

Landmark Legislation 1774–2002

Major U.S. Acts and Treaties

Stephen W. Stathis



A Division of Congressional Quarterly Inc.
Washington, D.C.

Dedicated to my wife, Barbara, with love

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

202-729-1900; toll-free: 1-866-4CQ-PRESS (1-866-427-7737)

www.cqpress.com

Copyright © 2003 by Library of Congress

All rights reserved. No part of this publication may be reproduced or transmitted in any form or by any means, electronic or mechanical, including photocopy, recording, or any information storage and retrieval system, without permission in writing from the publisher.

☺ The paper used in this publication meets the minimum requirements of the American National Standard for Information Sciences—Permanence of Paper for Printed Library Materials, ANSI Z39.48-1992.

Printed and bound in the United States of America

07 06 05 04 03 5 4 3 2 1

Cover design: Dennis Anderson

LIBRARY OF CONGRESS CATALOGING-IN-PUBLICATION DATA

Stathis, Stephen W.

Landmark legislation, 1774-2002 : major U.S. acts and treaties /
Stephen Stathis.

p. cm.

Includes bibliographical references and index.

ISBN 1-56802-781-8 (hardcover : alk. paper)

1. Legislation—United States. I. Title.

KF68.S73 2003

348.73'2—dc21

2003003531

Preface

Since its inception, the U.S. Congress has served as a barometer of the mood of the country, and its members have given voice to the various interests of the nation. Despite a history of being innovative, responsive, and increasingly open to the people, Congress also has been seen by some as remote, irrelevant, and difficult to understand, and it has been an easy target for criticism. Especially in recent decades, many have doubted and sometimes made light of the role of Congress in the determination of national policy and the operation of the federal government.

Landmark Legislation 1774–2002 seeks to improve understanding of the work of Congress by highlighting its most significant accomplishments. Congress is the crucible in which interests clash, ideas contend, and compromises are forged. Three recurring themes have dominated its work over the past two centuries: (1) Congress is an institution in which ideas can be initiated and allowed to incubate while its members try to reach consensus; (2) Congress responds to what the American people want from the federal government and what they think it should do; and (3) Congress stops legislation it sees as inappropriate, slows the legislative process to permit public support to build, and uses its oversight powers to ensure enforcement of its policies.

Since 1789, more than 11,600 individuals have served as legislators in the halls of Congress. Their contributions are deeply etched in the legislative proposals that have been annually introduced, without interruption, since the first session of the First Congress. Although many of those ideas, on their face, were clearly impractical, the observations, suggestions, and propositions provide a meaningful barometer of prevailing perspectives and pressures, a stimulus for positive action, and the substance of what may become law.

Nearly forty-four thousand public acts have been approved by Congress, submitted to the president for his approval, and signed into law since the First Congress convened. Many of these enactments represent momentary needs or fleeting passions, while others provide a glimpse of the continually changing texture of the national fabric. Only a relatively few, however, have withstood the test of history or so dramatically altered the perception of the role of government that they may be considered of enduring importance.

Landmark Legislation documents Congress's most momentous accomplishments in determining the national policies to be carried out by the executive branch, in approving appropriations to support those policies, and in fulfilling its responsibility to ensure that such actions are being implemented as intended. Also included are notable treaties. Although some laws characterized as landmark have declined in importance or been forgotten over time, when passed they represented a recognition of needed action and guidance to administrative entities, a significant departure from previous policy, a creative response to an emergency, or a solution to a long-standing national concern.

Evaluating the relative significance of an enactment with others in a given field and determining the precedents they set has proved an extraordinary exercise. The U.S. Congressional Serial Set, published by Congress, provides invaluable insight into the proceedings of the legislative branch. This largely forgotten collection of more than 14,500 volumes of congressional documents, reports, legislative journals, executive journals of the Senate, and reports made to Congress by the executive branch is a treasure trove that serves as the starting point for serious research on the institution. Equally valuable are the *Annals of Congress*, *Register of Debates*, *Congressional Globe*, *Congressional*

Record, committee hearings transcripts, committee prints, *Congressional Directory*, and *Biographical Directory of the United States Congress*. These diverse published sources are supplemented by the vast holdings of congressional papers in the National Archives.

Complementing these primary sources are a broad range of biographies of congressional personalities and general and specialized works on American history and politics that proved to be extremely useful in drawing conclusions and making judgments. Also, I consulted specialists in each of the various areas of expertise within the Congressional Research Service (CRS) of the Library of Congress and scholars throughout the academic community. Their insights were invaluable in preparing *Landmark Legislation*.

Although some major laws and treaties no doubt have been inadvertently omitted, this volume seeks to illuminate the extremely important role Congress has assumed in shaping the political and historical characters of the American republic. It shows how and why Congress enlarged the responsibilities of the federal establishment and portrays the institutional development of a national government, the changing pattern of federal-state relations, and the continuing redefinition of constitutional rights. In doing so, it sheds light on how the actions of Congress affect each citizen of the United States and on how Congress does its job.

The accompanying bibliographic selections focus not only on the unique and important role of Congress in formulating major policy changes but also on the forces prompting consideration and adoption of laws. The range of available materials shows that many fields of congressional inquiry await efforts by the scholarly community to provide an intellectual framework for understanding the inner workings of the American legislative process. Much of America's congressional heritage remains unexamined and unexplored.

