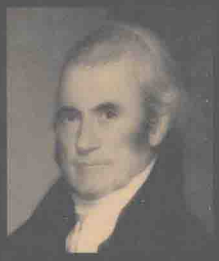
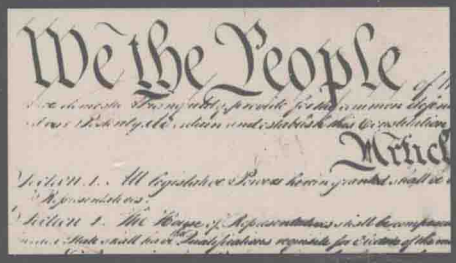
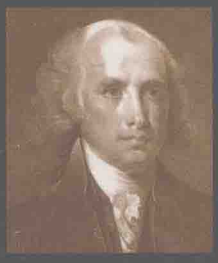
CQ'S READY REFERENCE ENCYCLOPEDIA OF AMERICAN GOVERNMENT

The U.S. Constitution A to Z

ROBERT L. MADDEX







CQ'S READY REFERENCE ENCYCLOPEDIA OF AMERICAN GOVERNMENT

The U.S. Constitution A to Z

ROBERT L. MADDEX

A DIVISION OF CONGRESSIONAL QUARTERLY INC.
WASHINGTON, D.C

CQ Press
1255 22nd Street, N.W., Suite 400, Washington, D.C. 20037

Phone, 202-729-1900. Toll-free, 1-866-4CQ-PRESS (1-866-427-7737)

www.cqpress.com

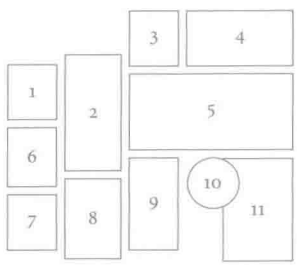
Produced by *Archetype Press, Inc.*

Project Director: Diane Maddex
Editor: Gretchen Smith Mui
Picture Researcher: Carol Peters
Designer: Robert L. Wiser

Series book design concept by *Kachergis Book Design, Pittsboro, North Carolina*

Printed and bound in the United States of America
05 04 03 02 5 4 3 2 1

Acknowledgments, *cover images*



1. James Madison, after Gilbert Stuart, *National Portrait Gallery*
2. Supporters of George W. Bush and Al Gore at the Supreme Court, December 11, 2000, © *Reuters New Media Inc./Corbis*
3. John Marshall, *Library of Congress*
4. U.S. Constitution, *Library of Congress*
5. *Washington Addressing the Constitutional Convention*, Junius Brutus Stearns, *Virginia Museum of Fine Arts*
6. Immigrant family looking at the Statue of Liberty from Ellis Island, *Library of Congress*
7. Martin Luther King Jr., *United Press International telephoto, Library of Congress*
8. *Bill of Rights*, Howard Chandler Christy, *Library of Congress*
9. Susan B. Anthony, S. A. Taylor, *Library of Congress*
10. Alexander Hamilton, *Library of Congress*
11. Photographer, *Library of Congress*

Frontispiece: U.S. Constitution, *Library of Congress*

LIBRARY OF CONGRESS CATALOGING-IN-PUBLICATION DATA

Maddex, Robert L., 1942
The U.S. Constitution A to Z / Robert L. Maddex.
p. cm.—(CQ's ready reference encyclopedia of American government)
Includes bibliographical references and index.
ISBN 1-56802-699-4 (Hardbound : alk. paper)
1. Constitutional law—United States—Encyclopedias. 2. Constitutional history—United States—Encyclopedias. 1. Title: US Constitution A to Z. II. Title: United States Constitution A to Z. III. Title. IV. Series.
KF4548 .m33 2002
342.73′02′03—dc21 2002009230

Robert L. Maddex is also the author of *Constitutions of the World, The Illustrated Dictionary of Constitutional Concepts, State Constitutions of the United States*, and *International Encyclopedia of Human Rights*, all published by CQ Press. An attorney who specializes in international law, he has served as chief counsel of the Foreign Claims Settlement Commission of the United States and as an adviser on constitutional issues to several nations.

Foreword

The Constitution of the United States is "the most wonderful work ever struck off at a given time by the brain and purpose of man," said William Gladstone (1809–98), the four-time British prime minister. But it was not a perfect work when it was drafted by the framers in 1787, nor is it today.

