# Constitutional Writing in the United States

**Introduction**

The thirteen American colonies declared their independence from Britain in 1776. But they had to win their independence in a long war that followed. During that war, the colonies were united by an agreement called the Articles of Confederation.

 Articles of Confederation first U.S. constitution (1781–89), which served as a bridge
between the initial government by the Continental Congress of the Revolutionary period
and the federal government provided under the U.S. Constitution of 1787. Because the
experience of overbearing British central authority was vivid in colonial minds, the drafters
of the Articles deliberately established a confederation of sovereign states. The Articles
were written in 1776–77 and adopted by the Congress on November 15, 1777. However,
the document was not fully ratified by the states until March 1, 1781.

The Union was a loose one. The Articles of Confederation did not organize a central government. They did not create courts or decide laws. They did not provide an executive to carry out the laws. All the Articles of Confederation did was to create a Congress. But it was a Congress with little power. It could only advise the separate thirteen states and ask them to do some things. It could not pass laws for the Union of states.

 Nevertheless, some solid accomplishments had been achieved: certain state claims to
western lands were settled, and the Northwest Ordinance of 1787 established the
fundamental pattern of evolving government in the territories north of the Ohio River.
Equally important, the Confederation provided the new nation with instructive experience
in self-government under a written document. In revealing their own weaknesses, the
Articles paved the way for the Constitutional Convention of 1787 and the present form of
U.S. government

Constitution of the United States of America is the fundamental law of the U.S. federal
system of government. The Constitution defines the principal organs of government and
their jurisdictions and the basic rights of citizens.

**Constitutional Convention** The Constitution was written during the summer of 1787 in Philadelphia, Pennsylvania, by 55 delegates to a Constitutional Convention that was called ostensibly to amend the Articles of Confederation (1781–89), the country’s first written constitution.
 The Constitution was the product of political compromise after long and often rancorous debates over issues such as states’ rights, representation, and slavery. Delegates from small and large states disagreed over whether the number of representatives in the new federal legislature should be the same for each state, as was the case under the Articles of Confederation, or different depending on a state’s population. In addition, some delegates from Northern states sought to abolish slavery or, failing that, to make representation dependent on the size of a state’s free population. At the same time, some Southern delegates threatened to abandon the convention if their demands to keep slavery and the slave trade legal and to count slaves for representation purposes were not met.
 Eventually the framers (founding fathers) resolved their disputes by adopting a proposal put forward by the Connecticut delegation. The Great Compromise, as it came to be known, created a bicameral legislature with a Senate, in which all states would be equally represented, and a House of Representatives, in which representation would be apportioned on the basis of a state’s free population plus three-fifths of its enslaved population. (The inclusion of the enslaved population was known separately as the three-fifths compromise.) A further compromise on slavery prohibited Congress from banning the importation of enslaved
people until 1808 (Article I, Section 9). After all the disagreements were bridged, the new
Constitution was signed by 39 delegates on September 17, 1787, and it was submitted for
ratification to the 13 states on September 28.

# 3. **John lock and the Writing of the Constitution**

The American revolutionary generation drew many of its ideas from the English philosopher John Locke (1632–1704). Often credited as a founder of modern “liberal” thought, Locke pioneered the ideas of natural law, social contract, religious toleration, and the right to revolution that proved essential to both the American Revolution and the U.S. Constitution that followed.

*Lock’s First Treatise* dismantles the philosophy of the “divine right of kings,” the more influential *Second Treatise* lays out Locke’s positive theory of government. It proved essential to the American founders. The core ideas in the *Second Treatise* are deceptively simple. To understand government, Locke begins with mankind’s “original” condition, which he describes as a prepolitical “state of nature”: men and women in “a state of perfect freedom to order their actions and dispose of their persons and possessions as they think fit, within the bounds of the law of nature, without asking leave or depending upon the will of any other man.”

This is also a state of equality: absent any natural hierarchy, each and every human being is born with equal rights to “life, liberty, and estate,” all of which qualify as “property,” the most essential natural right (1952: 48). Nonetheless, the state of nature is an undesirable condition; as creatures of passion, individuals tend to be biased in their own favor and lack both a neutral “umpire” to decide disputes and an impartial enforcer to carry out natural law (1952: 49).

When the state of nature descends into a “state of war,” these free and equal individuals rationally choose to form a social contract, one grounded in mutual “consent” and guided by the “determination of the majority” (1952: 55). Individuals give up their natural rights to judge disputes and enforce the law of nature, and in thus giving up their individual rights they create the original powers of government: the legislative and executive, a distinction that Locke uses to justify a fundamental separation of powers. If either branch exceeds its proper authority, the people retain a right to revolt after a “long train of abuses” (1952: 126).

American revolutionaries often drew a direct line between Locke’s principles and their own. They frequently cited him during the Stamp Act protests and the Pamphlet War. Thomas Jefferson, describing his writing of the Declaration of Independence, commented that “All its authority rests then upon the harmonizing sentiments of the day,” taken from “the elementary books of public right, as Aristotle, Cicero, Locke, Sidney, &c.” (1999 edition of his *Political Writings*: 148).

