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The Conditions and the Circumstances that Led to the Writing of the American Constitution

*Dissertation submitted in partial requirement for the fulfillment of the
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Dedication

In the Name of Allah the Most Gracious the Most Merciful

*There is no way I can express how much I owe to my family for their love,
generous spirit and support through the many years of my education.*

I dedicate this research to my tender mother for her never ending-love.

*I will always be grateful to my father for his confidence in me and for his
support.*

To my adorable sisters and brothers and also to my lovely nephews.

To my dearest friends especially: Mofida, Souhila, Randa, Wafa, Siham, Rawia,

Hayat.

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Abstract

The present work is in the political field of America, it is about the conditions and the circumstances that led to the writing of the American Constitution. i.e. the problems which made the Americans change their political system. This work illustrates the reasons that led to create a new written document, which is the Constitution. The emergence of the American Constitution witnessed several problems that America faced during the Revolutionary War. After the Declaration of Independence, the Thirteen American States regarded themselves as independent states and not part of the British Empire. They wanted to work and to act without the help of external countries. In 1781, a new written document was adopted and was called the Articles of Confederation. The Congress used that document to manage the early government of the United States. Also, Americans found it so weak and it could not protect them from any settlement or to protect their business affairs. Then, the Congress and the delegates of the Thirteen States made some conventions to solve that problem and they could prepare another document which was the Constitution of the United States. In addition, it emitted some objections as the federalist and Anti-Federalist groups. Moreover, some problems appeared during the ratifying of the Constitution, as an example; the separation of power, the issue of slavery and the individual rights. Besides, after the ratifying of the constitution and during its developments, it had been added several amendments to it. The Americans demanded the adding of the Bill of Rights and other amendments such as: prohibition of Slavery, granting women the right to vote, bear arms ...etc

ملخص

هذا العمل يتمحور حول الشروط والظروف التي أدت إلى كتابة الدستور الأمريكي و إلى الأسباب التي أدت إلى إنشائه، والذي أطلق عليه اسم "دستور الولايات المتحدة الأمريكية".

وقد ظهر الدستور الأمريكي نتيجة العديد من المشاكل التي واجهت أميركا خلال الحرب الثورية. و أيضا بعد إعلان الاستقلال حيث 13 دولة أمريكية اعتبرت نفسها كدول مستقلة وليست كجزء تابع للإمبراطورية البريطانية. و في عام 1781 تم إعداد وثيقة جديدة من طرف الكونغرس و ممثلي 13 دولة تحت عنوان "مواد الاتحاد الكونغرسالي". و بعد ذلك استخدمها الكونغرس لإدارة حكومة الولايات المتحدة. و لكن الأمريكيين أحسوا بأنه نظام فاشل لا يمكن الاعتماد عليه في تسوياتهم أو لحماية شؤون أعمالهم. ثم بعد ذلك قدم الكونغرس و 13 مندوب من دول مختلفة بعض الاتفاقيات من أجل حل هذه المشكلة حيث قاموا بإنشاء وثيقة أخرى وسميت "بدستور الولايات المتحدة".

إضافة إلى ذلك لقي بعض الاعتراضات مما نجم عنه ظهور مجموعتين متناقضتين وهما الفيدرالية والجماعات المناهضة لللا فيدرالية. وعلاوة على ذلك ظهرت بعض المشاكل التي عرقلت الموافقة و التصديق على الدستور. هذه المشاكل تجسدت في الفصل بين السلطات، تجديد مسألة الرق والمطالبة بالحقوق الفردية. بعد التصديق على الدستور وخلال تطوره، أضيفت إليه بعض التعديلات و ذلك نزولا لرغبة الشعب الأمريكي و مواكبة احتياجاته، و كان هذا بإضافة قانون الحقوق، حظر الرق، ومنح المرأة حق التصويت، وحمل السلاح... الخ

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General introduction

During 1780 till 1787, the United States of America witnessed many political problems that made Americans lead to confused life. That trouble started with the emergence of the treaties and the conventions which led each state to organize its own government and behave very much like an independent country. For that reason, Americans created a new written document known as the Constitution of the United States in order to solve that problem.

The United States became known as an independent nation with the appearance of the treaty of Paris 1783, but it was not one nation as it is today. In 1783, Americans started feeling more loyalty to their own state than to the new states, also they felt themselves as Virginians or New Yorkers rather than Americans. (O'Callaghan 32)

Through that time, each individual American state made its own government and behaved like an independent country. It made its own laws and decisions to serve its own affairs. (32)

During the War of Independence 1775-1783 (between Great Britain and the thirteen British colonies in North America), the states had accepted to work together in a national congress in which each state expedited representatives. The fortuity that established that design for the states to collaborate with one another was called the Articles of Confederation, which had started to work in 1781. The Central government, under the Articles of Confederation, was very weak. It was provided with certain rights, but it had no enough power to make those rights actual. (32)

With the end of the War of Independence, individual states started to act as individual nations. The problems began between the states by imposing taxes between each other and

attacking one another to determine the ownership of specific pieces of frontier land. So, Americans became so worried about their future. (32)

With the year of 1780, troubles with the form of government invented under the Articles of Confederation became so dreadful that stages were taken to amend the Articles. Therefore, many Americans thought that the Government under the Articles was fluctuating on the edge of failure. There were odds that other nations might move to try to take control of parts of the divided states, and that happened if the national government did fall apart, i.e. Great Britain still had soldiers in the Old Northwest, and Spain was active on the Southwest border. (Joy 6)

The US deduced that to survive, they had to make changes in the Articles of Confederation. The Congress demanded from each state to send delegates to a meeting to discuss such changes, and that happened in Philadelphia. The meeting became known as “the Constitutional Convention”. Furthermore, they chose George Washington as their leader for their decisions and discussions. (O’Callaghan 33)

The delegates didn’t accept the changes that were needed in the Constitutional Convention. Some were worried to preserve the rights of individual states. At the same time, there were others who wanted a stronger Central Government. The purpose from all that, most of them were rich men for that they thought that a stronger Central Government would defend their business affairs. (33)

At first, the Congress invented the Constitutional Convention to go over the Articles of Confederation. Whereas the delegates did more than this. They came up with a new system for the US. They arranged the design for the government in a file called “the Constitution of the United States”. The Constitution provided the US a federal arrangement which is a central authority and local authority. (33)

Thus, the Constitution of the USA passed through several changes that made the adding of some amendments which would serve the American people in their live.

The proposed research aims to knowing the new political formation of the new nation (USA). That new political system made Americans lives in balance between the states. This research paper intends to investigate some specific research questions on that subject:

-what were the factors that led to create another written document (the Constitution)?

-what is the Constitution? And how does it begin?

-were there any objections from the delegates of the states or from the Americans?

Through this humble work, we hope to show the new design that the Congress and the delegates of each state of the US of America made. Also, we want to shed the light on that design, which was the Constitution, to know the steps that led to create and to ratify it. Moreover, we tried to learn what does it mean by the Constitution of the USA, and to talk about the two controversial opinions about the Constitution, also, the benefits of the Constitution toward the new rights to the Americans.

The research will be built on an analytical study of the primary sources. It will also look at the information from any material relevant to the subject and whatever material from papers or articles dealing with our research topic.

