‘The United States of America.’

ARTICLE II. Each state retains 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.

ARTICLE III. The said states hereby severally enter into a firm league of friendship with each other, for their common defence, 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.

The concluding Article reiterates that the union was intended to be perpetual:

ARTICLE XIII. Every state shall abide by the determinations of the united states in congress assembled, on all questions which by this confederation is submitted to them. And the Articles of this confederation shall be inviolably observed by every state, and *the union shall be perpetual*; nor shall any alteration at any time hereafter be made in any of them; unless such alteration be agreed to in a congress of the united states, and be afterwards confirmed by the legislatures of every state.

### “The Great Governor”

The final paragraph of the Confederation reveals that the Signers, as with the Declaration of Independence, acknowledged the overruling Providence of the Supreme Judge, “the Great Governor of the World.”

And Whereas it hath pleased *the Great Governor of the World* to incline the hearts of the legislatures we respectively represent in congress, to approve of, and to authorize us to ratify the said articles of

confederation and *perpetual union*. Know Ye that we the undersigned delegates, by virtue of the power and authority to us given for that purpose, do by these presents, in the name and in behalf of our respective constituents, fully and entirely ratify and confirm each and every of the said articles of confederation and *perpetual union*, and all and singular the matters and things therein contained: And we do further solemnly plight and engage the faith of our respective constituents, that they shall abide by the determinations of the united states in congress assembled, on all questions, which by the said confederation are submitted to them. And that the articles thereof shall be inviolably observed by the states we respectively represent, and that *the union shall be perpetual*. In witness whereof we have hereunto set our hands in Congress. Done at Philadelphia in the state of Pennsylvania the 9th day of July in the Year of our Lord, 1778, and in the 3d year of the Independence of America.

Then followed the forty-eight signatures of all who signed the Article of Confederation. The Signers included many of the same men who signed the Declaration of Independence — i.e. John Hancock, Samuel Adams, John Witherspoon, Robert Morris, Richard Henry Lee, etc.

It is interesting to note that in no less than five instances did the writers of the Articles of Confederation speak of the “union” as being “perpetual.”

Unfortunately, these words were not incorporated into the final U.S. Constitution which, in 1789, superseded this first constitution. Had these vital words been incorporated as part of the present U.S. Constitution, the *Civil War* might never have occurred. The main issue in that internecine struggle concerned whether the Union was *perpetual*, or whether the separate states were free to *secede* from the Union — going their own way as they chose. If so, the Union was doomed from the very beginning!

But, fortunately, America's Civil War President, Lincoln, understood that the U.S. Constitution, according to the *spirit* of the document, was meant to bind the states in *perpetual union*. Any other course would lead either to complete dissolution of the Union, or to Civil War.

### *Correcting the Weaknesses*

But, alas, the domestic strains in the post-Revolutionary War era revealed serious flaws and weaknesses in the first constitution. The Articles of Confederation had reserved *too much power* to the individual *states*, and had given *too little* to the national or *federal government*!

In time, a long train of constitutional crises would reveal this fatal flaw in America's *first constitution*, and would point clearly in the direction of a new constitution, which would invest the federal govern-



ment with greater power and authority, making it the supreme government of the land.

Fortunately, the fatal flaws in America's first constitution were so glaring, and the "Founding Fathers" were so well attuned to what was happening, that they soon spotted the weaknesses. And then they set about the monumental task of framing a better constitution which would correct the great weaknesses in the Articles of Confederation.

### *America's Constitution*

America is the world's oldest republic and possesses the world's oldest written Constitution. America's Bicentennial offers proof to the world that her "experiment in democracy" was not a light and transient thing. How has the United States held together so long?

Those who are familiar with American history, and with the development of her government, admit that we have had our share of woes and troubles.

The framers of our present U.S. Constitution plainly admitted they had *not* devised a *perfect* Government! But it is difficult, if not impossible, to find any human government which has had so stable a government for a two-hundred-year period.