The numerous possibilities for scholarly inquiry offer rich opportunities for future generations of scholars. Although much of the work will necessitate extensive primary research in the vast collections of

published and unpublished records of Congress, future scholars will be able to portray far more accurately and fully, and with greater insight, the deliberations and the decisions that demonstrate the framers' wisdom in creating the U.S. legislative framework. The basis of that framework is patience, with adequate allowance for every member and every viewpoint to be accorded its importance. The deliberate pace the framers ensured has allowed maximum opportunity for the people's voices to be heard.

This study was first proposed more than two decades ago by Frederick H. Pauls, then chief of the Government Division of CRS. Under his guiding hand, and with the assistance of Christopher Dell, I produced an abbreviated version of this work as a CRS report in 1982. The current volume was originally suggested by Roger H. Davidson and has benefited from his continuing enthusiasm and insightful suggestions. I also wish to acknowledge with appreciation the steady encouragement, support, and sound advice of Daniel P. Mulhollan, director of CRS, W. Ralph Eubanks, director of the Library of Congress publishing office, and David Tarr, executive editor of CQ Press, without whom this study could not have been brought to completion.

Landmark Legislation benefited enormously from the exceptional editorial skills and gift for the English language, as well as the sophisticated historical perspective, of longtime colleague and friend Thomas H. Neale. The time and attention he generously gave to the text, both editorially and as a contributor, were especially appreciated, as were his continuous expressions of encouragement.

This book is dedicated with loving appreciation to my wife, Barbara, who endured all the frustrations inevitably accompanying such a project. For more than three decades she has steadfastly supported my career as a historian and expanded my horizons far beyond what I had ever dreamed possible.

Stephen W. Stathis
Annandale, Virginia

Introduction

During the eleven years between the signing of the Declaration of Independence in 1776 and the convening of the Constitutional Convention of 1787, the Continental Congress and its successor under the Articles of Confederation tried to hold together the loose association of the thirteen states that had broken from Great Britain. Ratification of the Articles of Confederation, the first effort by Americans to provide a written constitution for the “United States of America,” was completed early in 1781, more than three years after their adoption by the Continental Congress.

Under the articles, the states retained control over the most essential governmental functions, and Congress—in which each state had an equal vote—was the sole instrument of national government. In their attempt to avoid anything like the system under which Great Britain had ruled her colonies, the colonists arguably left their own government too weak to perform its functions and duties. Almost from the outset, the confederation was beset with serious problems. These, for the most part, resulted from basic defects in the articles themselves, which failed to give Congress control over taxation and trade, made no provision for a federal executive or judiciary, and failed to provide the confederation any sanctions through which it might enforce its decisions.

Even as the inadequacies of the Articles became apparent, the unanimous consent required for amendments proved impossible to obtain. As a consequence, the states had to take responsibility for settling many of their common problems. In March 1785, delegates from Virginia and Maryland met first at Alexandria, Virginia, and then at Mount Vernon, hoping to settle disputes relating to the navigation of the Chesapeake

Bay and the Potomac River. The success of the latter meeting led Virginia to issue an invitation to all the states to meet at Annapolis, Maryland, the following year to consider commercial reforms.

The achievement of the twelve delegates from Delaware, New Jersey, New York, Pennsylvania, and Virginia who met in Annapolis on September 11-14, 1786, was not readily apparent. The only resolution adopted called for a general meeting of delegates from all thirteen states in Philadelphia the following May to consider what steps were “necessary to render the constitution of the Federal Government adequate to the exigencies of the Union.” James Madison and Alexander Hamilton persuaded their fellow delegates to adopt a report that described the state of the Union as “delicate and critical.”¹ In February 1787, Congress endorsed the need for a convention in Philadelphia that could revise the Articles of Confederation and “render the federal Constitution adequate to the exigencies of Government and preservation of the Union.”² By early May 1787, only Rhode Island had failed to respond to the calls from Annapolis and Philadelphia, and most of the fifty-five men who would become the framers of the U.S. Constitution were on their way to Philadelphia to establish a new form of government.

The framers’ historic effort was designed to “form a more perfect Union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity.”³ It represented a second, and more successful, attempt of Americans to develop a constitution that would be flexible, yet strong enough to meet the long-term legislative, administrative, and judicial needs of the new nation.

Intent of the Framers and the Powers of Congress

The Constitution and the Declaration of Independence were to become fundamental testaments of free government in the United States. Throughout American history, the interplay of the system crafted in Philadelphia has often prompted the question, “What was the intent of the framers?” Ironically, even the framers frequently did not agree and often had different conceptions about the new government they were creating. A reading of the proceedings in Philadelphia, however, shows a clear intent on the part of the framers to make Congress the major source of policy initiatives and proposals.

In designing Congress, the framers were influenced by both the successes and the failures of the Continental and Confederation Congresses. In particular, the Constitutional Convention of 1787 favored the principle of separation of powers, which reflected the concern of the founders with the relative powerlessness of Congress under the Articles of Confederation. Although the articles had not separated the legislative, executive, and judicial functions, most state governments at the time consisted of three branches. Most of the delegates to the Constitutional Convention had experience as members of the ineffective Continental Congress or their state legislatures, which were generally more powerful. The legislative branch, with which most delegates most closely identified, was the first branch discussed in depth during the constitutional debates and the first to be established by the Constitution. The framers devoted more than twice as much attention to the responsibilities of Congress as to the other two branches combined. Much is left unstated in the Constitution regarding the executive and judicial branches, but few details are spared when Congress is discussed.