The research paper is split into an introduction, three chapters and conclusion. The first chapter discusses the historical events that led to the creation of the Constitution .i.e. the Declaration of the Independence and its aftermath, and it explains the weaknesses of the Articles of Confederation. The second chapter discusses the beginning of the Constitution by talking about the first draft and explains how they ratified it. It also mentions the Federalist and the Anti-Federalist groups and their opinions about the Constitution and some problems

that faced it. In addition to that, it talks about the origins of the Constitution and its limited role. The third chapter and the last one contain the development of the American Constitution by talking about the constitutional structures, constitutional democracy and the amendments that had been added to it. It illustrates the rights which Americans demanded such as: the Bill of Rights, prohibition of slavery and granting women the right to vote

Chapter One: Factors Behind Composing the American Constitution

1.1. Introduction

In attempting to describe and illustrate the operation of a political system, it is important to arrange a vast quantity of information to make it easy to understand the pattern that will give meaning and shape the activities of those who live in it and work. In this chapter, we are going to travel back in American history during the seventeenth centuries, and talk about the important events that happened. It was a time of struggling of the Thirteen Colonies to free themselves from the rule and judgment of the British monarch. They wanted to have their independence from Britain to conduct their own affairs. Accordingly, it fought until it took its independence on July 4, 1776. After their declaration, each state started to work alone in its own best interest. Therefore, a new governing document was required in order to act together to be as a unified nation which was The “Articles of Confederation”. After a short time, the Thirteen Colonies felt that the regime is not to perfect system that would protect them. Consequently, the Congress suggested to the states to send delegates to a meeting to make some improvements to the Articles of Confederation. They added some amendments. Also, they did not feel that it had enough power to save them. Then the Congress convened again the representatives to have another meeting which was called the “Constitutional Convention”.

1.2. The Declaration of Independence and the American Revolution

Politicians and historians disagree about the reasons of the American Revolution. Some of them dispute that economic competition between American and the British merchants agitated the blaze of revolution. On the other hand, there were other’s aims to American discontent of new taxes being enforced on them without discussion. A third opinion is that Americans were simply progressing to a national self-consciousness that

conducted to the wish to rule themselves. Absolutely the period from the end of the Seven Years War, between Britain and France 1756-1763, until the Declaration of Independence, in 1776, witnessed an increase in the anxiety over a conflict of economic interests. The British attempted to tax Americans and to control trade in a more strictly and heavily way for the interests of British merchants, and it did all that in order to restore some of the costs of the war with France. Also, it is rational that such conflicts would raise awareness that British and American interests were not the same and that greater self-rule was wanted in order to nurture the needs of America. (Mckeever and Davies 12)

According to the revolutionaries, they tried to conclude their aims by saying that: “We, therefore, the representatives of the United States of America, in general Congress assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the name and by the authority of the good people of these colonies, solemnly publish and declare, that these united colonies are, and of right ought to be , free and independent states: that they are absolved from all allegiance to the British Crown, and that all political connection between them and the state of Great Britain is, and ought to be, totally dissolved”. (White 209). From that, we understand that the thirteen colonies have wanted to eliminate from the judgment of the British Empire and to be free.

On June 4, 1776, a decision was presented in the Second Continental Congress announcing the union with Great Britain to be disbanded, recommending external alliances, and suggesting the drafting of a design of Confederation to be surrendered to the respective states. Independence was announced on June 4, 1776, which means that the plan of Declaration was delayed. Though the Declaration was considered as a set of principles, it did not invent a way for how politics would be executed. However, it was

the Articles of Confederation that granted an essential structure to the new nation during and after the American Revolution. (History of the United States Constitution/Wikipedia sec 1)

The period when America was at the time of Declaration of Independence is called "Continental Congress". James Madison was considered as one of the most important leaders who lived in the original thirteen colonies. Also scholars such as Gordon Wood portray how Americans were got in a problem in the Revolutionary fervor of inventing governments and societies. (History of the United States Constitution /Wikipedia sec 1)

Besides, Thomas Tain declared in his pamphlet "Common Sense" that "a government of our own is our natural rights". When the document was introduced to Congress, it included a set of grievances against Great Britain, consisting of objections to troops being sent to the colonies and the levying of taxes without the American consent. (Murray 28)

Republican government and individual liberty for people were to spread over the new world continent and to last forever, as a gift to the coming generation. Most Americans were influenced by the appearance of the Enlightenment philosophy. Therefore, the proponents of that notion captured on English Whig political philosophy as Forrest McDonald, who is one of those proponents, depicted that it is as an instrument for proving their changes to obtain colonial charters and traditions. It was extirpated as an opposition to monarchy which they thought as a corrupting to the "permanent interests of the people". (History of the United States Constitution /Wikipedia sec 1)

According to the supporters, they considered election as a means of defending for people. Election for legislature was cut one year, for the governor of Virginia, one year without re-election. In some states, the necessities of the men were decreased to taxes for their tools. In New York, free Blacks could vote only if they had enough properties. New

Hampshire was deciding to abolish all voting needs for men but residency and religion. Besides, New Jersey gave women the right to vote. (History of the United States Constitution/Wikipedia sec 1)

These “Radical Whigs” gave people a new name which is “out-of-door”. They disbelieved any authority which worked in a secret way as being unrepublican. A lot of men and women gathered in front of the Court House during market-militia court days. Anarchy by people started by the out-of-doors rallies on the steps of an oppressive official’s government with some members from “Sons of Liberty” seizing forth “committees people”, until some achievement determined. (History of the United States Constitution/Wikipedia sec1)

Politicians and historians say that legislatures were worked secretly, for that some groups of men made their treasures by the help of royal grants and monopolies. Merrill Jensen, one of those historians, thought that the principle of representation was seen as being undemocratic. They would object the Constitution, because it removed from them the right of entry to authentic democracy. It would also create an arbitrary government the security of a “committee of the people” from each official’s front door steps. (History of the United States Constitution/Wikipedia sec1)

1.3. Weaknesses of the Articles of Confederation

A new written document adopted in 1781 was called the Articles of Confederation. During these years, the Congress used that document to manage the early government of the United States, with the Revolutionary War and to protect the Treaty of Paris 1783 with Great Britain. As a result, the government had got some successes among which the Land Ordinance (1785) which set up the procedures for the admission of new states. By that time, American leaders were in the middle of drafting a new and powerful

Constitution to reinstate the Articles of Confederation. Historians describe the period between 1781 till 1789 as the period of weakness, measurements and confusion. On the other hand, others consider this as to proof reflecting an essential element for permanence and development. Yet symbols of coming back to development did not slow growing domestic and foreign troubles. For that, nationalists regarded that the Confederation central government had no sufficient power to institute an economic system, and apply treaties, or go to war when needed. (History of the United States Constitution/Wikipedia sec2)

Draft of Dickinson, like Merrill Jensen had observed, favored “a centralized government that would take the place of the British government”. (Bryant et all 18). Through that, we can say that if Americans would have a strong central government, of course, they would recover the judgment of the British government.