The very fact that America has not only survived, but has thrived for two hundred years should offer convincing proof that there is strength and vitality in the U.S. governmental system.

A house that is built on a poor foundation, does not stand for long. And neither would the great national house of America have stood for two centuries — if it's governmental structure had been built on great weaknesses.

### *U.S. Constitution — A "Most Wonderful Work"*

The patriarch of all British prime ministers, William Gladstone, called the U.S. Constitution "the most wonderful work ever struck off at a given time by the brain and purpose of man."

What events led up to the framing of the Constitution? Who were the framers of this important document? What were their backgrounds, motives, prejudices?

At the conclusion of the Revolutionary War, Americans were intoxicated on the pride of their sovereignty. But each individual state still looked upon itself as a separate nation. The result? There were thirteen small, bickering nations which didn't have a clue as to how they could effectively get along.

Alexander Hamilton described the states as "a number of petty states, with the *appearance* only of union, jarring, jealous, and perverse,

without any determined direction, fluctuating and unhappy at home, weak and insignificant by their dissensions in the eyes of other nations.”

Shortly after the War of Independence, many thoughtful Americans came to the conclusion that their republic was too weak to have any real influence either in national or international affairs.

Men like George Washington and Alexander Hamilton came to the painful conclusion that the republic could not rightly be called “the United States.” Rather, they were the “Disunited States of America.”

### *Fatal Flaws*

America’s first constitution, the Articles of Confederation, had served their purpose well during the war, but they had certain inherent, fatal flaws. The thirteen states had been little more than a league of friendly states, joined together for the purpose of fighting the war and winning their independence.

Now that they had won their independence, organizing the peace was in some ways an even more difficult task. The thirteen states had jealously guarded their rights, privileges and sovereign prerogatives when they were framing the Articles. They had reserved supreme power unto themselves, and had given only very limited power to Congress, the central authority. They had muddled through the war, but serious post-war squabbles and difficulties were now developing.

The States were acting more like independent nations than a Union. The American confederation had turned out to be little more than an assembly of ambassadors from thirteen petty, jealous, sovereign states.

In the post-Revolutionary War period, many territorial disputes arose between various states. There were a dozen different currencies. Each state levied its own taxes, while totally ignoring its neighbor. Some states even began developing their own foreign relations.

Petty squabbles developed in the area of trade. New York taxed vegetables and chickens which they imported from New Jersey. Virginia and Maryland wrangled over ownership of the Potomac River. Connecticut and Pennsylvania each claimed the Wyoming Valley (now part of north-east Pennsylvania), and even came to blows over it.

The various states imposed their own tariffs and boycotts, and were met with counter-tariffs and counter-boycotts.

Georgia, quite independently, fought its own little war with the Indians — even though declaring war and arranging peace was supposed to be the sole prerogative of Congress.

Furthermore, the state legislature refused to pay the debts they had assumed during the Revolutionary War.

There was no power or authority to manage business and trade.

Britain and other nations took advantage of the weaknesses of the American Union. In fact, Britain flatly refused to reopen the channels of trade to her former colonies.

### *Rebellion Seethed*

And, worst of all, *rebellion* seethed. Some even began to once again think of taking up arms to solve their problems.

In Western Massachusetts, Captain Daniel Shays led mobs of farmers in rebellion against the state government in Boston. Economic woes were leading them to bankruptcy. There was no national army at the time to deal with the rebellion. It finally took a privately financed militia to put down the insurrection.

Many thoughtful Americans began to see the deep need for a *strong central authority* which would be able effectively to deal with these and other problems which were afflicting the Union.

Wealthy farmers and businessmen were especially desirous of seeing law and order. They wanted to make sure nothing would disturb the domestic tranquility — thereby hindering or destroying their prosperity.

With this in mind, a Constitutional Convention was convened in Philadelphia in 1787. Its purpose? The fifty-five delegates who convened there on May 25, had been instructed to *amend* the Articles of Confederation.