The framers intended Congress to be a representative body, responsive to the demands of voters and constituents, reflecting local interests, yet responsible for making laws for the American people collectively. James Madison and the other statesmen who framed the Constitution acknowledged that, in a “republican government” such as the one they had created, the “legislative authority necessarily predominates.”⁴ Congress, in Madison’s mind, had the obligation “to refine and enlarge the public views” and needed “wis-

dom” to “discern the true interest of their country.” The members’ “patriotism and love of justice” should be such that they will be “least likely to sacrifice it to temporary or partial considerations.”⁵ “Nearly all legislation,” Supreme Court justice Louis Brandeis observed in 1921, “involves a weighing of public needs as against private desires; and likewise a weighing of relative social values.”⁶ In creating a representative assembly as the structure within which the government considered its decisions, formulated policy, and enacted laws, the framers ensured that institutional restraints would operate not only to promote the primacy of the deliberative processes but also to allow the constraints of political reality to flourish.

Seeking to correct the deficiencies of the Articles of Confederation, as well as to enlarge the authority of Congress in dealing with both foreign and domestic matters, the framers invested Congress with tremendous power. The Constitution mandated that Congress make all laws, specifically those “necessary and proper” for exercising the powers granted to it, and execute the powers granted to the other branches. Article I, Section 8 of the Constitution enumerates eighteen powers entrusted to Congress.⁷ Congress also was given almost unlimited power to control the expenditures of the executive branch through the appropriations process. In addition, Congress was given the responsibility of supervising the administration of the executive and judicial branches and the implicit responsibility of representing and informing the people. The legislative primacy of Congress also appears in the provisions for amending the Constitution (Article V), which call for approval by two-thirds of each house of Congress and ratification by three-fourths of the states.⁸ The role of the president and the Supreme Court in this latter process was limited to whatever informal influence they might exert.

Constraining the Powers of Congress

The framers were fearful that Congress might abuse its power, as many of the state legislatures had done during the Confederation period, and, as a consequence, attempted by several means to constrain that power. One remedy was “to divide the legislature into different branches; and to render them, by different

modes of election and different principles of action, as little connected with each other as the nature of their common functions and their common dependence on society will admit.”⁹ A bicameral legislature provided a vital check, each house being able to counteract the other.

Each chamber was granted certain exclusive powers. The House of Representatives was delegated the responsibility of choosing a president when no clear electoral winner emerged. The Constitution also provided that tax legislation must originate in the House, as must impeachment proceedings against a president or other federal officials. The Senate was given authority to ratify treaties; approve presidential nominations to the Supreme Court, cabinet positions, and ambassadorships; and conduct impeachment trials.

The House of Representatives was intended to be the most immediately responsive element of the government. By virtue of their biannual election, representatives would be mindful of public opinion. The House, as James Madison explained in *Federalist* No. 52, was to have “an immediate dependence on, and an intimate sympathy with, the people.”¹⁰ Conversely, senators, who were selected by the state legislatures until 1913, when the Seventeenth Amendment provided for popular election, historically enjoyed greater independence because of their six-year terms. The Senate was envisioned by Madison as a safeguard against impulsive action “until reason, justice, and truth can regain their authority over the public mind.”¹¹

The chief constraint the framers placed on congressional power was the tripartite governmental system, each element having the means to check and balance the other. Under this system of separated powers, Congress was not to have absolute control over the legislative process. Article I, Section 7 stipulated that the president must sign legislation, thus approving it, for it to become law, and that a presidential veto could be overridden only by a two-thirds vote of each house of Congress. If, however, the president takes no action on a bill that has been presented, it can become law without his signature after ten days, provided Congress has not adjourned during the period. The failure of the president to sign a bill under these circumstances, with the intention that it not become law, is known as the “pocket veto.” Other legislative responsibilities imposed on the president by Article II, Section

3 required him to provide Congress “information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient”; to convene either or both houses of Congress into session “on extraordinary occasions”; and to adjourn them to a time of his choosing if they could not reach agreement on adjournment.

Performance of Congress in Expectation and Practice

Many observers, especially during the twentieth century, asserted, or even presumed, the president’s primacy in the policy-making process in general and in the legislative process in particular. An examination of legislative accomplishments throughout the decades, however, clearly indicates that Congress has maintained a much more persistent and crucial role in achieving these accomplishments than conventional wisdom often allows. A more careful consideration of the activity involved in national lawmaking reveals a much more complex process in which Congress has always played, and continues to play, a part not only central, but also vital, in the initiation, development, and establishment of policy.

One reason that the continuing centrality of Congress to the legislative policy-making process has been overlooked or minimized is the deliberative and representative nature of America’s constitutional system. Legislation involves Congress as well as a wide variety of other actors, especially the president. The saliency of presidential involvement in the constitutional system is reinforced by the tendency of Congress, observable throughout U.S. history, to find occasion and means to delegate its functions. In assessing the operation of the system, however, these circumstances have arguably been overemphasized.

Delegation of Power and Its Control

Nearly two centuries ago, Chief Justice John Marshall wrote that “the legislature makes, the executive executes, and the judiciary construes the law.” Congress, Marshall declared, must keep to itself “powers which are strictly

and exclusively legislative.”¹² Congress cannot relinquish its responsibility for creating executive departments and agencies, authorizing and regulating their activities, overseeing their work, reviewing their performance, and holding them accountable. Despite Marshall’s admonition, Congress has, over time, delegated a significant portion of its legislative power to the president, executive agencies, and independent regulatory commissions.