The Congress was the essential element of the national government, without a national court nor an executive branch in the states or in individuals. The new independent states divided from Britain which was no longer got a good treatment in British ports. In 1785, the British rejected the idea to negotiate a trading treaty since American Individual states were not bound by it. In addition, the Congress could participate in states discussions, but the states did not agree with its decisions. (History of the United States Constitution/Wikipedia sec2)

The weak central government could not return its policies with the military strength, and complicating its external affairs. In contrast to what happens during the Treaty of Paris (1783), the British refused to take away their soldiers from the castles and trading posts in Northwest Territory. British and Spanish officers provided weapons to several Native American tribes, permitting them to assault American Settlers. Furthermore, the Spanish

did not allow American farmers to use its port to transport their productions. (History of the United States Constitution/Wikipedia sec2)

The Congress dominated the incomes of the Thirteen States by a petition. For that, the states did not have enough money to pay their taxes. Therefore, Connecticut announced that it would not pay at all. By the adding of the Amendment to the Articles of Confederation, Congress urged the Thirteen States to levy enough to pay the public debt. But it failed, because twelve states agreed but Rhode Island refused. Amendment proposals needed agreement by all Thirteen States to apply. (History of the United States Constitution/Wikipedia sec2)

The government could not pay its debts, without gathering taxes. Seven states wanted to help the government by printing numerous quantity of money, assisted by gold and land, so there was no equality between the states. In other words, Massachusetts was one of those who refused to print money. It enforced a firmly limited currency and high taxes. Without paper money veterans without cash lost their farms at sheriff's auction for back taxes. As a result, this excited "Shays Rebellion" to end gathering taxes and close the courts until the stopping of the unequal purchases. Then the troops rapidly ceased the fighting, but George Washington as a nationalist cautions them that "There are combustibles in every state which a spark might set fire to." (History of the United States Constitution/Wikipedia sec2)

1.4. Principles that Led toward the Constitution

1.4.1. Mount Vernon Conference

The movement of putting back the Articles of Confederation started immediately after its formal adoption in June 1784. The president George Washington, who would be the president of the convention, had written precisely that the states were united only by

a “rope of sand”. (Outline of U.S. History 71). He received the commissioners of Virginia and Maryland as guests to negotiate joint commercial organization of the Potomac River. The charter signed up by the Mount Vernon Commission is still in force, and what is more important is that they proposed that the convention would provide them with uniform trading system throughout the United States. (History of the United States Constitution/Wikipedia sec 3)

This implies overcoming tariffs which the states had set up versus one another during the Articles of Confederation system. It was the notion for free trade across political boundaries as Adam Smith, who was one of those supporters to this idea, in his influential in “Wealth of nations” in 1776. A few months later in state legislature and in the Articles Congress and his counsels had begun and widened interesting individual rights, congressional governance and national security. Thus, the Constitution was to institute the main free trade region in the world. (History of the United States Constitution/Wikipedia sec3)

1.4.2. Grand Committee

On August 7th, 1786, the Articles Congress got a “Grand Committee” account suggesting to add seven amendments to the states for power to “render the federal government adequate” to its announced aims. As each accomplished common approval, it was to be adopted to the Articles of Confederation. Yet it did not abandon Congress. (History of the United States Constitution/Wikipedia sec 3)

Congress was to have the sole of dignity and power to adjust trade. States could not prefer alieners over citizens. Tariff laws would need 75% vote, and public debt 80%. So Congress could accuse states with adding a price as a punishment for being late. Hence, a state preventing troop would put blame on them, and also a penalty. Congress could

gather immediately from its province and this occurred if the states did not shell out. Once a year, a state sum on another's take-over would gain approximately 6%. There would have been a national court of seven. No shows at Congress would forbid any state office. After a week, three states were questioned why they did not pay their tariffs. Eight states were sincerely advised to agree and obey the financial Act of Congress. For the seven amendments which "Grand Committee" suggestions to the Articles of Confederation were sent back to the commission without an election. (History of the United States Constitution/Wikipedia sec 3)

1.4.3. Annapolis Convention

In September 1786, commissioners were nominated by nine of the Thirteen States to meet at Annapolis, in order to formulate advice for amelioration in the international trade and interstate commerce which was hesitating under the system of the Articles of Confederation. Only five states, which are Virginia, Pennsylvania, Delaware, New Jersey, and New York, were stood for, and representatives from Massachusetts, New Hampshire, North Carolina, and Rhode Island failed to attend. The Annapolis Convention did not estimate "it advisable to proceed on the business of their mission", since a few states attended. Edmund, Randolph and James Madison, were considered as Virginians' leaders, composed a common document supposing that a convention of delegates from all Thirteen States meet at Philadelphia in may 1787. More than business affairs, their goal would be to look at the faults of the Articles of Confederation government and to shape "a plan for supplying such defects as may be discovered." (History of the United States Constitution/Wikipedia sec 3)

Virginia with other five states directly agreed and chose their representatives. In contrast, New York with other states faltered to accept the idea that only the Continental

Congress could suggest amendments to the Articles of Confederation. For that, George Washington was extremely unready to attend another convention as the first one, i.e. like the failure that occurred in Annapolis Convention. Then, Congress called the convention at Philadelphia. Thus, the “Federal Government” was to be altered to meet the needs of super government and “the Preservation of the Union”. The Congress would approve what scales it permitted, after that the state legislatures would famously assert whatever alterations of those were to take effect. (History of the United States Constitution/Wikipedia sec3)

1.5. The Conventional Debate

1.5.1. Sessions of the House

On February 21, 1787, the Congress of the Articles signed a design to improve the Articles of Confederation. It demanded from each state to send representatives to a convention in order to rewrite the Articles in methods which would make the federal Constitution enough to the requirements of government and the conservation of the Union. (History of the United States Constitution/Wikipedia sec4)

To make some changes to the Articles into a practical government, 74 representatives from the twelve states were named by their state legislatures; 55 showed up, and 39 eventually signed. James Madison and James Wilson, who are American statesmen and political theorists, were meeting in Philadelphia to design a plan on May 3rd. Then Madison delineated his design in letters which urged that each state legislature to send representatives, not the Articles congress. In addition, Convention catches a treaty with signatures from each state. Subsequently, The Articles Congress agrees sending it to the state legislatures. After that, the state legislatures separately call one-time to accept, choosing representatives by each states’ various governs of suffrage. Thus, the

convention was simply as a consultative to the people voting in each state. (History of the United States Constitution/Wikipedia sec4)

1.5.2. Slavery in Dispute

Two contradictory opinions appeared during the convention on the issue of slavery to solve it. Issue of slavery was considered according to the convention as a center step by three times; on June 7th concerning who would elect for the Congress, on June 11th in discussion over how to make them in equal proportions seating in the house, and August 22nd linking to business and the development of the nation in the future. (History of the United States Constitution/Wikipedia sec4)

When the Convention examined how they would do the proportion of the House of Representatives, angers between the representatives gave back over slavery. As soon as the Convention developed beyond the personal assaults, it took up the existing “federal ratio” in order to tax states to their wealth proportionately, three-fifths each state slave count. (History of the United States Constitution/Wikipedia sec4)

On August 6th, the Committee declared its rectification to the Randolph plan. Once again the problematic of slavery arose, and it confronted some mistreatment. Two weeks later, the representatives made some shared compromises such as: commerce and trade, east and west, slave-holding and free. The convert of power to adjust slave from states to central government could occur in twenty years, but only then. (History of the United States Constitution/Wikipedia sec4)

Emigration of the free of indenture and slaves could carry on by the states, considering slaves as persons, not belonging. Lasting force and energy would alter by inhabitants while every ten years counted. Delivery in the House would not be by

reaches, but by people; i.e. free citizen and who had fewer slaves and taxed Indian farming families. (History of the United States Constitution/Wikipedia sec4)

The president Thomas Jefferson, in 1806, sent a letter to the ninth Congress to take off citizens of US from the transatlantic slave trade.