Still a work in progress, the Constitution establishes the fundamental elements for governing the national affairs of the people of the United States. Yet it also contains gaps to be filled and language to be reinterpreted in light of the times and the needs of American citizens in the twenty-first century. The Constitution can be considered a basic blueprint for a building that leaves open many doors for those who must live in it.

The Constitution is the world's oldest written national constitution still in force. The 1814 constitution of Norway is the second oldest. Preceding both of these was the Fundamental Orders of Connecticut (1638–39), a colonial constitution that has been called the world's first written constitution; the 1780 constitution of Massachusetts is the oldest existing state constitution, although it has been amended well over one hundred times.

Key Constitutional Concepts

The delegates to the Constitutional Convention of 1787 in Philadelphia came from twelve of the thirteen independent states that had evolved from British colonies during the Revolutionary War (1775–83); only Rhode Island did not participate. At the time, these states were part of a confederacy established by the Articles of Confederation (1781). The convention was called to change the Articles and thereby reduce the friction among the states over interstate commerce and to strengthen the powers of the national government. James Madison, known as the "Father of the Constitution," realized along with other delegates that simply trying to amend the Articles would not solve the problems that had become so evident. Creating a new government acceptable to the states and the people, however, required considering and deciding on some key constitutional concepts, such as the following:

Republican Democracy. At the time of the Revolutionary War, the British monarchy oversaw one of the most democratically advanced countries in the world, with a long tradition of constitutional restraints on the sovereign's absolute power. American colonists' awareness of the value of representation in the British Parliament was reflected in their revolutionary slogan "No taxation without representation." All of the colonies had experimented to some degree with democratic institutions before the Revolution and had incorporated elements of representative democracy in their governments after declaring independence in 1776. The colonists' disappointment with the British monarch for not acting on their grievances resulted in a general agreement that any new national government must be a republic—one without a monarch and an aristocracy.

Separation of Powers. The underlying problem in creating a new government to replace the system under the Articles of Confederation was how to ensure that the rights of the states and the people would be protected from encroachment by a strong national government. Drawing on the works of earlier political theoreticians, the framers adopted the concept of the separation of powers. By preventing the legislative, executive, and judicial powers of government from winding up in the hands of a few persons or even one person, the delegates to the Constitutional Convention

created a system of checks and balances in the new government to protect the states and the people from the possibility of tyranny.

Federalism. A major consideration in getting the thirteen states to agree on a stronger national government was to ensure that each state would retain certain basic sovereign powers over its own affairs. Federalism—a form of government that distributes political power between a national government and the constituent states that make up the nation—solved the problem for the delegates and has since been adopted by a number of other nations, including Australia, Brazil, and Germany. The line between federal and state power has shifted over the nation's two centuries, and it continues to be the subject of much debate.

Judicial Review. A significant corollary of the separation of powers principle is judicial review, which gives the judiciary—the third branch of government—the power to declare acts of the other branches and the states unconstitutional. Contemporaneous materials indicate that judicial review, which was commonplace in some states at the time, was not an unintended consequence of the Constitution's design. In addition to interpreting the provisions of the Constitution, the federal judiciary, and ultimately the Supreme Court, ensures that any major changes in the Constitution are made according to the document's amendment procedures and not by more indirect actions.

Bill of Rights. The Constitution as drafted in 1787 contained some guarantees of rights for the states and individuals—for example, a promise of a republican form of government and a prohibition against ex post facto laws. However, as a condition for ratification of the Constitution, a number of states demanded that certain rights, many of which were contained in state constitutions, be specifically guaranteed as protection against infringement by the new national government. The first ten amendments, ratified in 1791, became known as the Bill of Rights and guaranteed freedom as religion, speech, and the press and safeguards for those accused of crimes. Many national constitutions, including those of Ireland (1937) and South Africa (1997), have since incorporated similar guarantees of individual rights.

Understanding the Constitution

Obviously it is important for a nation's citizens to understand how they are governed and what their rights are in relation to their government. A written constitution is a basic source of such information. However, the U.S. Constitution, including its twenty-seven amendments, is only about 8,700 words long. Only so much can thus be gleaned from the document alone. Other sources of information include the laws passed in carrying out the Constitution, case law in which courts interpret the Constitution's provisions, textbooks on the Constitution and government, treatises and articles by experts on the Constitution, and reference works such as this volume.