Congress, however, also exercises a variety of means to check these delegations of authority. Operational guidelines are often established during the development of laws, and customs and traditions have evolved to confine executive discretion. Also, Congress, through the appropriations process and its oversight function, is continually able to review the operations and policies of the various agencies and influence their future direction. Through its oversight activities, Congress seeks to ensure that legislation is faithfully, effectively, and economically administered; internal management controls are adequate and effective; abuses of administrative discretion or improper conduct are discovered and corrected; and executive branch officials are held accountable for the use of public funds and for administrative shortcomings.

Also, when the courts have found that Congress has gone too far in delegating power, they have voided such actions. For example, the Line Item Veto Act, a majority of the U.S. Supreme Court held in 1998, was unconstitutional because it allowed the president effectively to rewrite bills he had already signed into law.¹³ Although the power of the courts to review the constitutionality of federal and state legislative enactments is nowhere expressly conveyed, the concept was utilized in colonial times and assumed by the framers in the Constitutional Convention and by the members of the state ratifying conventions. The Supreme Court, however, did not until 1803 in *Marbury v. Madison* expressly assert and exercise its power to strike down an act of Congress it considered inconsistent with the Constitution.¹⁴

Presidential and Congressional Legislation

Especially in the course of the twentieth century, many scholars, as well as the press and electronic media, have viewed the president, not Congress, as the

prime mover of the legislative process. The limitations of this presidential role have received less emphasis. The Constitution is silent on the extent of participation by the president and his subordinates in the legislative process once a measure is proposed. Although the president’s recommendations carry great weight, he may not introduce legislation or compel Congress to act on his proposals. To win votes for a proposal, the president must make clear what the likely effects of the bill will be and provide a rationale that will secure support.

As Lawrence H. Chamberlain observed in *The President, Congress, and Legislation*, the “concept of presidential domination in legislation comes in part from the tendency of the press to magnify his every action.” While the president’s deeds are broadcast to the nation through a multitude of media sources, the accomplishments of Congress receive relatively little coverage. “It is easier,” Chamberlain reasoned, “to follow the moves of one man than it is to trace the day-to-day developments of multitudinous committees, not to mention individual congressmen.”¹⁵

Even when Congress has worked on a bill for months, and an administration has had only a limited role in its development, the president may receive much of the credit for its enactment. If a president decides to support a piece of legislation through a special message to Congress, a public statement, a White House conference, a radio or television appeal, or the efforts of his representatives, the proposal quickly becomes identified with the president regardless of its origin. Even if the president waits to comment on the merits of a bill until after it is signed into law, his limited association with the legislation often captures the spotlight. The same is the case when Congress overrides a presidential veto. This tendency to magnify the importance of the president, while frequently overlooking the role of Congress, distorts the history of the American legislative process.

In the final analysis, it is often difficult to weigh the relative influence of Congress and the president in the legislative process and accurately gauge the continual and influential activities of outside interests. The assumption, however, should not be made that, during those periods when a president becomes “unusually active” in the process, Congress has relinquished its constitutional responsibility. “Despite the well-organized rise of the president as chief legislator, empirical

research” by scholars has “consistently found that Congress is responsible for most proposed legislation, and a large share of enacted programs, either on its own or working in conjunction with the president.”¹⁶

Although presidents since Franklin D. Roosevelt have established much of the legislative agenda for Congress, the issues and ideas endorsed by the White House often have been germinating in Congress for a considerable period of time. Changing conditions within the nation or abroad may thrust to the forefront a legislative idea that has lain dormant for years or decades, or a presidential administration may breathe new life into a proposal whose time had supposedly passed. Also, Congress is one of the most “fertile” springs for presidential initiatives. “Difficult as it may be to determine the origin of a policy initiative, to identify the parent of an idea,” presidential scholar Mark A. Peterson writes, “it is evident that a large bulk of what becomes ‘presidential’ first met the legislative light of day as ‘congressional.’”¹⁷ Often, by the time a proposal appears in a presidential message or speech, the president’s position has been significantly modified to take into consideration difficulties particular provisions face on Capitol Hill. As a consequence, proposals sent to the Congress frequently represent modifications in the president’s preferences. Furthermore, much of the legislation considered by Congress is of little concern to the president or his administration.

Genesis of Legislation

Often, neither Congress nor the president would push a particular piece of legislation if it were not for the external influences of society at large. The ideas and pressure for much of the legislation approved by Congress and signed into law by the president originate at neither end of Pennsylvania Avenue. Individuals from virtually every walk of life have originated, and assisted in, the formulation of legislative initiatives that have dramatically begun, altered, or displaced a governmental policy. Ideas for legislative initiatives are brought to the attention of members of Congress by

- the president in his annual State of the Union message, where he sets out his agenda for the coming year, in other speeches, messages, inter-

views, and press conferences, and through the White House congressional liaison office;

- members of the president’s cabinet and other executive branch officials and personnel responsible for the administration of governmental policies;
- state and local officials;
- lobbyists for interest groups such as the business community, trade organizations, labor unions, and professional associations;
- academics, independent policy specialists, and members of think tanks and consulting groups;
- technical advisers representing universities and other private and government research organizations;
- the media;
- congressional staff; and
- private citizens.

Much of the credit for legislation must be given to the individuals or groups most directly interested in the specific results of the proposal. Nevertheless, only Congress can transform an idea into a piece of legislation that may become law.