Although Locke’s name was invoked less often during the framing of the Constitution, his concerns about the protection of “life, liberty, and estate” were universally shared by the delegates in Philadelphia, who worried that the state governments had failed in this basic Lockean task. Prominent Anti-Federalists, disappointed by the initial lack of a bill of rights, appealed to Locke’s philosophy as well. As Richard Henry Lee wrote, “There are certain unalienable and fundamental rights, which in forming the social contract, ought to be explicitly ascertained and fixed” (1985 edition: 232).

 **4. Shay’s Rebellion**

In the eighteenth century, farmers in western Massachusetts were outraged at the taxes levied by a distant and unsympathetic government; they rebelled. The government responded by attempting to suppress the rebellion.

If you thought the government in the description is Great Britain, think again! The rebellion described above did not occur in 1776, nor did it involve Great Britain. The farmers in question—led by the very revolutionaries who had fought against such taxes in the American war for independence—were rebelling against taxes imposed by the state government of Massachusetts.

**Daniel Shays**, born in Massachusetts in 1747 to Irish immigrants, was a landless farm laborer when the Revolutionary War broke out. He joined the local militia, fought in the Battles of Bunker Hill, Saratoga, and Lexington, and rose to the rank of captain in the Fifth Massachusetts Regiment. He was wounded in battle and never got paid for his military service. When in 1780 he returned home to Brookfield, a rural area west of Boston, he found that he was being taken to court for debts that went unpaid while he was off fighting the war. Since he had not been compensated for his service, he had no way of paying these debts.

After attending several town meetings, Shays discovered that many other veterans and farmers were in the same situation. They banded together to petition the Massachusetts state legislature for debt relief. The legislature was at that time dominated by Eastern banking and merchant elites who did not understand the plight of rural communities. All proposals for debt relief were rejected.

Massachusetts Governor John Hancock-signer of the Declaration of Independence-had refused to prosecute debtors for back taxes. But, in early 1785-perhaps anticipating trouble ahead-he resigned his post, claiming poor health. He was replaced by James Bowdoin, who took a much more confrontational approach. While Bowdoin initiated civil actions to collect delinquent tax debts, the state legislature imposed even more taxes.

**Shays’s Rebellion and its consequences**

The protest movement, in which Shays took active part and eventually assumed a leadership role, revived the rhetoric of the American Revolution and the colonists’ grievances with British rule. Rural laborers opposed the economic policies and perceived corruption of Massachusetts state politics. Having just fought a revolution inspired in large part by opposition to British tax policies, they resented the state’s levying of burdensome taxes and the onerous terms of credit imposed by the banks. Job Shattuck, a farmer from Groton, led a protest in 1782, during which he and his followers physically prevented tax collectors from collecting on rural workers. The following year, in the town of Uxbridge, a mob seized confiscated property and returned it to its former owners.

In August 1786, the Massachusetts legislature adjourned without addressing the petitions for debt relief from the state’s rural communities. On August 29, a group of protestors, calling themselves the **Regulators**, converged on Northampton to stop the county court from convening.

In response, Governor Bowdoin drew up contingency plans to use the militia to quash any such actions in the future. On September 5, protestors shut down the court in Worcester and Governor Bowdoin ordered the militia to quell the protest. The militia, however, sympathized with the protestors and refused the governor’s order, leading Bowdoin to recruit and fund a new private militia.

On January 25, 1787, Shays led a group of nearly 1,200 protestors on a march to the federal armory in Springfield. Bowdoin’s private militia was waiting for them, and the resulting skirmish left four of Shays’s followers dead and 20 wounded.

Popular uprisings like Shays’s rebellion raised the urgent question of whether the democratic governments formed after the American Revolution could survive. Under the **Articles of Confederation**, Congress had extremely limited powers. It did not have the authority to fund troops to suppress the rebellion, nor was it empowered to regulate commerce and thereby mitigate the economic hardships of rural workers. General George Washington came out of retirement to promote a strong national government that would be capable of dealing effectively with popular discontent.

Shays’s rebellion led Washington and other Nationalists— including Alexander Hamilton and James Madison—to proclaim the Articles of Confederation inadequate and urge support for the Constitution produced by the Constitutional Convention in 1787.

The specter of armed upheavals like that led by Shays strengthened the convention delegates’ conviction that the national government needed to be more powerful. Moreover, it changed the opinion of those delegates who had been arguing on behalf of the more limited powers of government under the Articles of Confederation. As a direct result of Shays’s Rebellion, the US Constitution granted powers to the states to suppress future violence.

In 1788, Daniel Shays was granted a pardon by the state of Massachusetts, and he was able to return home from Vermont, where he had been in hiding out in the woods. He was also belatedly paid for his five years of service in the Continental Army during the American Revolution.