The U.S. Constitution A to Z provides a basic understanding of important aspects of the Constitution and its history as well as the law and institutions that have grown from it. The book offers an overview of the subject rather than an exhaustive treatment, which would be impossible in a single volume. The full scope of the Constitution and constitutional law can never be reduced to a single comprehensive work or a collection of works, for even as this book was being written, the Constitution and the law related to it were changing.

In studying the Constitution, by whatever means, it is always good to keep in mind the admonition of Supreme Court Justice Oliver Wendell Holmes Jr. (1841–1935): "[W]hen we are dealing with words that also are a constituent act, like the Constitution of the United States, we must realize that they have called into life a being the development of which could not have been foreseen completely by the most gifted of its begetters." Like any living organism, the Constitution is continually evolving.

Robert L. Maddex

Preface

The Constitution, written more than two centuries ago, still speaks to modern issues and shapes important aspects of American life and politics. *The U.S. Constitution A to Z,* the newest addition to CQ's Encyclopedia of American Government series, is a comprehensive guide to the history and concepts behind the nation's most important document. It explains how the Constitution continues to shape basic rights as well as current issues in American society.

Like the other single-volume references in the series, *The U.S. Constitution A to Z* is a useful resource for researchers at every level. High school students preparing term papers, college students looking for a quick review, political activists working on an issue, and anyone following politics and government will find accurate and interesting information in CQ's Encyclopedia of American Government series. Entries in the volumes are arranged alphabetically and are extensively cross-referenced to guide readers to related information elsewhere within the individual books. Each book also has a detailed index.

Readers of *The U.S. Constitution A to Z* will learn how the Constitution informs the ways in which our nation's three branches of government handle controversial issues affecting Americans. Topics range across the spectrum from abortion, affirmative action, gun control, and human rights to censorship and education. Entries on legal concepts such as double jeopardy, judicial review, and separation of powers are thoroughly explained. Influential constitutional cases like *Gideon v. Wainwright* and *Bush v. Gore* are explored, and biographies of individuals who have indelibly affected American government and life, such as the framers of the Constitution, Susan B. Anthony, and Martin Luther King Jr. are included as well. Illustrated throughout, *The U.S. Constitution A to Z* concludes with important primary source documents about the Constitution and its history, a table of court cases, a bibliography, Internet resources, and an index.

Many people at Archetype Press and CQ Press deserve acknowledgment for their talent and assistance with this book. First and foremost are the author, Robert L. Maddex, who once again has brought his constitutional expertise to a CQ Press book, and Diane Maddex, president of Archetype Press, who supervised the considerable work of producing this important addition to the series. Robert L. Wiser, art director, and Gretchen Smith Mui, editor, both of Archetype Press, contributed their careful design and editorial skills; Carol Peters conducted the illustration research. At CQ Press, Patricia Gallagher and Adrian Forman developed the concept for this volume, and Shana Wagger and Grace Hill oversaw the final stages. Talia Greenberg assisted in obtaining the illustrations.

We hope this volume and the others that make up the Encyclopedia of American Government series meet the simple goal we stated at the beginning: to provide readers with accessible, accurate information about the presidency, Congress, the Supreme Court, elections, and now the U.S. Constitution, a document that provides the underpinnings and principles for so much that we value in American society.

Kathryn C. Suárez
Director, Library Reference, CQ Press

Contents

A

Abortion

Abortion (from the Latin *abortus*, meaning an untimely birth) has been practiced, often with little if any moral condemnation, since ancient times to induce a premature delivery of a fetus. As with controversies over the DEATH PENALTY and the RIGHT TO DIE, no uniform agreement exists around the world on the validity of a woman's right to an abortion, and there is seemingly not much middle ground for compromise. In the United States—where abortion has been legal since 1973—the battle over abortion rights has been both divisive and deadly.

Many other countries have liberalized their abortion laws since World War II. Great Britain did so in 1967, and in 1988 Canada's highest court voided that country's restrictive abortion laws. A decade later Germany's constitutional court declared unconstitutional a Bavarian law severely limiting access to abortion. China, because of its overpopulation problem, actually encourages abortions. However, the procedure is restricted or prohibited in Latin America, Africa, and India. In some states of the United States abortions are also restricted by legislated demands such as parental notification for minors and waiting periods, controls devised to make the procedure more difficult.

The right to life is a generally acknowledged human right, but the key question in the abortion debate is exactly when human life begins. Some religious leaders such as the pope have defined human life as beginning at the moment of conception, and some legislators and jurists have emphasized the rights of an unborn child above the rights and wishes of the mother. The right to an abortion, however, has been justified by a woman's right to make important life-defining decisions with regard to reproduction and her own body and health. Proponents of choice for women also recognize the importance of family planning in a world experiencing rampant overpopulation (see FAMILIES; WOMEN).