Congress continues, as it has since 1789, to be an incubator for legislative proposals. A continuous exposure to legislative ideas has allowed Congress to remain a vigorous institution and an integral partner in the constitutional system. On Capitol Hill, proposals are procedurally introduced, subjected to hearings, debated on the House and Senate floor, and approved, before being sent to the White House for the president’s signature. During the process of developing original or amendatory legislation, which often spans a number of years and several Congresses, the merits of a proposal may become the topic of national debate, and the proposal may be modified or significantly altered.

Accomplishment of Legislation

While the framers devoted great detail to Congress’s legislative responsibilities, they said little about how Congress should organize itself, except that the Speaker, the presiding officer of the House of Representatives, should be elected and that the vice president, or the president pro tempore in his absence, should pre-

side over the Senate. The Constitution's brevity in this regard has allowed Congress the freedom to "change over time" and transform itself "from an informal, non-specialised representative and legislative assembly, attempting to fulfill the republican aspirations of post-revolutionary Americans, into a complex, highly specialised, rather bureaucratic institution which acts . . . like a complete government intervening in all policy areas and at every stage of the policy-making process." Congress's ability to change its internal structure and procedures has enabled it to respond for more than two centuries to "political, economic, and social changes which transformed the nature of problems facing constituents, and thus the public policies they were willing to support."¹⁸ This transformation is most dramatically demonstrated in Congress's legislative accomplishments.

Congress, Lawrence H. Chamberlain argued, is better suited to deal with the "long germinative period detectable in the genesis of most laws" than is any other agency in America's democracy. Its composition, organization, and accessibility, "coupled with its ever-changing personnel, tends to guarantee a maximum responsiveness to varied but always moving currents of thought." A close examination of the official records of Congress reveals that individual senators and representatives frequently make a "substantial contribution" in "locating the weaknesses and gaps in our legislative fabric and initiating action to fill the breach." Were it not for "their persistent efforts and their unwillingness to give up in the face of administration indifference or hostility it is probable" that the enactment of many important laws would have been delayed much longer and "their content would have been much less definite."¹⁹

Although the legislative initiative has "shifted many times between the legislative and executive branches, the U.S. Congress remains virtually the only national assembly in the world that drafts in detail the laws it passes rather than simply ratifying measures prepared by the government in power."²⁰ "In the United States," Chamberlain observed, "legislation is characteristically a collegial process in which the role of the Congress is no less important than that of the President."²¹ Chamberlain's observations, penned nearly sixty years ago, remain applicable today. In examining the origin of federal legislation over more than two centuries, land-

mark enactments have been approved during periods of comparative calm as well as during the stress of a national emergency. They have also gained acceptance when nonactivist presidents have occupied the Oval Office as well as strong ones.

A 2000 study of the most important laws enacted in the last half of the twentieth century credits Congress with "calling upon the federal government to tackle a bold agenda worthy of the world's greatest democracy, and providing the statutory authority to act." Survey responses from 450 history and political science professors, who were asked to select the government's greatest achievements of the past half century, "reflect a stunning level of bipartisan commitment." "Great endeavors appear to require equally great consensus."²² The lessons of achievement, the study concluded, are that

[n]o one party, Congress, or president can be credited with any single achievement. Even Medicare, which was a signature accomplishment of the Great Society, and the Marshall Plan, which centered in a burst of legislation during the Truman administration, had antecedents in earlier Congresses and administrations. Rather, achievement appears to be the direct product of endurance, consensus, and patience.²³

The report "suggests that the federal government did more than aim high." It "often succeeded in changing the nation and the world." Three important themes underlie the government's greatest achievements: (1) a "coherent policy strategy," (2) a conscious effort to take the "moral high ground despite significant resistance," and (3) a "readiness to intervene where the private and nonprofit sectors simply would not."²⁴

Notes

1. *Journals of the Continental Congress, 1774–1789*, ed. Worthington Chauncey Ford and Roscoe R. Hill (Washington, D.C.: U.S. Government Printing Office, 1904–1937), 31:680.

2. *Journals of the Continental Congress* 32 (1787): 74.

3. *U.S. Constitution*, preamble.

4. Benjamin Fletcher Wright, ed., *The Federalist* (Cambridge, Mass.: Belknap Press of Harvard University Press, 1966), No. 51, 356.
5. Wright, *The Federalist*, No. 10, 134.
6. *Truax v. Corrigan*, 257 U.S. 312, 357 (1921).
7. These include the authority to tax, spend, and borrow; to regulate foreign and interstate commerce; to admit new states; to establish uniform naturalization and bankruptcy standards; to coin money, regulate its value, and fix the standard of weights and measures; to establish post offices and post roads; to develop copyright protections; to create federal courts of lesser authority than the U.S. Supreme Court, which was specifically provided for; to maintain a defense establishment; and to declare war.
8. Article V of the Constitution also provides that “the Legislatures of two-thirds of the several States” may “call a convention for proposing amendments.”
9. Wright, *The Federalist*, No. 51, 357.
10. Wright, *The Federalist*, No. 52, 361.
11. Wright, *The Federalist*, No. 63, 415.
12. *Wayman v. Southard*, 23 U.S. (10 Wheaton), 41, 44 (1825).
13. *Clinton v. City of New York*, 524 U.S. 417 (1998).
14. *Marbury v. Madison*, 5 U.S. 137 (1803).
15. Lawrence H. Chamberlain, *The President, Congress, and Legislation* (New York: Columbia University Press, 1946), 15.
16. Mark A. Peterson, “Legislative Initiative,” in *The Encyclopedia of the United States Congress*, ed. Donald C. Bacon, Roger H. Davidson, and Morton Keller (New York: Simon and Schuster, 1995), 3:1275.
17. Mark A. Peterson, *Legislating Together: The White House and Capitol Hill from Eisenhower to Reagan* (Cambridge, Mass.: Harvard University Press, 1990), 33, 35.
18. Michael Foley and John E. Owens, *Congress and the Presidency: Institutional Politics in a Separated System* (Manchester, England: Manchester University Press, 1996), 13.
19. Chamberlain, *The President, Congress, and Legislation*, 463.
20. Roger H. Davidson and Walter J. Oleszek, *Congress and Its Members*, 8th ed. (Washington, D.C.: CQ Press, 2002), 6.
21. Chamberlain, *The President, Congress, and Legislation*, 15.
22. Paul C. Light, “Government’s Greatest Achievements of the Past Half Century,” *Reform Watch*, No. 2 (November 2000): 1, 4.
23. *Ibid.*, 11.
24. *Ibid.*, 1, 12.