They believed that the Articles had to be changed, before America would have a strong government, capable of governing the thirteen states.

But shortly after the Convention began its deliberations, it became clear to the delegates that the Articles of Confederation were not in need of *revision*. They ought to be *scrapped* altogether!

Accordingly, beginning from scratch, the delegates drafted an entirely new Constitution, and included various vital points which had been in The Articles of Confederation.

### *Inventing a Government*

From the very beginning, there were many heated debates. If these “Disunited States of America” were ever to become the “United States” there would have to be a *radical change* in the thinking of most of the members of the Constitutional Convention.

The delegates searched ancient history, modern history of Europe, and anything else which might give them a clue as to how to devise a government which would be strong, just, lasting.

Benjamin Franklin told the delegates: “We have gone back to ancient history for models of government, and examined forms of those



republics which, having been formed with seeds of their own dissolution, now no longer exist. And we have viewed modern states all round Europe, but find none of their constitutions suitable to our circumstances."

What were they to do?

For nearly seventeen long weeks, the Convention continued its search for a wise constitution. But there was one central problem which seemed to baffle them: How could they form a strong central government, without the states giving up too much of their sovereignty.

The crucial problem was to find a workable balance of power between the states and the central government.

The fatal flaw of the Articles of Confederation had been that it reserved too much power to the *states* (making them supreme), and delegated far too little power to the *central government*.

Some looked upon any transfer of power from the states to the national government as a form of "emasculatation of the states."

Various solutions to this difficulty were proposed. Alexander Hamilton was a brilliant advocate of an overwhelmingly powerful federal government. He dazzled the delegates by his wealth of ideas, his deep knowledge of the history of governments, and by his flashy personality. He argued for a strong central government with absolute veto over the states. He advocated snuffing out most of the state's power and authority altogether.

At the opposite pole of the political spectrum was George Mason of Virginia. He favored the *weakest possible central government* compatible with a confederacy. But since this is what the Articles of Confederation had given the Union, and since their pitifully weak Union had been too impotent to deal with the important problems confronting the nation, it was therefore clear that Mason's proposals were not in keeping with the need of the Union.

### *Balancing the State and Federal Powers*

James Madison, commonly referred to as the "Father of the Constitution" was also a Virginian. He offered a workable solution to this dilemma, somewhere in between the two extreme views of Hamilton and Mason.

He presented before the Convention delegates the Virginia Plan, an entirely new idea in government.

Madison saw that no Confederacy which had set up a *conflict of authority* between the *provincial* and *national* governments had ever really worked.

He outlined a system which would effectively divide the powers between the *state* and the *national* governments. *It would make the*



*national government supreme*, but would also reserve certain important powers to the states; and it would define those powers so clearly as to make serious conflict unlikely or impossible.

There must be a practicable balance between the state and national governments.

Both federal and state governments would continue to exist for the benefit of their citizens, but their spheres of influence and jurisdiction would differ.

Madison's basic proposal finally carried the day. The delegates decided his idea of a balanced state and national government might really work. At least they hoped so. It was decided, therefore, to make the U.S. Constitution the "supreme law of the land." The U.S. federal government would be supreme over the states, but certain vital aspects of government (local taxation, divorce laws, local highways, etc.) would be reserved to the states.

### *Federal Checks and Balances*

But, there still had to be some way of making sure that the federal government didn't become too powerful. How could the delegates make sure that a restraining bit could be kept in the mouth of the federal government?

The solution to this problem lay in devising a workable *threefold division* of the power of the federal government into executive, legislative and judicial branches.

Each of the three branches would serve as a check and a balance on the other two branches.

The president would be the chief executive. But the Congress, being the supreme legislative authority, would be empowered to keep a watchful eye on the president to see that he didn't abuse his powers.