Before Roe v. Wade

The Constitution does not expressly address abortion, and before 1973 a pregnant woman in the United States had no recognized constitutional right to have one. Poor women and their families were disproportionately affected by the lack of access to safe abortions. Wealthier women could afford to go abroad and pay for an abortion in countries with more liberal abortion laws or where the laws were not as strictly enforced. Poor women were forced to bear children they could not afford to raise or who were simply unwanted. Where illegal abortions could be had, conditions were often unsanitary and medically unsafe, greatly increasing the risk of harm to women seeking abortions and sometimes resulting in their death.

In its landmark decision *ROE V. WADE* (1973), the Supreme Court reasoned that a woman's right to an abortion during the first three months of pregnancy was a "fundamental" liberty (see FUNDAMENTAL RIGHTS). The Court's 7–2 decision was based on a woman's right of PRIVACY, a right used in *GRISWOLD V. CONNECTICUT* (1965) to invalidate a state law that prohibited married couples from using contraceptives. The Court held that a state law infringing a woman's right to an abortion was an unconstitutional denial of substantive DUE PROCESS of law, guaranteed by the Fourteenth Amendment (1868). In earlier cases the Court had used substantive, as opposed to procedural, due process to invalidate government action that infringed a person's right to life, LIBERTY, or PROPERTY where no legitimate government interest could be established. (In regulating private activity, courts use

substantive due process to limit government powers, whereas they use procedural due process to ensure that fundamental fairness and rights are observed.)

Attempts to Limit Roe v. Wade

Although the *Roe v. Wade* decision remains the law of the land, opponents of the right to an abortion (variously labeled pro-life) continue to pursue ways to limit or nullify its constitutional protection, using such tactics as national and state legislation and regulations, a proposed federal constitutional amendment banning abortion, and court challenges. In 1977 the Hyde Amendment, named for its sponsor, Henry Hyde, Republican representative from Illinois, was enacted as part of a House of Representatives appropriations bill for Medicaid, the public health insurance program for the indigent. According to the Supreme Court in *Williams v. Zbaraz* (1980), the amendment prohibits federal funding of abortions, including in cases where an abortion would prevent "severe and long-lasting physical heath damage to the mother."

Roe v. Wade *(1973), which recognized a woman's right to an abortion during the first three months of pregnancy, has remained one of the Supreme Court's most contentious interpretations of the Constitution since it was handed down.*

The constitutionality of the Hyde Amendment was upheld by the Supreme Court in *Harris v. McRae* (1980). In the opinion of Justice Potter Stewart (1915–85), the amendment placed "no governmental obstacle in the path of a woman who chooses to terminate her pregnancy, but rather, by means of unequal subsidization of abortion and other medical services, encourages alternate activity deemed in the public interest." Different Congresses and presidents over the last several decades have also sought to keep federal foreign aid from going to family planning centers overseas that counsel patients on abortion, even if they use their own funds for this purpose.

Another contentious issue in the war between pro-life and pro-choice forces is what opponents emotionally call partial-birth abortion, a medical procedure used in the late second or third trimester of pregnancy to remove the fetus. Although rarely performed, it has drawn special attention from antiabortionists, who use the more completely developed fetus to suggest that abortion is similar to the criminal act of infanticide. In *Sternberg v. Carhart* (2000), however, the Supreme Court struck down a Nebraska law making the procedure a crime. According to the Court, criminalizing so-called partial-birth abortions places an undue burden on women seeking an abortion because it limits their options to less safe procedures and because the law in question allowed no exceptions even where the mother's health was at risk.

Terrorist Tactics

Other constitutional issues that have arisen in the abortion war involve limits on free SPEECH with respect to the First Amendment (1791) rights of antiabortion protestors near facilities in which abortions are performed. In *Hill v. Colorado* (2000), the Supreme Court upheld a Colorado law restricting demonstrators to an area at least one hundred feet from an abortion facility and

barring them from approaching patients without their consent to hand them leaflets, display a sign, or orally assault them. The state's legitimate interest in protecting women entering the facility trumped the demonstrators' First Amendment rights.