In the agreement meetings, the anti-slavery representatives for a while started as anti-ratification votes. The Articles of Confederation did not provide the nullification of slave trade, but with the coming of the new written document which was the Constitution, the delegates of the Constitution accepted that idea and added it to the Constitution. (History of the United States Constitution/Wikipedia sec4)

1.5.3. Great Compromise

In June 29th, 1787, a compromise was occurred in Philadelphia which combining both of the New Jersey plan and the Virginia plan, and this created a conflict between the states. The New Jersey plan was disputed for four days, but the majority of the states refused it. In contrast, the Virginia plan was disputed through two weeks, and the majority accepted. A large number of people consider that the compromise which had been arrived is a chief progression towards the unification of the states under a federal system and has resolved the state representation problem. (The Compromise of the Century/Social Studies pph 1)

William Paterson was suggested the New Jersey plan in which the smaller states were in favor by it. In some cases, this design looks like the current plan of the US government which was the Articles of Confederation. This design suggested a one house-national legislature delegates chose by state legislature. And each state will be

capable to cast one vote. Also, it suggested a supreme court assigned for life by the executive officers. (The Compromise of the Century/Social Studies pph 3)

The Virginia plan, which was upheld by the larger states, was proposed by Edmund Randolph and James Madison. This plan granted the interest the larger states, whereas the smaller states were frightened from the decreasing of power. This plan proposed a strong national government that could make and impose laws and gather taxes. This plan recommended three separate branches of government and two houses of legislature (a bicameral of legislature) where representative will depend upon states population or money contribution. (The Compromise of the Century/Social Studies pph 4)

The compromise was surrendered to the Constitutional Convention to find a solution to the dilemma which was created by the New Jersey plan and the Virginia plan. After a few months of discussion, the convention determined that the legislature will be bicameral; the first house will have an equal representation, while the second is based on population of the state. After further discussions and quarrels, the delegates agreed with the Great Compromise or what is also known the Connecticut Compromise. It gave another name because Roger Sherman, who contributed with a large part to this compromise, is from Connecticut. Members in the lower house (House of Representative) will be assigned among the states according to population and also will be selected by the people. It has the power and the authority to create statements of raising money and wasting it. Besides, in the upper house (the Senate) all states will have the same number of representatives that will be elected by the state legislature. Now every state has an equal representation with these two senators. (The Compromise of the Century/Social Studies pph5)

1.5.4. Re-allocation of Power

Unparalleled form of government had been created by the Constitutional Convention, which were reallocation powers of government. Before each precedent national authority had been either a centralized government or a confederation sovereign constituent state. The institutions of the government and the degree of power happened and appeared from both national and state sources. However the new government would have a national operation. Thus, the government to get together their objects of strengthening the Union and saving citizens' rights, framers distributed power among executive, senate, house and judiciary of central government. But each state government continued exercising powers in their own field. (History of the United States Constitution/Wikipedia sec4)

1.5.4.1. Increasing Congress

The Convention did not begin its national power from nothing, it started with the power already vested in the Articles Congress with rule of military, international relations and commerce. The Constitution appended ten amendments. Five of them were less important which including business affairs and manufacturing protections. On the other hand, the most important point is that new power allowed Congress to save states from domestic violence of riot and civil disorder. (History of the United States Constitution/Wikipedia sec4)

The Constitution exceeded Congressional power to manage arm and discipline the state militia, and to use them to oblige Congress subsiding rebellions within the states and to resist invasions if there is. But the Second Amendment would make sure that the Congressional power could not remove weapons to state militias. (History of the United States Constitution/Wikipedia sec4)

The essential element that helped to increase the Congressional power is taxation. Taxation at that time was restricted under some constraints; preventing taxes on export, ending importing duties. Thus, the money which they were gathering, it used to pay the debt of the US. But the states were divested of their capacity to levy taxes on imports.

In addition, the Congress had no constraints towards political economy. Congress distracted state power by organizing interstate commerce .i.e. the US would be the greater region in free trade in the world. (History of the United States Constitution/Wikipedia sec4)

1.5.4.2. Limiting Government

During the ratification, Sovereignty was to be theoretically inseparable. With the existence of the specific powers between the different branches of national government and the thirteen republican state governments, now “each of the portions of powers delegated to the one or to the other ... is ... sovereign with regard to its proper objects”. Each state looks upon to its own affairs. As there were a few powers which stayed on hand between both national powers and state powers, as a result the logical seat of the American sovereignty belonged immediately with the people-voters of every state. (History of the United States Constitution/Wikipedia sec4)

In addition, the expanding of the Congressional power, the Constitution restricted states and the central government. Six limits on the national government focus on the property rights like: slavery and taxes. Six shielded liberty as preventing ex post facto laws and no religious tests. And five were basics of a republic as in legislative appropriation. All these constraints were need some systematic arrangement, but all constitutional preventions were exercised that the British Parliament had “legitimately

taken in the absence of a specific denial of the authority”. (History of the United States Constitution/Wikipedia sec4)

The management of the state power gave different kinds of undertaking. The people, in the state constitutions, did not count powers. They provided their delegates every right and authority not as a purpose to protect themselves. The Constitution expanded the restrictions which the states had formerly obliged upon themselves under the Articles of Confederation. (History of the United States Constitution/Wikipedia sec4)

During the mistreatment by the ex post facto that was passed by the state legislature, in 1783-1787; the Constitution prevented the ex post facto laws and bills of attainder to preserve the rights of the US citizens. Congressional power of the purse was kept by forbidding taxes or constrain on interstate commerce and foreign trade. (History of the United States Constitution/Wikipedia sec4)

The states could not make any law that may damage the obligation of the contracts. As a protection to the state future from abuses, framers look for methods to reconsider and reject state laws damaging the national welfare or the rights of citizens. They refused the proposals of the state laws and gave the Supreme Court appellate case jurisdiction over state law since the Constitution is the supreme law of the land. (History of the United States Constitution/Wikipedia sec4)

1.5.4.3. The Population Power

For giving legality to the House of Commons, the British had depended on a term of “virtual representation”. It was not essential to elect anyone from a large city, as the representatives of “rotten boroughs”, mostly abandoned medieval fair towns with twenty voters, “virtually represented” thriving mercantile ports such as Birmingham’s tens of

thousands. In the colonies, Philadelphia was the second in population only to London. (History of the United States Constitution/Wikipedia sec4)

They were all Englishmen with one definable interest. Legitimacy did not come from voting from people, but from membership in Parliament of the sovereign kingdom. In the same way as the Blackstone illustrated that the Member is “not bound...to consult with, or take the advice, of his constituents”. Also, Gordon Wood, who is Constitutional historian, gave details that “the Commons of England contained all of the people’s power and were considered to be the very persons of the people they represented”. (History of the United States Constitution/Wikipedia sec4)

The American theory of representation was relocating towards a theory sovereignty of the people whereas the English virtually representative was toughened into a theory of parliamentary sovereignty. Americans needed, in their new Constitution, community residency of voters and representatives, increased suffrage and balanced populations in voting districts. So there was a meaning that representation had to be proportioned to the population. Thus, the Convention would implement on both the House of Representatives and the United States Senate the new rule of “sovereignty of the people”. (History of the United States Constitution/Wikipedia sec4)

1.6. Conclusion

With the Declaration of Independence and the Weaknesses of the Articles of Confederation, the United States felt that they were in danger. They had not a strong system and government that could protect them from settlement or to conduct their own business affairs. For that, the Congress demanded from the thirteen colonies to send delegates to a meeting to agree about a new political system. Almost all of the states agreed except Rhode Island which refused. In this meeting, they agreed about a new

written document which was known as the Constitution of the United States in 1787. Through the second chapter, we are going to know more about the Constitution of the US.

Chapter Two: The Beginnings of the Emergence of the American Constitution

2.1. Introduction

In the beginning of the creation of the US new political system, which is the Constitution, appeared a set of problems. During the period of ratifying the Constitution, there were some of the Thirteen States which agreed with the idea of ratifying the Constitution while there were others who disagree. These also appeared two opposite opinions towards the Constitution which are the Federalists group and the Anti-Federalists group. The Federalist group was with the Constitution to achieve strong central government and to protect the rights of people. Otherwise, the opponents group, the Anti-Federalist, wanted government based on confederation states. In addition to that the issue of slavery started to emerge again.