The Congress, as the direct representatives of the people, would actually hold the ultimate power in their hands. But the president, as chief executive, would keep an alert eye on the powerful Congressmen, making sure they didn't abuse *their* powers. His presidential veto would be a powerful tool which he could use to keep Congress in line.

### *Supreme Court Interprets the Laws*

And, heading the judicial branch of the government would be the Supreme Court. It would be invested with the all-important task of keeping a watchful eye both on Congress and on the president.

The Supreme Court would be the official interpreter of the "supreme law of the land," the Constitution.

Also, the Supreme Court would have the final say as to whether any

acts of the president, or any laws passed by the federal or state governments were unconstitutional.

This high tribunal would serve as a *watch-dog* of the American liberties. Its decisions would be final. If it declared any law *unconstitutional*, then that would be it. In fact, since its beginning the Supreme Court has declared over seventy laws passed by Congress as unconstitutional, and it has declared unconstitutional many hundreds of laws passed by the state legislatures.

### *A Fallible Supreme Court*

But the nine members of the Supreme Court are all very human. Could they make mistakes? Yes! And they have.

As an example, the Supreme Court once declared the right to keep blacks and whites apart on trains was constitutional. Decades later, it reversed this decision and proclaimed the right of blacks to sit with whites on trains, in restaurants, theatres, schoolrooms, or anywhere else.

The Supreme Court, being composed of fallible humans, is influenced by the thinking of the times. And when a well-spring of public sentiment wells up and expresses a certain strong belief, and when the general prevailing spirit and attitude of the nation moves in a certain direction, then various members of the Supreme Court are bound to be influenced in their thinking by such sentiments — national attitudes.

It only takes a majority (just five) of the nine members in the Supreme Court to make a decision binding on the nation.

What happens when the president, Congress, inferior courts or private citizens disagree as to what they think the Constitution means? The Supreme Court has the final say in the matter. They study each issue carefully, weighing the factors involved.

Of course, they also look at many past judgments of their fellow Justices.

Chief Justice John Marshall once said: "It is emphatically the province and duty of the judicial department and nobody else to say what the law is."

Chief Justice Charles Evans Hughes declared that: "The Constitution is what the judges [of the Supreme Court] say it is." And so it is! Of course, Congress can if necessary add amendments to the Constitution and thus act as a "watch dog" for the Supreme Court, too.

### *Congressmen and Representatives*

The second most important issue debated in the Constitutional Convention concerned representation in the Congress and just how many Congressmen would represent each state.



The smaller states wanted each state to have “equal representation.” But the larger ones wanted to invoke the principle of “proportional representation.” Those states, like Virginia, New York and Pennsylvania, which had larger populations would therefore have more Congressmen, and consequently would have more power in the Congress.

This problem was finally solved by a compromise proposal which would satisfy both parties. Each state would have *equal representation* in the upper House — i.e. two senators per state in the Senate.

But the states would follow the principle of “proportional representation” in the lower House — i.e. the House of Representatives would permit more representatives from populous states, fewer from those more sparsely populated.

In the end, it appeared that the main objections were overcome. Few, if any, of the delegates to the Continental Convention were completely happy. They all had to make some compromises. But they finally concluded that it was better to ratify an imperfect Constitution, than to give up in disgust, returning home, only to be faced with having to continue living under the weak Articles of Confederation.

Another issue which troubled the delegates concerned how to count the *slaves*. They were universally denied the right to vote, but it was finally decided that three-fifths of the slaves could count toward “proportional representation” in figuring out the total number of representatives for each state.

Another point of debate centered around whether or not the Constitution should contain a “Bill of Rights.” The Constitutional Convention decided not to add such a bill to the Constitution which they approved in 1788. It was, however, added to the Constitution in 1791.

### *Why the New Constitution*

Again, why did the leaders of America deem it necessary to devise a new government? Why did they feel it necessary to discard the Articles of Confederation and frame a new Constitution?