Some antiabortion militants have gone so far as to use terrorist tactics such as bombings, arson, and incitements to murder doctors who perform abortions (see TERRORISM). According to the National Abortion Foundation, between 1989 and 1997 nineteen murders and attempted murders were committed, together with 106 acts of clinic violence plus thousands more assaults, death and bomb threats, blockades, and hate mail. In 2001 a federal appeals court panel allowed antiabortion militants to continue an Internet site featuring "wanted" posters of doctors who perform abortions. The judges ruled that the site, called the Nurenberg Files, was protected by free-speech guarantees under the First Amendment. To counter such actions, the Freedom of Access to Clinic Entrances Act (1994) prescribes jail sentences of up to one year and fines of up to $100,000 for first-time offenders who violate the rights of clinics and their patients.

It does not appear that the conflict over abortion rights will go away. Although there is some concern that a new president will appoint to the Supreme Court only justices who are against abortion rights, *Roe v. Wade* is now a well-settled precedent that the Court, regardless of the personal views of its membership, will have a difficult time reversing.

ADDITIONAL READINGS

Bowers, James R. *Pro-Choice and Anti-Abortion: Constitutional Theory and Public Policy.* Westport, Conn.: Praeger, 1997.

Lowenstein, Felicia. *The Abortion Battle: Looking at Both Sides.* Springfield, N.J.: Enslow, 1996.

Access to Courts

How easy is it for the average citizen to go to court either to initiate an action to vindicate or protect his or her rights or to appeal an unjust decision? Constitutional rights do not exist in the abstract—they are meaningful only if they are observed. When rights are not observed or when an agent of the government expressly denies them, citizens must have a way to enforce their rights. To enforce the law, government agents such as prosecutors have access to COURTS as well as myriad public officials and employees. Citizens seeking help to settle a legal matter need similar access to courts to secure their rights, as do the public and the press to ensure open and fair trials.

Citizen Access

The constitutions of some countries expressly provide for access to courts. For example, South Africa's (1997) states: "Everyone has the right to have any dispute that can be resolved by the application of law decided in a fair public hearing before a court or, where appropriate, another independent and impartial tribunal or forum." Some state constitutions contain a similar guarantee—New Hampshire's 1784 constitution, for one, guarantees every citizen "a certain remedy, by having recourse to the laws, for all injuries he may receive in his person, property, or character. . . ."

The U.S. Constitution does not in so many words guarantee access to courts of law, but it does vouchsafe certain rights in judicial proceedings (see CRIMINAL LAW). Like the presumption of innocence, access to courts was assumed as a citizen's right in postcolonial America. Article III, section 2, gives the Supreme Court appellate jurisdiction, which extends the right of appeal to citizens as well as the government, and requires that the "Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed. . . ." The BILL OF RIGHTS (1791)—in particular the Fifth and Sixth Amendments—contains a number of guarantees related to TRIALS, including the right to a speedy and public trial and the ASSISTANCE OF COUNSEL. The Seventh Amendment (1791) sets a minimum threshold for suits at COMMON LAW, extends the right of trial by jury (see JURIES), and preserves the right of the jury to be the final arbiter of the facts in such cases.

For the wealthy and politically savvy, access to courts to further or protect their interests is generally taken for granted. But for others less well off, from the poor to

certain MINORITIES, access to courts and the JUSTICE that such access may afford has often been routinely denied by the legal system and the courts themselves. When Supreme Court Justice Thurgood Marshall (1908–93) declared for the Court in *Bounds v. Smith* (1977) that there was a "fundamental constitutional right of access to the courts," it was to effective or "meaningful" access that he was referring.

Through a number of cases beginning in 1957, the Warren Court (1954–69) began expanding the rights of individuals to effective legal representation and to make effective appeals from decisions against them in lower courts, especially in the states. Such new rights included counsel for indigent defendants, free transcripts for defendants to use in seeking an appeal, and counsel for appeals. In 1971 the Court even held unconstitutional the requirement for a $60 filing fee to get into divorce court. Because the only way to obtain a divorce (see FAMILY) was by court order, the filing fee was a bar to those who could not afford the fee.

Public and Press Access

THE PRESS also has a constitutional right to access the courts to report on cases, a right the Supreme Court made explicit in *Richmond Newspapers, Inc. v. Virginia* (1980). The Court held for the first time that this right of access was protected. According to Chief Justice Warren E. Burger (1907–95), writing for the Court (his opinion, however, was joined by only two other justices), "[A] presumption of openness inheres in the very nature of a criminal trial under our system of justice." He continued: "[I]n the context of trials ... the First Amendment guarantees of speech and press, standing alone, prohibit government from summarily closing courtroom doors which had long been open to the public at the time that amendment was adopted [1791]."