2.2. The First Drafting

The first draft of the Constitution had been accepted by the convention on August 6th, 1787. Here was the article-by article model from which the final document would result some five weeks later. As the members started to regard the various sections, the compliance to compromise of the preceding days disappeared. At that time, Commerce is the most serious dispute. As the southern states, the exporters of raw material, rice and tobacco, were afraid that England-dominated Congress might harm their economic life. C.C. Pinckney, who is an American soldier and he was an aide to General George Washington during the American Revolution, announced that if Congress had the power to adjust trade, the southern states would be “nothing more than overseers for the Northern States”. (The Charters of Freedom “A New World at Hand” sec 7)

On August 21st, the discussion about the issue of commerce became related to another issue which is slavery. A lot of historians had disputed in opinions about the issue of slavery and everyone looks to it from his side. Once Martin of Maryland suggested a tax on slave importation, the convention was angry and pushed into a hot discussion of the institution of slavery and its moral and economic relationship to the new government. Rutledge of South Carolina stated “Interest alone is the governing principle with nations” .i.e. He confirmed that slavery had nothing at all to do with morality. Also, Sherman, who gave another name to the “Great Compromise”, was fallen the tender issue of slavery before it endangered the convention. In addition, Mason of Virginia mentioned his interest over unlimited importation of slavery but afterwards denoted that he preferred federal protection of slave property already held. This irritating issue, which Sherman and other historians feared could permanently divide northern and southern delegates, was settled by a “bargain”. (The Charters of Freedom “A New World at Hand” sec 7)

The bargain was not good idea to those working to abolish slavery. According to Samuel Hopkins, who is a Congregationalist minister and abolitionist in Connecticut, accused that the convention sold out: “How does it appear . . . that these States, who have been fighting for liberty and consider themselves as the highest and most noble example of zeal for it, cannot agree in any political Constitution, unless it indulge and authorize them to enslave their fellow men . . . Ah! these unclean spirits, like frogs, they, like the Furies of the poets are spreading discord, and exciting men to contention and war”. Also, Hopkins regarded the Constitution a document fit for the flames. (The Charters of Freedom “A New World at Hand” sec 7)

The way of electing the executive is one of the last major problems. A number of proposals, which containing direct election by people, by state legislatures, by state governors, and by the national legislature, were regarded. The outcome was Electoral

College, attractive and inquisitive but politically useful. Thus, the great states obtained proportional force in the number of delegates, the state legislatures obtained the right of selecting delegates, and the House the right to select the president. (The Charters of Freedom “A New World at Hand” sec 7)

On September 8th, the convention was willing to rotate the Constitution over to a Committee of Style and Arrangement. Years later, Gouverneur Morris, who represented Pennsylvania at the Convention in Philadelphia in 1787, wrote to Timothy Pickering, who was a Senator and Representative from Massachusetts, that:” that instrument was written by the fingers which wrote this letter”. On September 12, the Constitution was presented to the convention, and the representatives started to regard each section. Even though the close votes pursued on some articles, it was obvious that the hard work of the convention in the summer of 1787 was reaching its end. (The Charters of Freedom “A New World at Hand” sec 7)

On September 17th, the members met for the last time. Franklin had written a speech in which he urged for unity behind the Constitution. He stated:”I think it will astonish our enemies, who are waiting with confidence to hear that our councils are confounded like those of the builders of Babel; and that our States are on the point of separation, only to meet hereafter for the purpose of cutting one another's throats”. (The Charters of Freedom “A New World at Hand” sec 7)

As the members of the convention came back to their homes, Alexander Hamilton, who is one of the major authors to the Federalist Paper, secretly estimated the possibilities of the Constitution for ratification. In its favor were the support of Washington, commercial interests, men of property, creditors and the belief among many Americans that the Articles of Confederation were insufficient. Against it was the opposition of a few powerful men in

the convention and state politicians afraid of losing force, the general disgust against taxation, the doubt that a centralized government would be unfeeling to local interests, and the fear from debtors that a new government would “restrain the means of cheating Creditors”. (The Charters of Freedom “A New World at Hand” sec 7)

Then, on March 1798, the Constitution was officially adopted asserting:

We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the United States of America. (Schroeder 6)

2.3. Controversial Opinions about the Constitution

After the American Revolution and its outcomes, the term “Federal” appeared as an expression to people who supported the colonial union and the government that formed under the Articles of Confederation. Those people who felt that the Articles of Confederation was weak named themselves as “Federalist group”. Jackson Turner Main said that: “to them, the man of 'federal principles' approved of 'federal measures,' which meant those that increased the weight and authority or extended the influence of the Confederation Congress”. In the other hand, there were other group who objected the Federalist one, which known as the “Anti-Federalist group”.

2.3.1. The Federalist Group

Even that the Constitution was drafted but it did not guarantee its adoption. In every state there were groups and concerns opposing as well as corroborating the ratification. Those who supported the Constitution have been named themselves as the Federalists and

Nationalists, because their basic thoughts centered on the requirement for a strong national government. Otherwise, there was an opposing group who has been named as the Anti-Federalists, because they argued for a government based on a confederation of states. Since the Federalist earned and won upon the Anti-Federalist, history did not treat them in a kindly way. (Rossiter pph 1,2). Through that, we notice the Federalist group had strong opinion to win and took government in contrast to the Anti-Federalist.

The Federalist's group demands were about the power of the three branches (legislative, judiciary and executive branches). They wanted to separate the powers into independent branches to protect the rights of the people. Each branch represents a various phase of the people, and since the three branches are equivalent, no one group suppose control over another. In addition to that, the Federalists demonstrated that it would be dangerous for the people if they list their rights. They thought that it is better to list none at all. Because if the national government were to preserve certain listed rights, what would prevent it. (Rossiter pph 3,4)

Thus, a group of historians, James Madison, Alexander Hamilton and John Jay, gathered and made arguments which appeared in a series of eighty-five newspapers essays published in New York City beginning on October 27th, 1787, and concluded on August 16th, 1788. It was written under the pseudonym of Publius. These essays are regarded the most authoritative explanation of the Constitution ever written. (Rossiter pph 3,4)

One of the most well-known essays is the Federalist N.10, written by James Madison, in which he put forth the classic analysis of the republic. The Anti-Federalists had disputed that the United States had too many factions and was too large, to be governed by democratically by a single government. For that Madison confessed that there were many factions in the country. Under classic constitutional theory, majoritarian rule would govern, and at the expense of minority rights. (Rossiter pph 5, 6)

Madison demonstrated that the solution of the republican represented in the Constitution in which allowing the different factions to state their opinions and to try to influence the government. As a substitute of the majority putting down the minority, the various interests would confer and negotiate their differences, and thus reaching into a solution in which majority would govern with taking care and consideration to the minorities. (Rossiter pph 5, 6)

The Federalists argued that the national government had to be reformed because independence demanded a more powerful central authority than the Articles of Confederation could provide. (Edling 220)

2.3.2. The Anti-Federalist Group

The Anti-Federalist were compiled of various elements, containing those who opposed the Constitution since they believed that a stronger government menaced the sovereignty and prestige the states, localities or individuals; those that alleged a new centralized, disguised monarchic power that would only put back the cast-off despotism of Great Britain with the suggested government; and those who simply feared that the new government menaced their individual liberties. Few of those opponents thought that the central government under the Articles of Confederation was enough. Also there were others who believed that whereas the national government under the Articles of Confederation was too weak, in contrast, while the national government under the Constitution was too strong. Another grievance by the Anti-Federalists was that the Constitution supplied for centralized government rather than federal government and that really federal form of government was a leaguings of states as under the Articles of Confederation. In the other hand, in the Federalist paper by James Madison confesses that the new Constitution has the features of both. (Anti-Federalism/Wikipedia pph 3)