Contents

<i>Preface</i>	v	Twenty-Second Congress 1831–1833	54
<i>Introduction</i>	vii	Twenty-Third Congress 1833–1835	56
<i>Finders Guide</i>	FG-1	Twenty-Fourth Congress 1835–1837	58
		Twenty-Fifth Congress 1837–1839	61
		Twenty-Sixth Congress 1839–1841	63
Continental Congress and U.S. Congress Assembled 1774–1788	1	Twenty-Seventh Congress 1841–1843	64
First Congress 1789–1791	10	Twenty-Eighth Congress 1843–1845	67
Second Congress 1791–1793	14	Twenty-Ninth Congress 1845–1847	69
Third Congress 1793–1795	16	Thirtieth Congress 1847–1849	72
Fourth Congress 1795–1797	18	Thirty-First Congress 1849–1851	74
Fifth Congress 1797–1799	21	Thirty-Second Congress 1851–1853	76
Sixth Congress 1799–1801	23	Thirty-Third Congress 1853–1855	78
Seventh Congress 1801–1803	24	Thirty-Fourth Congress 1855–1857	81
Eighth Congress 1803–1805	26	Thirty-Fifth Congress 1857–1859	83
Ninth Congress 1805–1807	28	Thirty-Sixth Congress 1859–1861	85
Tenth Congress 1807–1809	30	Thirty-Seventh Congress 1861–1863	88
Eleventh Congress 1809–1811	32	Thirty-Eighth Congress 1863–1865	92
Twelfth Congress 1811–1813	34	Thirty-Ninth Congress 1865–1867	96
Thirteenth Congress 1813–1815	37	Fortieth Congress 1867–1869	100
Fourteenth Congress 1815–1817	39	Forty-First Congress 1869–1871	104
Fifteenth Congress 1817–1819	41	Forty-Second Congress 1871–1873	108
Sixteenth Congress 1819–1821	43	Forty-Third Congress 1873–1875	111
Seventeenth Congress 1821–1823	45	Forty-Fourth Congress 1875–1877	113
Eighteenth Congress 1823–1825	47	Forty-Fifth Congress 1877–1879	116
Nineteenth Congress 1825–1827	49	Forty-Sixth Congress 1879–1881	119
Twentieth Congress 1827–1829	51	Forty-Seventh Congress 1881–1883	121
Twenty-First Congress 1829–1831	52	Forty-Eighth Congress 1883–1885	124

Forty-Ninth Congress 1885–1887	127	Eightieth Congress 1947–1949	229
Fiftieth Congress 1887–1889	130	Eighty-First Congress 1949–1951	232
Fifty-First Congress 1889–1891	132	Eighty-Second Congress 1951–1953	236
Fifty-Second Congress 1891–1893	136	Eighty-Third Congress 1953–1955	239
Fifty-Third Congress 1893–1895	138	Eighty-Fourth Congress 1955–1957	243
Fifty-Fourth Congress 1895–1897	141	Eighty-Fifth Congress 1957–1959	247
Fifty-Fifth Congress 1897–1899	143	Eighty-Sixth Congress 1959–1961	251
Fifty-Sixth Congress 1899–1901	147	Eighty-Seventh Congress 1961–1963	254
Fifty-Seventh Congress 1901–1903	150	Eighty-Eighth Congress 1963–1965	259
Fifty-Eighth Congress 1903–1905	152	Eighty-Ninth Congress 1965–1967	264
Fifty-Ninth Congress 1905–1907	154	Ninetieth Congress 1967–1969	270
Sixtieth Congress 1907–1909	158	Ninety-First Congress 1969–1971	275
Sixty-First Congress 1909–1911	161	Ninety-Second Congress 1971–1973	281
Sixty-Second Congress 1911–1913	164	Ninety-Third Congress 1973–1975	286
Sixty-Third Congress 1913–1915	168	Ninety-Fourth Congress 1975–1977	293
Sixty-Fourth Congress 1915–1917	171	Ninety-Fifth Congress 1977–1979	298
Sixty-Fifth Congress 1917–1919	175	Ninety-Sixth Congress 1979–1981	304
Sixty-Sixth Congress 1919–1921	179	Ninety-Seventh Congress 1981–1983	310
Sixty-Seventh Congress 1921–1923	182	Ninety-Eighth Congress 1983–1985	315
Sixty-Eighth Congress 1923–1925	185	Ninety-Ninth Congress 1985–1987	321
Sixty-Ninth Congress 1925–1927	188	One Hundredth Congress 1987–1989	327
Seventieth Congress 1927–1929	191	One Hundred First Congress 1989–1991	333
Seventy-First Congress 1929–1931	194	One Hundred Second Congress 1991–1993	339
Seventy-Second Congress 1931–1933	196	One Hundred Third Congress 1993–1995	345
Seventy-Third Congress 1933–1935	199	One Hundred Fourth Congress 1995–1997	350
Seventy-Fourth Congress 1935–1937	205	One Hundred Fifth Congress 1997–1999	356
Seventy-Fifth Congress 1937–1939	209	One Hundred Sixth Congress 1999–2001	363
Seventy-Sixth Congress 1939–1941	213	One Hundred Seventh Congress 2001–2003	369
Seventy-Seventh Congress 1941–1943	217		
Seventy-Eighth Congress 1943–1945	221	Sources for Further Study	377
Seventy-Ninth Congress 1945–1947	225	Index	396