These questions are eloquently answered in the preamble to this famous document: “We the People of the United States, *in Order to form a more perfect Union*, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.”

The framers of the Constitution gave six reasons for the new Constitution: 1) the need for a more perfect union, 2) justice, 3) domestic tranquility, 4) common defence, 5) welfare, 6) liberty.

By forming “a more perfect Union,” the “Founding Fathers” hoped to procure these six vital elements of national survival and greatness.

The Constitution only contains seven articles. Section I of Article I puts Congress first — emphasizing that the real power of the nation would reside in the hands of the people's Congressmen: "All *legislative Powers* herein granted shall be vested in a *Congress* of the United States, which shall consist of a Senate and House of Representatives."

Section I of Article II says: "The *executive power* shall be vested in a President of the United States of America. . . ."

Article II, Section I empowers the judicial branch of government: "The *judicial Power* of the United States, shall be vested in one *supreme Court*, and in such inferior Courts as the Congress may from time to time ordain and establish. . . ."

### *Ratifying the New Constitution*

After over four months of debates, deliberations, compromises, drafting and redrafting of the Constitution, it was signed on September 17, 1787.

By June 21, 1788, nine states had ratified the new Constitution — thus making it the "supreme law of the land." The other four states soon followed suit. The last state to ratify the Constitution was Rhode Island in 1790. The other twelve states had threatened to treat her as a *foreign nation* if she didn't get on with it and ratify the Constitution!

Washington was unanimously elected as America's first President on February 4, 1789. He was sworn into office on April 30th. For the first time in her history, America had a chief executive — an actual head of state.

### *The "Bill of Rights"*

But increasing numbers agreed there ought to be a "Bill of Rights" tacked onto the Constitution. Though this idea had been turned down at the Convention, some states now made it clear that they would only sign the Constitution with the definite understanding that a Bill of Rights would be added. In fact, one state even tacked onto the Constitution its own Bill of Rights.

Pressure continued mounting as more and more clamoured for such an addition to the Constitution.

In 1791, James Madison proposed *twelve amendments*. By December 15, 1791, the last ten of his twelve amendments had been approved by enough of the states to make them a permanent addition to the Constitution. They are known as the Bill of Rights and form a vital part of America's Constitution.

Amendment I says: "Congress shall make no law respecting an



establishment of *religion*, or prohibiting the free exercise thereof; or abridging the freedom of *speech*, or of the *press*; or the right of the people peaceably to *assemble*, and to *petition the Government* for a redress of grievances.”

This first amendment is undoubtedly the most important. It guarantees freedom of religion, press, speech, assembly. These are very important guarantees.

Since the first Ten Amendments were added in 1791, there have been sixteen more. The 18th amendment (prohibiting the manufacture, sale etc., of intoxicating beverages) was repealed by the 21st amendment.

America's important state papers (The Declaration of Independence, The Articles of Confederation and The U.S. Constitution) can be viewed at Exhibition Hall in Washington, D.C. They are our most prized national documents.

The U.S. is determined to guard well these precious charters of liberty. A fire-proof, bomb-proof, reinforced-steel-and-concrete vault has been constructed under the floor of the Exhibition Hall, where America's three most important documents can quickly be lowered electrically if need be. America is quite concerned about preserving these original documents intact — for the benefit of posterity.

This Republic has survived and *thrived* — for two centuries — having grown in population, wealth, size and power as no other nation has ever grown.

During that two-hundred year period, the U.S. has been convulsed by many troubles, (wars, depressions, civil disturbances) but it has always weathered the storms.

Will America be able to remain a strong, vibrant republic for another 200 years?

At the end of the Continental Convention, a little old lady asked Benjamin Franklin: “Well, Doctor, what have we got, a Republic or a Monarchy?” Franklin replied, “A Republic, madam, *if you can keep it!*”

Will the peoples of the U.S. be able to keep their republic in the troubled times that lie ahead?