The right of the public and the press to access the courts may at times conflict with a defendant's right to a fair trial. Often the courts have to balance the competing interests (see BALANCING TESTS). In *Globe Newspapers Co. v Superior Court* (1982), the Supreme Court invalidated a state law excluding the public and the press from a courtroom when the victim of certain sexual crimes was testifying. This does not mean, however, that under certain unique situations the court could not exclude the public or the press. In *Gannett Co., Inc. v. DePasquale* (1979), for example, the Court decided that a pretrial hearing on whether certain evidence should be suppressed could be closed to the press and the public if the prosecutor, defendant, and judge agreed to it.

Access to courts can be denied for various reasons. An ongoing national debate, including in the halls of Congress, is taking place over whether health care providers such as HMOs (health maintenance organizations) should remain immunized from lawsuits by disgruntled or injured patients or whether limitations should be placed on such suits or on the damages that might be awarded to patients who sue. For better or worse, America is a litigious nation, and often access to courts is the only possible access to justice. Any limitation on the openness of courts to citizens and the public alike must be carefully scrutinized and based on clearly overriding competing interests.

See also *GIDEON V. WAINWRIGHT*; SPEECH.

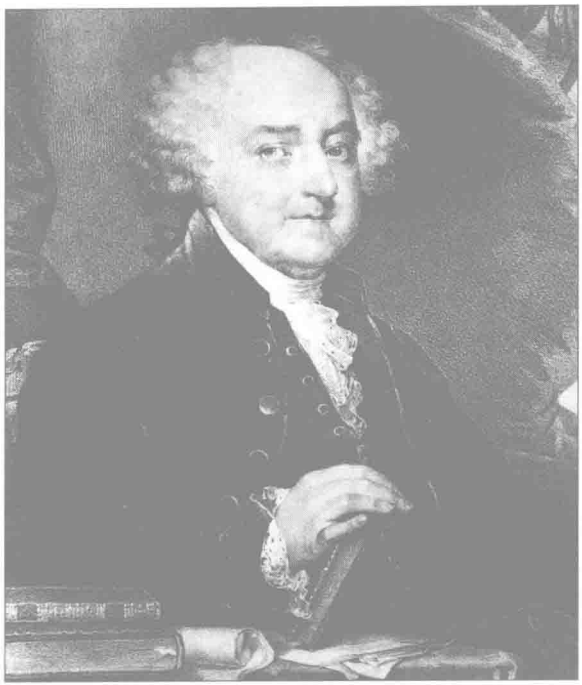
ADDITIONAL READING

Daly, John Charles, et al. *The Press and the Courts: Competing Principles.* Washington, D.C.: American Enterprise Institute for Public Policy Research, 1978.

Adams, John

Following GEORGE WASHINGTON as the second president of the United States was a burden for John Adams (1735–1826), Massachusetts lawyer, revolutionary, political thinker, and diplomat. His elitist views, his approval of the Alien and Sedition Acts (1798)—which attempted to narrow protections provided by the First Amendment (1791)—his appeasement of France, and a split in his own Federalist Party doomed him to a one-term presidency. However, he lived to see his son, John Quincy Adams, elected president in 1825. Adams died a year later, on July 4, exactly fifty years to the day that the DECLARATION OF INDEPENDENCE was promulgated and the same day that THOMAS JEFFERSON died.

Born on October 30, 1735, in Braintree, Massachusetts,



John Adams's contributions to the development of a new national constitution included his advocacy for separation of powers and the adoption of a bicameral legislature. He became the country's first vice president and second president.

the eldest son of a farmer and elected town official, John Adams was graduated from Harvard College in 1755 and became a lawyer. In 1764 he married Abigail Smith (1744–1818), the daughter of a well-connected Massachusetts family, and in 1768 they moved to Boston. There he began actively opposing British oppression of the colonists, although he was not as ardent a revolutionary as his cousin Samuel Adams. In 1770 he won an acquittal for the British commanding officer and most of the soldiers implicated in the Boston Massacre, which resulted in the deaths of five colonists.

A member of the Massachusetts colonial legislature, Adams was elected a delegate to the First Continental Congress in 1774 and the following year nominated Washington as commander in chief of the fledgling colonial army. During the Revolutionary War, Adams served as joint commissioner with Benjamin Franklin to secure an alliance with France, and after the war was won he worked with Franklin and John Jay to help negotiate peace with Great Britain. From 1785 to 1788 he served as the first U.S. minister (ambassador) to Great Britain, where he moved with his family.