Continental Congress

September 5, 1774, to March 2, 1781

United States in Congress Assembled

March 2, 1781, to October 10, 1788

First Continental Congress—September 5, 1774, to October 26, 1774

Second Continental Congress—May 10, 1775, to March 2, 1781

United States in Congress Assembled—March 2, 1781, to October 10, 1788

Historical Background

Most of delegates who assembled in Philadelphia, Pennsylvania, on September 5, 1774, for the First Continental Congress were instructed to focus on the redress of specific grievances against the Crown. As representatives of Great Britain's North American colonies, most thought that they could quickly "reestablish satisfactory, if not harmonious, relations with England." The delegates "were established social, economic, and political leaders in their home colonies, and most had served in colonial legislatures that had struggled successfully to overturn earlier programs and policies of the king and Parliament. Most assumed their earlier experiences of successful conflict resolution within the existing imperial structure would be repeated."¹ The colonies had balked for more than a decade at policies designed to reduce British war debt, cover the expenses of an expanding empire, and "rationalize" the historically loose and ad hoc relationship between Britain and her North American colonies. The purpose of the Philadelphia

assemblage was not revolution nor independence from England.

The need, however, for an ongoing representative assembly quickly became clear. Over the next fifteen years, Congress (as the First Continental Congress, 1774; the Second Continental Congress, 1775–1781; and the United States in Congress Assembled, 1781–1788) would serve as the sole organ of American government. Congress was responsible for setting war aims, organizing and provisioning the army and navy, conducting foreign relations, and settling, when possible, squabbles between states. While victory in the American Revolution cannot be properly attributed to Congress, its contributions were indispensable. It articulated, nurtured, and sustained committed patriots, who were often a minority; it supported the armies, however unevenly; and it bound the states, albeit loosely.

The failures of Congress did not result from lack of zeal, vigor, or intelligence on the part of its delegates, who were, on the average, some of the most able public men ever to emerge from American society. Most of Congress's failings were attributable to a simple lack of power. This group of men, whose interests varied greatly and whose number seldom exceeded forty, were responsible for carrying out the legislative, executive, and, to a lesser extent, judicial functions of the nation. Their achievements were attained under the most adverse circumstances by a body that chose to limit severely its own authority. Before 1781, Congress did not even arm itself with enough power to pass

legislation that would be binding as law on the states as a whole.

The Intolerable Acts of 1774 accentuated the differences between Britain and the colonies, rallied the other twelve colonies to the plight of Massachusetts, and created the emergency that prompted the assemblage at Carpenter's Hall in Philadelphia. Four of the five acts were designed to punish Boston for leading colonial resistance against the 1773 Tea Act, which Parliament had approved to shore up the faltering East India Co. and to reinforce royal authority at the expense of popular liberty. The Quebec Act, the fifth act, was also resented in the colonies. First, it extended Quebec's boundaries to the Ohio and Mississippi Rivers, indicating that Britain intended to prohibit further westward settlement. Second, it reestablished French civil law in Quebec and extended full tolerance of Roman Catholicism to the province. The British had found particularly galling the Boston Tea Party of 1773, when a mob disguised as Indians boarded three tea-carrying ships and dumped their cargoes into the harbor.

Before approving a Declaration of Rights on October 14, 1774, Congress debated whether colonial rights should be based upon the law of nature or on the English constitution. The declaration reviewed the British measures deemed obnoxious and articulated the fundamental rights of the colonies, which were held to be "life, liberty, property" and participation in provincial legislatures. A plan, the Continental Association of 1774, subsequently developed a rigid policy of nonimportation, nonconsumption, and nonexportation with Britain until the grievances identified were redressed. The provisions were to be uniformly applicable throughout the colonies and "emphasized the question of allegiance." The association made it more difficult to remain neutral "as the Continental Congress was steered in the direction of independence, and the British government made plain its intention of continuing a policy of coercion."²

Conflict erupted in April 1775, when General Thomas Gage, the British military governor of Massachusetts appointed to enforce the Intolerable Acts, ordered the seizure of the military supplies of the Massachusetts Provincial Congress at Concord. Apprised of the plan, Paul Revere, William Dawes, and Samuel Prescott set out to warn Concord. At dawn the following morning, sixty to seventy armed Minute-

men confronted seven hundred British troops at Lexington. When the skirmish ended, eight Americans lay dead. By the time the British reached Concord, six miles away, the rebel military supplies had been removed and British forces were compelled to retreat to Boston, under steady fire from Massachusetts militia. By the end of the day, seventy-three British and forty-nine Americans had lost their lives.