For the period of debate over the ratification of the Constitution, many independent local speeches and articles were published all across the country. It was under pseudonym. Patrick Henry appeared overtly against the Constitution. They disputed that the strong government which suggested by the Federalist group was as a menace to the rights of individuals and the president would be the king. In addition to that, they refused the federal court system invented by the proposed Constitution. (Anti-Federalism/Wikipedia pph 4)

The opposition to the Constitution was strong in each state, as an example; North Carolina and Rhode Island. They prohibited ratification until the definite establishment of the new government. Individualism was the strongest element of opposition. They felt that adding the Bill of Rights to Constitution is necessary. The resistance of Rhode Island against the Constitution was so powerful that Civil War approximately broke out on July 4th, 1788, as soon as the Federalist group of the Country Party guide by Judge William West walked into providence with over 1000 armed protesters. (Anti-Federalism/Wikipedia pph 5)

The Anti-Federalist designed to play upon these emotions in the ratification of the convention in Massachusetts. With this point, five states had simply approved the Constitution, but the Massachusetts convention was distant from harsh and controversial. After a long dispute, a compromise known as the Massachusetts Compromise was arrived. Massachusetts would approve the Constitution with advocated condition in the ratifying instrument that the Constitution be amended with a Bill of Rights. (Anti-Federalism/Wikipedia pph 6)

Consequently, once the Constitution applied in 1789, Congress sent a series of twelve amendments to the states. Ten of them were directly ratified and became known as the Bill of Rights, with one of the other two becoming the 27th Amendment. Therefore, while the Anti-Federalists were failed in their mission to prohibit the adoption of the Constitution, their

efforts were totally useless. Also, it became known as a powerful group among the Founding Fathers of the United States.

The Anti-Federalist movement was depleted, with the passage of the Constitution and the Bill of Rights. (Anti-Federalism/Wikipedia pph 7)

2.4. Problems in the Creation of the Constitution

The Constitution of the United States faced many problems for drafting it. It involved the cooperation from its creators by doing different challenges and compromises. Among those problems are: the separation of power, slavery, the bill of rights (amendment to the constitution) ...etc

2.4.1. The Separation of Power

One of the most effective problem in creating the Constitution was that the separation of powers between the national government and the states. The argument was between the Federalists group, who wanted a strong central government, and the Anti-Federalists one, who were suggesting stronger, and independent states. After a compromise between the two opposing groups, the Constitution permitted for a federal government with general powers. The federal government would be included of the three branches (executive, legislative and judiciary branch). Though the states were abandoned to mostly govern themselves, the federal government was granted the authority to reject the states in some instances, such as with immigration policy. (Gabon pph 2)

2.4.2. Slavery

Slavery is another problem that the Constitution had faced. Slavery made a dispute between the northern states and the southern states. The southern states corroborated slave

trade, while the northern did not. Particularly, there were some northern states allied with southern states, for thus it became so difficult to vote against slave trade. Next compromise, the southern states permitted trading slavery to come to finish gradually after twenty years.

The slave trade prohibited on January 1st, 1808. But, it did not end in that date, some states carried on with illegal slave trade. The official day of abolition slavery is with the ratifying of the thirteen amendments on December 6th, 1865. (Gabon pph 3)

2.4.3. The Bill of Rights

The Bill of Rights, which is an amendment in the Constitution to protect individual liberties, is one of the most basic pieces of the US Constitution, but it did not emerge in the first draft. The framers disputed with this point. Some of them thought that it is not significant to add it, since every state had its own Constitution, while the others insisted that the Bill of Rights be contained as a fundamental part of the Constitution. After much negotiation, the framers approved to join a formal Bill of Rights to the Constitution in December 1791. (Gabon pph 4)

2.5. Ratification of the Constitution

Three months after the signature of the Constitution, Delaware was the first state that ratifies it and that on December 7th, 1787. New Hampshire was the ninth state, setting the Constitution into effect on June 21st, 1788. However the Founding Fathers would not be certain about the acceptance of the Constitution until New York and Virginia as two important states ratified it. The power caused many problems to the Constitution. It arranged opposition to the Constitution had developed in these two states and others. Men as Elbridge Gerry, Patrick Henry, Richard Henry Lee and George Mason disputed the ratification. (About America 13)

Critics refused that a Bill of Right had not been contained, that the president had too much independence, and that the Senate was too noble and aristocratic. Moreover, they believed Congress had too many forces and the national government had too much command. The supporters of the Constitution, who was known as the Federalists, rallied to corroborate ratification. In the other hand, the opponents to the Constitution were known as the Anti-Federalist. The two groups upgraded their reasons through newspapers, pamphlets and debates in the ratifying conventions. Also they developed into the first American political party. (13)

Later Virginia and New York ratified the Constitution; Virginia on June 25, 1788 and New York on June 26. Untimely in January 1789, all the ratifying states except New York, which delayed to appoint electors, chose the presidential electors in their legislatures or by a direct vote of the people. On February 4th, the electors appointed George Washington as the first President in the United States. On March 4th, the first Congress met in New York City and this happened under the Constitution. On April 30, Washington was inaugurated. On the contrary, Carolina and Rhode Island objected to agree the Constitution and take part in the government until the Congress allowed by adding a Bill of Rights. (13)

2.6. Origins of the Constitution

The root of the Constitution of 1787 is philosophically and from the developed British notion of the eighteenth century, but its force was a clearly practical consideration: how to put back British colonial rule with a government that was actual but repressive. The United States had been struggling with this dilemma since the Declaration of Independence in 1776, even after the end of the War of Independence in 1783; it still had not found a solution. Some of the difficulty is that in the truth of accomplishing independence and applying self-government were clearly different projects and Americans sometimes transited from the one

to the other. Also the situation in which people provided with the momentum for taking their independence were not the same with those who wrote the Constitution in 1787. Each one has specific goals, interests and ideologies too. The result was that the more essential idea behind the Declaration of Independence was putted back by the more pragmatic conservative of the Founding Fathers. As a result, the Constitution appeared as an innovative document which joined between radicalism, conservatism and sheer pragmatism. (McKeever and Davies 11, 12)

As Gordon Wood has called the American Constitution that: “intrinsically... aristocratic document, designed to check the democratic tendencies of the period” and the “end to classical politics.”(Bederan 222). Through that, we can say that Americans was considered the Constitution as a new document that would change everything.

2.7. The Limited Role of the Constitution

The Constitution was created by the Constitutional Convention in Philadelphia. The Constitution of the United States defines the law of the US government by the three well-known branches of government; the legislative branch, executive branch and judiciary branch. In addition, the Constitution specified a power for each branch to be exercised. In general, the Constitution of the U.S is the worldwide lawful document utilized in the Western world to preserve the basic rights of the US citizens. The Constitution did not protect only people, but it also protected business affairs. (Dahl 142)

There are some authors had wrote about the Constitution. As Robert A., is one of those writers, mentioned in his book that: “no Constitution can ensure democracy in a country where the conditions favorable to democracy are absent”. He means that the existence of the favorable condition to democracy is very important. For preserving and

ameliorating these favorable conditions would accomplish far more in achieving a more democratic order than any changes in the Constitution. (142)

In 1787, the framers were so conscious of their limits. One of the most significant characters of the Constitution is its amazing shortness in writing it. Depending on the style in which it is printed, in which the written form takes approximately from fifteen to twenty pages, in addition to another five to seven pages of amendments. The cause that enabled the Constitution to realize this achieve is its focusing in just three elements that helped it to make it so brief are: structures, powers and rights. (142)

The Constitution is mostly dedicated to first tow matters, structures and powers allocated to these structures. Provisions about the third matter are found principally in the Bill of Rights and in later amendment. A significant character of these constitutional rights is that they are assured approximately totally by imposing constitutional limits on the government. The Constitution tacitly supposes that citizens will own the opportunities and resources necessary in order for them to act on their rights. (Dahl 143)

2.8. Conclusion

In spite of the problems that faced the Constitution of the US, at the end, it had been ratified by all the states. And thus came back to the creators of it for their challenges and cooperation. But, it was need some of the amendments and this what we are going to see in the next chapter.