Adams made several important contributions to the development of the Constitution. He had drafted the Massachusetts state constitution (1780), which has been in force continuously longer than any other written constitution in the world. This document was considered by the delegates to the CONSTITUTIONAL CONVENTION OF 1787 and served as a model for several provisions in the new national constitution, including life appointment for federal judges and the addition of a BILL OF RIGHTS in 1791. The first volume of his three-volume work *Defence of the Constitutions of the Government of the United States of America* (1787) was also available to the convention delegates in Philadelphia. In it, Adams urged that the new government be based on the principle of the separation of government powers and that there be a bicameral national legislature (see CONGRESS; HOUSE OF REPRESENTATIVES; SENATE; SEPARATION OF POWERS).

After returning from England, Adams was elected the nation's first vice president under Washington and served for two terms, from 1789 to 1797. "My country has in its wisdom," he complained to Abigail, "contrived for me the most insignificant office that ever the invention of man contrived or his imagination conceived." When Washington declined to run for a third term, Adams ran, won, and in 1797 began his single term as the second president of the United States. He was a member of the Federalist Party, but the newly emerging Democratic-Republican Party, which evolved into the present-day Democratic Party (see POLITICAL PARTIES), had nominated Jefferson to oppose him. Adams prevailed by only three electoral votes (see ELECTORAL COLLEGE). Under the Constitution's presidential election scheme at the time, Jefferson became vice president.

Adams faced several crises during his administration that hindered his chances for reelection. A leader of the Federalist Party during his vice presidency, he was associated with some of his party's unpopular positions. His disdain for the French Revolution of 1789 and his fear of possible revolutionary activities by French sympathizers in America and Europe led him to take measures to prepare for a war with France that

John Adams in His Own Words

The die is cast. The people have passed the river and cut away the bridge. Last night three cargoes of tea were emptied into the harbor. This is the grandest event which has ever yet happened since the controversy with Britain opened. The sublimity of it charms me!

Letter to James Warren, December 17, 1773

I wander alone, and ponder.—I muse, I mope, I ruminate.—I am often In Reveries and Brown Studies.—The Objects before me, are too grand, and multifarious for my Comprehension.—We have not Men, fit for the Times. We are deficient in Genius, in Education, in Travel, in Fortune—in every Thing. I feel unutterable Anxiety.—God grant us Wisdom, and Fortitude!

Diary, June 25, 1774 (the eve of Adams's departure for the First Continental Congress)

As the happiness of the people is the sole end of government, so the consent of the people is the only foundation of it, in reason, morality, and the natural fitness of things.

Proclamation, Council of Massachusetts Bay, 1774

Yesterday the greatest question was decided which ever was debated in America; and a greater perhaps never was, nor will be, decided among men. A resolution was passed without one dissenting colony, that those United Colonies are, and of right ought to be, free and independent States. *Letter to Abigail Adams,* July 3, 1776

As much as I converse with sages and heroes, they have very little of my love and admiration. I long for rural and domestic scenes, for the warbling of birds and the prattling of my children.

Letter to Abigail Adams, March 16, 1777

The end of the institution, maintenance, and administration of government is to secure the existence of the body politic; to protect it, and to furnish the individuals who compose it with the power of enjoying, in safety and tranquillity, their natural rights and the blessings of life; and whenever these great objects are not obtained, the people have a right to alter the government, and to take measures necessary for their safety, happiness, and prosperity. *Massachusetts Constitution,* 1780

A government of laws and not of men.

Declaration of Rights, Massachusetts Constitution, 1780

Elections, my dear sir, Elections to offices which are great objects of Ambition, I look at with terror. Experiments of this kind have been so often tryed, and so universally found productive of Horrors, that there is great Reason to dread them. *Letter to Thomas Jefferson,* December 6, 1787

The essence of a free government consists in an effectual control of rivalries. *Discourses on Davila,* 1789

I have repeatedly laid myself under the most serious obligations to support the Constitution. The operation of it has equalled the most sanguine expectations of its friends; and, from an habitual attention to it, satisfaction in its administration, and delight in its effect upon the peace, order, prosperity, and happiness of the nation, I have acquired an habitual attachment to it, and veneration for it.