Following Lexington and Concord, a force of Massachusetts militia, aided by a growing number of volunteers from other New England colonies, set up a loose cordon around Boston, confining British troops to the city. They fortified Breed's Hill, opposite Boston on the Charlestown Peninsula. Ultimately, the British troops dislodged the American forces at great cost in a bloody assault on June 17, 1775. Mistakenly known as the Battle of Bunker Hill, this clash further galvanized colonial opinion in favor of armed resistance. Soon military action spread to several points up and down the Atlantic Coast, and in ensuing weeks some sixteen thousand militiamen from various colonies came to the aid of Boston as American colonial legislatures began to arm for an all-out war. Prior to the clashes at Lexington, Concord, and Boston, the American colonies had begun to assume many of the duties of self-government, expelling their royal governors and other colonial officials, establishing new legislatures (usually in the form of provisional conventions), and adopting new constitutions in place of their colonial charters. When representatives of the thirteen colonies met on May 10, 1775, to convene the Second Continental Congress, the need for regular military force was apparent if the colonists were to stand up to the British. On June 14, 1775, Congress authorized ten companies of expert riflemen to assist the New England provincial forces gathered near Boston and named a five-member committee to draft administrative rules for the army. A day later, Congress unanimously voted to appoint Colonel George Washington of Virginia to command all the "Continental" forces.

Even after the initial armed clashes, Congress made another attempt to settle their grievances with King George III, in the conciliatory Olive Branch Petition. While asserting a desire for a reconciliation that would restore harmony and end further hostilities, Congress adopted a Declaration Setting Forth the Causes and Necessities for Taking Up Arms, which enumerated

the reasons that the colonists had been stirred to action. Later in July 1775, Congress established a continental postal system, recognizing that the “critical situation of the colonies” required a “speedy and secure conveyance of Intelligence from one end of the Continent to the other.”

That August, London responded to the Olive Branch Petition by proclaiming a state of rebellion in America. During the latter part of 1775, Congress turned its attention to creating a navy and a Marine Corps by voting to outfit four armed ships, raise two battalions of Marines, and adopt “Rules for the Regulation of the Navy of the United Colonies.” A concerned Congress also watched as Americans suffered defeats at Quebec City, Norfolk, Virginia, and Falmouth (Portland), Maine, and struggled with the reality that many Americans remained uncommitted to either war or independence at year’s end.

In January 1776, Thomas Paine published *Common Sense*, the first effective presentation of the American cause. Within three months, its circulation reached 120,000, and sentiment for independence began to grow as colonial assemblies openly discussed the question. In the field, the failed campaign to seize Quebec was somewhat compensated for in March 1776, when British troops evacuated Boston, which had been rendered untenable by Washington’s placement of heavy artillery on Dorchester Heights. On June 7, Richard Henry Lee of Virginia offered a resolution in Congress that “these United Colonies are, and of right ought to be, free and independent States.” A five-member committee was appointed to prepare a declaration of independence. A draft declaration, largely the work of Thomas Jefferson, was presented to Congress on June 28. Lee’s resolution was adopted on July 2. Attention then shifted to consideration of Jefferson’s draft. Much of his original writing was retained, but forty additions and extensive cuts reduced it by a quarter. On July 4, copies were ordered printed and sent to the states and commanding officers of the continental troops. The summer of 1776 proved that the American revolution would not be easily quelled.

For much of the remainder of 1776, the Continental Army met with repeated defeats. In August, a British army defeated Washington’s troops at the Battle of Long Island, and the American army was forced to evacuate New York, narrowly escaping entrapment. Af-

ter a prolonged retreat, Washington stabilized the situation when he launched a successful surprise attack at Trenton, New Jersey, the day after Christmas. Within days, he crossed the Delaware River and followed the victory at Trenton with another near Princeton.

The campaigns of 1777 included both triumph and defeat for the Americans. In the north, a two-pronged British invasion of New York from Canada failed when an expedition was repelled at Fort Stanwix in the Mohawk Valley and when General John Burgoyne’s invasion force from Canada was defeated and forced to surrender at Saratoga in October. The first major American victory contributed to France’s subsequent recognition of the United States. Further south, fifteen thousand British troops under the command of Sir William Howe sailed from New York, landed in the Chesapeake Bay in August, and marched on Philadelphia. Washington, who had determined Howe’s objective, attempted to block the advance but was defeated at Brandywine Creek. Congress evacuated Philadelphia on September 13, moving first to Lancaster and then settling west of the Susquehanna River, at York, where members were to remain until June 1778. British occupied Philadelphia on September 26 and repelled an American counterattack at Germantown on October 4. Washington’s army took up winter quarters at nearby Valley Forge.

Congress in November 1777, after more than a year of intermittent debate, adopted a plan for uniting the states. The Articles of Confederation and Perpetual Union established a unicameral Congress that possessed neither the power to tax nor the authority to effectively regulate interstate or foreign commerce. In the view of most observers, the articles were the best that could be achieved, given the “difficulty of combining in one general system the various sentiments and interests of a continent divided into so many sovereign and independent communities.”

The inherent flaws of the articles brought the nation close to bankruptcy and internal chaos within a few years, and growing sentiment for their revision ultimately led to the Constitutional Convention of 1787. The importance of the articles should not, however, be underestimated. They preserved the Union until a more efficient system could be established, embraced many of the ideas that ultimately appeared in the Constitution, and afforded the state delegates invaluable