Chapter Three: The Developments of the American Constitution

3.1. Introduction

Finally, in May 1790, all of the Thirteen States voted to ratify the Constitution, with Rhode Island being the last and North Carolina overturning their original opposing vote in November 1788. And that was with some conditions would be to realize. As a lot of Federalists argued, as in Federalist No. 84, that the people gave in no rights in adopting the Constitution. For that, many states voted with recommendation of what would become known as the Bill of Rights as outlined in the Anti-Federalist papers be added, and the first amendments to the United States Constitution became law on December 15, 1791.(The Greatest Document pph 8) .The Bill of Rights served to protect the natural rights of liberty and property. In addition to that, the states claimed other rights that would help them to live in equality, peace and security such as abolition of slavery, liberty of speech, religion and press, gave women the right to vote ...etc

3.2. Constitutional Structures

The United States Constitution has two main goals to serve which are to make politics possible and to restrict it. Though, the United States Constitution varies from all modern constitutions in vital respects.

First, the Constitution of US puts constitutional structure on rights. It was unlike modern one. The original Constitution of America did not include Bill of Rights at the beginning, it was added just after the ratification, and since the authors had reassured themselves that the rights guarantees would leave the constitutional structure unaffected. (Greve sec 2)

The second distinguished character of the Constitution is the method in which it looks for the limit to politics and to inhibit the cruelty that used by majority on the minority. Several modern constitutions follow this end by mediums which political scientists call “consociational”. The main thought is to make sure minority representation in all government institutions. The plan and the strategy to that end contain proportional representation, coalition government fiscal and other distributional guarantees for less-prosperous groups or regions. As contrast, according to the Constitution of the US does not imagine or supply for any of this. The Constitution is considered as discipline of motivations: it sets up competing institutions with competitors, empire building motives and it provides them with mediums to work on those motives and to preserve their institutions. Like James Madison, the Constitution’s father, put it, “Ambition must be made to counteract ambition.” Competition, not consensus and consociation, is the name of the institutional game. (Greve sec 2)

The Constitution deals with states on the principle of formal equality and then obliges to compete with one another for productive inhabitants and companies. It achieves this by forbidding the interference of states in free commerce. No state may enforce taxes or regulatory equivalent, and none may distinguish against strangers with respect to citizens’ “privileges and immunities”. Also, it assures for competitive conditions by preventing states from utilizing citizens of each other. In addition to that, it assures competitive conditions by what it does not say or include. Like Kenneth Dam, who served as Deputy Secretary of the Treasury in U.S, put it in a now-ancient but still magnificent illuminating article, the Constitution of US has no “fiscal constitution”. It prevents Congress from legislating taxes that clearly make differentiate against specific states. Nevertheless, the Constitution does not appoint any tax to any degree of government.

Moreover, the Constitution does not entrust the protection of its competitive federal order to the United States Congress but it entrusts to the United States Supreme Court. The

constitutional prohibitions against state protectionism and exploitation are in a sense redundant: Congress could enact them under its authority to adjust commerce among the states. If the Founders nevertheless wrote the prohibitions directly into the Constitution, it was to render them judicially enforceable and to dispense, to this extent, with a fickle, easily distracted legislature. The Supreme Court's jurisdiction is the institutional backbone of the Constitution's competitive federal order. (Greve sec 2)

3.3. Provisions for Amendment to the American Constitution

The creators and the authors of the Constitution were intensely aware that from time to time alters would be required if the Constitution was to suffer and preserve the steps with the development and the growth of the nation. In the same time, they were also conscious that the operation of change should not be too easy, allowing ill-conceived and quickly passed amendments. In addition, they wanted to make sure that a minority could not prevent any action that is desired by the people. Consequently, their solution was to invent a dual process by which the Constitution could be amended. (The American Constitution sec 9)

The Congress which is by a two-thirds vote in each house may start an amendment. On the other hand, the legislatures of two-thirds of the states may ask Congress to call a national convention to talk about and outline the amendment. (The American Constitution sec 9)

Aside from the direct process of changing the Constitution, the effect of its provisions may be changed by judicial interpretation. In the early history of the republic, the Supreme Court set up the principle of judicial review, in which the power of the court to interpret works of Congress and determine their constitutionality. Also, the doctrine embraced that

power to clarify the meaning of different sections of the Constitution as they implement to changing legal, political, economic and social conditions. (The American Constitution sec 9)

Congressional legislation, passed to apply the provisions of the main law or to adapt it to changing conditions, also widens and changes the meaning of the Constitution. Thus, the rules and regulations of numerous agencies of the federal government may have a similar effect. The acid test in both cases is whether, in the opinion of the courts, such legislation and rules conform with the intent of the Constitution. (The American Constitution sec 9)

3.4. Amendments

3.4.1. The Bill of Rights

In the Constitutional Convention in Philadelphia in 1787, George Madison, who was the sixth Governor of Kentucky, suggested appending the Bill of Rights, which is the collective name for the first ten amendments to the United States Constitution. Since the absence of it turned out to be an obstacle to the Constitution's ratification by the states. Mason did not convince the delegates of the other states that the Constitution required its own Bill of Rights. Like several supporters of the Constitution illustrated during the resist for ratification, the certain grants of power that the constitution had restricted the actions of the government and in effect made the constitution the guarantor of the people's rights and liberties without a Bill of Rights. (The Bill of Rights to the U.S. Constitution pph 1,2)

All of that explanation did not gratify Madison and the others who opposed the ratification of the Constitution. They were afraid because of tow powerful national government, and also they thought that without clear securities towards liberties such as liberty of press, liberty of religion and even liberty of speech the national government would be as a danger to liberty. (The Bill of Rights to the U.S. Constitution pph 1,2)

In Virginia and after the convention of ratifying the Constitution, the proponents and the opponent to the ratifying of the Constitution suggested a list of amendments, some of which were aimed to decrease the power of the new government and some of which drew on the Virginia Declaration of Rights and the English Bill of Rights for explicit protection of fundamental liberties. (The Bill of Rights to the U.S. Constitution pph 3)

Thus, James Madison's idea toward the issue had changed from all that debates. He had not thought that the Constitution needed a Bill of Rights during the operation of ratifying. But the objections to the Constitution that its opponents raised persuaded him that the addition of a Bill of Rights would calm the fears of the opponents and give the government under the new Constitution a chance to succeed. As a result, he depicted on the amendments that Virginia and other state ratification conventions had suggested to present the first draft of what became known as the Bill of Rights. It took the shape the first ten amendments, because it acted their ways through the House of Representative and the Senate. In 1789, Congress surrendered it and other amendments to the state legislature for approval. (The Bill of Rights to the U.S. Constitution pph 4,6)

The Bill of Rights served to protect the natural rights of liberty and property. The Bill of Rights forbids the federal government from reducing the freedoms of religion, speech and press and the right to request the government for restore the complaints: the right to keep and bear arms, the right of the people not to have troops quartered in their homes, the right to protection against unreasonable government searches and seizures, the right to jury trials in civil and criminal cases and of a grand jury in criminal cases, the right to due process of law in court, a prohibition on government taking private property without just compensation, a prohibition on excessive bail and fines and on cruel and unusual punishments. (The Bill of Rights to the U.S. Constitution pph 4,6)