What other form of government, indeed, can so well deserve our esteem and love? *Inaugural Speech,* 1797

Your country by adoption has grown and prospered since you saw it. You would scarcely know it, if you should make a visit. It would be a great pleasure to the farmer of Stony field to take you by the hand in his little *chaumière.*

Letter to the Marquis de Lafayette, April 6, 1801

Was there ever a Government, which had not Authority to defend itself against Spies in its own Bosom? Spies of an Ennemy at War? . . .

But what is the conduct of our Government now? Aliens are ordered to report their names and obtain Certificates once a month. . . . All this is right. Every government has by the Law of Nations a right to make prisoners of War, of every Subject of an Enemy. But a War with England differs not from a War with France. The Law of Nations is the same in both.

Letter to Thomas Jefferson, June 14, 1813, concerning the Alien and Sedition Acts

The Revolution was effected before the war commenced. The Revolution was in the minds and hearts of the people . . . [T]his radical change in the principles and opinions, sentiments, and affections of the people was the real American Revolution.

Letter to H. Niles, February 13, 1818

Source: Peabody, James Bishop. *John Adams: A Biography in His Own Words.* New York: Newsweek Books, Harper and Row, 1973.

had little support among the people; he abandoned his war plans in 1799. Further adding to his unpopularity was his approval of the Alien and Sedition Acts, passed by Congress in 1798. Intended to help curtail any revolutionary activities, these laws restricted freedom of SPEECH critical of the government. It became a crime for citizens to publish "any false, scandalous, and malicious writing" aimed at the president. Before their constitutionality could be tested in court, the acts expired.

He arrived in the new capital of Washington, D.C., on November 1, 1800, to take up residence in the unfinished White House. "May none but honest and wise men ever rule under this roof," he wrote to Abigail. His loss to Jefferson later that month in the 1800 presidential election left him so bitter that he left the capital before his successor's inauguration, never to reenter political life. He died at his home in Quincy, Massachusetts, on July 4, 1826, after whispering his last words: "Thomas Jefferson survives." His former political rival, in fact, had died at Monticello several hours earlier.

A bill was introduced in Congress in 2001 to create a national memorial to Adams and his family. The site, according to its chief sponsor, Representative Timothy J. Roemer of Indiana, should be "on the Tidal Basin [in Washington, D.C.] between the monuments to George Washington and Thomas Jefferson."

ADDITIONAL READINGS

Ellis, Joseph J. *Founding Brothers: The Revolutionary Generation.* New York: Knopf, 2000.

McCullough, David. *John Adams.* New York: Simon and Schuster, 2001.

Peabody, James Bishop. *John Adams: A Biography in His Own Words.* New York: Newsweek Books, Harper and Row, 1973.

Weisberger, Bernard A. *America Afire: Jefferson, Adams, and the Revolutionary Election of 1800.* New York: William Morrow, 2000.

Administrative Agencies

"Those democratic peoples which have introduced freedom into the sphere of politics, while allowing despotism to grow in the administrative sphere," observed Alexis de Tocqueville (1805–59) in volume two of his *Democracy in America* (1840), "have been led into the strangest paradoxes." The French visitor's view may have been skewed somewhat by the political "spoils system" introduced during the administration of President Andrew Jackson (1767–1845) from 1829 to 1837, which rewarded his Democratic supporters with plum government appointments.

For many people, America's federal bureaucracy may still conjure up the same negative connotations of a vast, unfeeling maze of offices and officials endlessly shuffling papers and producing red tape with which to ensnarl average citizens. This bureaucracy pervades CABINET departments, such as the Departments of State and Justice; independent agencies, such as the Federal Trade Commission and Central Intelligence Agency; government corporations such as the U.S. Postal Service; and presidential and congressional agencies from the Office of Management and Budget to the Library of Congress, including committees, commissions, and boards. All these types of organizations function as administrative agencies, administering the policies of the federal government created by Congress and the president.

The Constitution does not mention administrative agencies, and surely the FRAMERS OF THE CONSTITUTION could not have foreseen the power and influence that this "fourth branch of government" would one day wield. But certain constitutional provisions lent themselves to the growth of these agencies. For example, besides giving Congress certain express powers and areas of authority, the last paragraph of Article I, section 8, grants Congress the 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 or Officer thereof" (see NECESSARY AND PROPER CLAUSE). The appointment powers granted to the president in Article II (see APPOINTMENT AND REMOVAL POWER) and his power to "require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices" contemplated that some federal bureaucracy would be created.