3.4.2. The Prohibition of Slavery

Despite initial disagreements over Slavery at the Constitutional Convention in 1787, the Founders once again proved their promise to preserving the unity of the new United States by solving to diffuse sectional strains over slavery. (The Founding Fathers and Slavery pph4)

The 13th amendment appeared to solve the problem of slavery and to abolish it. The 13th amendment passed the Senate on April 8, 1864, and the House of Representative on January 31, 1865. Abraham Lincoln agreed the Joint Resolution of Congress surrendering the suggested amendment to the state legislature. It had ratified by an essential number of states on December 6, 1865. The 13th amendment to the United States Constitution grants that “Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.” (The Founding Fathers and Slavery pph4)

In 1863, President Lincoln had gave out the Emancipation Proclamation, in which he want to give freedom to slaves, stated “all persons held as slaves within any State, or designated part of a State, the people whereof shall then be in rebellion against the United States, shall be then, thenceforward, and forever free.”. In spite of the Emancipation Proclamation, Slavery did not end. (The Founding Fathers and Slavery pph4)

The 13th amendment was passed at the end of the Civil War before the Southern states had been restored to the Union and should have easily passed the Congress. In spite of the passing of the 13th amendment by the Senate on April 1864, but the House of Representatives did not. Thus, Lincoln exploited that point and he took an active role to guarantee the passage of the 13th amendment through Congress. He persisted that the passing

of the 13th amendment would be added to the Republican Party platform for the approaching Presidential elections. And thus, the 13th amendment becomes accepted. (The Founding Fathers and Slavery pph4)

Consequently, the United States finally found a solution to the issue of slavery with the adoption of the 13th amendment. (The Founding Fathers and Slavery pph4)

3.4.3. Granting Women the Right to Vote

At a time when women are truck and car drivers, it is astonishing that the U.S. Constitution does not guarantee women the same rights as men. During that time women protested and conducted a movement against the government to make to them equal rights as men. As, in 1776, Abigail Adams, was the wife of John Adams who was the second President of the United States, urged her husband, John, that he with the other framers of their founding documents should "Remember the ladies". Then, he, who would be the second president, answered, "Depend upon it. We know better than to repeal our masculine systems," and women were left out of the Constitution. (Women's Less Than Full Equality under the U.S. Constitution/article phh 1,2)

For that, the delegates found that it is very necessary to add some amendments that would help the people to solve their problems. The nineteenth amendments are one of those amendments that would be ratifying by the Congress to solve that problem. It guarantees U.S. women the right to vote. And the struggle for the rights of women to vote started in the midst of the nineteenth century.

The amendment was first presented in Congress in 1878, but it was approved on August 18, 1920. Those who supported voting rights for women used different ways and strategies to accomplish their purpose. Some of them acted to go by suffrage acts in every

state; consequently, it obtained a result which is adopting female suffrage legislation just in nine Western states in 1912. Otherwise, there were others who used the courts to challenge male-only voting laws. Also, the suffragettes faced several obstacles during their struggle. They were heckled, jailed, and sometimes even attacked physically. (The Civil Rights Movement sec 2)

In 1916, approximately all of the arrangements of the female suffrage had concurred that the best way was to follow the aim of a Constitutional Amendment. After next years, suffrage to women had granted by New York. This was quickly followed in 1918 by President Woodrow Wilson's, who was the twenty eighth President of the United States, change in his position to support an amendment in 1918. So, these significant events aided change the political balance in favor of the vote for women. After that, on May 21, 1919, the U.S. House of Representatives went by the amendment, followed in two weeks by the Senate. Therefore, in 1920, the amendment had been approved by three-fourths of the states. Then, Bainbridge Colby, who is the U.S. Secretary of State, confirmed the ratification on August 26, 1920. And thus women had acquired the constitutional right to vote after long time of challenges. (The Civil Rights Movement sec 2)

3.5. The Constitutional Democracy

Constitutional Democracy is the government's name of the United States. It took that name because the government is based on the agreement of the people. In addition to that, the government works according the principles of majority rule. For example, the people choose their representatives and senators in Congress by majority vote, and the members of Congress make laws according to majority rule. (Ritchie et all pph 1)

The popular and democratic government of the United States is restricted by the superior law of the Constitution in purpose to preserve the “unalienable rights” of every person. For that, the United States became Constitutional democracy not an unlimited democracy. (Ritchie et all pph 2)

James Madison and some framers of the Constitution feared from the new menace to liberty that would come from a tyrannical majority. Since, at past, the threat to liberty comes from the uncontrolled power of a king or an aristocracy. He wrote a letter to Thomas Jefferson in which he urged him on the new danger that would threat their liberty:

Wherever the real power in a Government lies, there is the danger of oppression.

In our Governments, the real power lies in the majority of the Community, and the invasion of private rights is chiefly to be apprehended, not from acts of Government contrary to the sense of its constituents, but from acts in which the Government is the mere instrument of the major number [majority] of the constituents. This is a truth of great importance, but not yet sufficiently attended to.... Whenever there is an interest and power to do wrong, wrong will generally be done, and not less readily by [a majority of the people] than by a... prince.

(Ritchie et all pph 3)

Also Madison desired government which ruled by the majority by duly elected representatives of the people, but their power must be restricted by the higher law of the Constitution. If not, people that the majority hated could lose freedoms and opportunities. (Ritchie et all pph 5)

Moreover, as Madison, in The Federalist No 10 and 51, disputed about the limit of power of constitutional in government in purpose to preserve the freedom and safety of individuals. He contradicted absolutely the idea of tyranny. (Ritchie et all pph 6)

What does it mean by Constitutional Democracy? Constitutional Democracy is government which ruled by majority with protection to the rights of minority. It took the term democracy because it depends on the popular foundation and the rule of the majority. It is constitutional because their power is restricted by a supreme court. (Ritchie et all pph 7)

The Supreme Court, in the constitutional democracy of the US, utilizes its power to make decisions in some issues by restricts on the rule of the majority or on the rights of minority. For instance, West Virginia State Board of Education v. Barnette (1943) is a decision by the Supreme Court in which it has limited the power of majority rule in order to preserve the rights of freedom to the individuals of minority. (Ritchie et all pph 8)

3.6. Conclusion

To conclude, the ratification and the adding of the amendments to the Constitution made almost all of the states satisfied. And thus, the United States of America had a strong and new political system which would help the states and the people to live in peace.

General Conclusion

After the Declaration of Independence and the Revolutionary War, Americans had felt themselves as independent states and they wanted to govern under an independent government. For that, they demanded from the congress to find a solution to that. Thus, the Congress determined to use the Article of Confederation, which adopted in 1781, as the new system that would protect them from any settlement and it would serve them also in their business affairs. With time, Americans, also, did not feel by that system with security since it had no power of national taxation, no power to control trade and it provided for a comparatively weak executive.

Then, Congress and delegates had tried to amend the Articles but this remained useless. Consequently, they arranged some convention to find a solution. They organized another written document which was called the Constitution of the United States of America.

In addition, that document also passed with some problems. At the beginning, Americans felt that there are some gaps in that Constitution. There is no individual right to people, and the issue of slavery emerged again. Moreover, there were states who did not agree with it. Besides, it appeared two controversial groups, which are the Federalist and the Anti-Federalist, were disputed about it. Therefore, Congress became obliged to do what the states demanded by adding some amendments to the Constitution. That amendment considered as rights to American people.

Finally, we can say that any Constitution in any country, we will find the reasons that led to create it and also it will also pass through different problems during its ratifying.

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