

A 1790 print of Federal Hall in New York, where the first Congress convened.

Congress' First Quorum Call

In 1789, Pay Raises, Protocol, Cabinet Confirmations and a Propensity to Speechify



Sen. William Maclay, who kept the only complete record of the first Senate's secret sessions.

By Sarah Booth Conroy
Washington Post Staff Writer

Two hundred years ago this week—despite muddy roads, long distances, states' rights, deep doubts and in some cases, as George Washington put it, "stupid and listless"—the first Congress to convene under the new Constitution finally attained a quorum.

That's when the problems of the 101st Congress began. They all can be traced back, one by one, to the 10,000 sacred scraps and precious pieces being edited in a project called "The Documentary History of the First Federal Congress," Charlene Bangs Bickford, director, Kenneth Bowling and Helen Veit, associate editors.

Vol. 1 of the "Documentary History" puts it this way: "The First Congress confronted in one form or another, almost every problem that would rise to plague or threaten the Union of the States in the future: secession . . . State's rights, constitutional amendment, admission of new states, threat of war, military preparedness, inflation, depression, unfavorable trade balance and tariffs, reforestation, speculation, sectionalism, slavery, Indian affairs, veterans' pensions, congressional salaries,



Director Charlene Bangs Bickford, center, and associate editors Kenneth Bowling and Helen Veit are documenting a history of the first Federal Congress.

election irregularities, government support of science, government patronage of the arts, administration of public lands and many others. Some of the problems it solved—some it merely postponed."

Observes West Virginia Sen. Robert Byrd in his weighty new 800-page tome, "The Senate, 1789-1989: Addresses on the History of the United States Senate, Vol. 1":

"Upon reading their diaries and letters, one is tempted to think of these men as colleagues who shared many of the same concerns we do now."

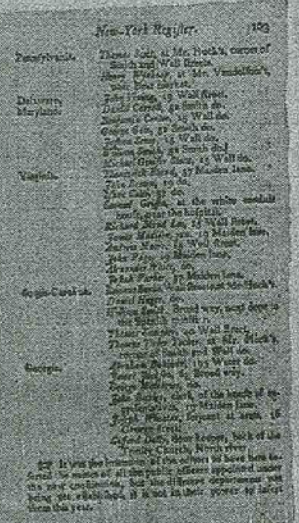
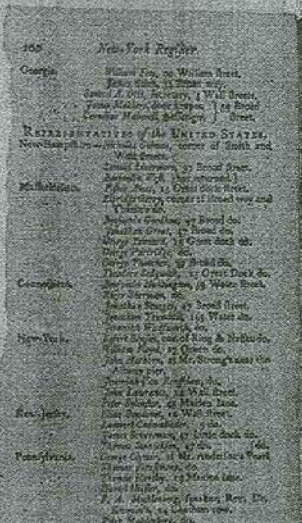
For years, the first Congress has been little known except to a small group of historians who love their country and its past. But this bicentennial month, at least four publications and two exhibits will reveal that history to the public.

Byrd's Eye View

Byrd, the former majority leader and now chairman of the Appropriations Committee, views the Senate with his insider's wisdom of 37 years in the Congress, and the help of the Senate Historical Office directed by Richard A. Baker with historians Donald A. Ritchie and Kathryn Allamong Jacob.

Byrd likes to tell how he came to give the first of the 42 orations that form his book. On March 21, 1980—a Friday, when senators like to go home to their states—Mary Anne Moore, Byrd's younger granddaughter, came with her fifth-grade class to see the Senate at work. Not wanting to disappoint them, Byrd extemporaneously addressed them on the Senate's history. The next week, his older granddaughter, Mona Byrd Moore, and her father came for their performance.

By then, even Byrd's colleagues were hooked and wanted to hear what came next. Nine years later, the book—a magnificent volume on thick heavy paper, with rare illustrations and a cover that rarely



The First Congress

CONGRESS, From F1

in this century—has just been published by the U.S. Government Printing Office, edited by Mary Sharon Hall. Another volume is at the printers.

Portrait of the Politicians

Fat, thin, jolly, dour—take off the wigs and the ruffled cuffs in the portraits of "The First Federal Congress, 1789-1791," and the men are much like their 101st successors, not only in image but in background, as curator Margaret C.S. Christman shows at the National Portrait Gallery through July 23.

In the exhibit and the accompanying book, Christman brings the First Congress to life with the portraits, biographies of the politicians, their punch bowl, their glass pitcher, the newspaper clippings of their day, and even swatches of their garments.

The Documents in the Case

All congressional studies begin with the basic research and editing of "The Documentary History of the First Federal Congress." That prodigious enterprise—not yet halfway through its projected 22 volumes—lives on handouts from George Washington University and grants from the federally funded National Historical Publications and Records Commission. The great work is so poverty-stricken, its editors take up a collection among themselves to buy ink for their computer printer and dig into their pockets to feed the coin-operated copier across the street, because the project can't afford a photocopy machine. They can't add any more directors (no matter how philanthropic) to their board right now because they blew their entire year's supply budget on their last letterhead paper.

Even with such odds, they also have produced this year an exhibit to open soon at Union Station here and the U.S. Courthouse in New York, and a concurrent book, "Birth of the Nation: The First Federal Congress 1789-1791."

The First Congressional Chronicler

Everyone who studies the First Federal Congress is most indebted to William Maclay, senator from Pennsylvania, the patron saint, the god in the ink bottle, the source. "Inscrutable," Byrd calls him. "The small, envious and suspicious character," historian J. Franklin Jameson names him. His recollections from March 4, 1789, to March 3, 1791, are the only complete record of that first Senate's secret sessions, and are far better reported than that of the open House. There,

as Bickford and Bowling write in the "Birth of the Nation" book that will accompany the June exhibit, "Although editors and reporters for several newspapers sat on the House floor, taking notes on the speeches, only a few reported the debates with any consistency."

"The Diary of William Maclay and Other Notes on Senate Debates" will be published on April 24, in its first definitive edition as Volume IX of the "Documentary History" by Johns Hopkins University Press. This forgotten masterpiece, full of Maclay's dire forebodings, delicious gossip, meticulous observations, trenchant criticisms and wry remarks, is superbly annotated and edited by Bowling and Veit.

The Laggard Legislators

On March 4, 1789, New York had dolled up its Federal Hall, according to the French taste of Pierre L'Enfant. Shots from the battery's big guns signaled the end of the Articles of Confederation and the church bells rang in the beginning of government under the Constitution.

But the hall was almost empty: 13 of the 59 representatives had struggled in, and only eight of 22 senators honored the country by their presence. The ponderous call, "I suggest the absence of a quorum," has echoed down through the halls of Congress ever since, because of the well-known habits of members to tarry along the way.

It began to look as though Congress had forgotten to convene. Byrd, sympathizing from his years as the Democratic whip, Senate majority leader and minority leader and president pro tempore, points out that the very first Senate Journal reads, "The number not being sufficient to constitute a quorum, they adjourned."

"The House of Representatives finally proceeded to business on April 1, a date some members thought inauspicious, being All Fools' day," wrote Bickford and Bowling in "Birth of the Nation." The Senate attained its quorum five days later.

Salute the Solons

These were men experienced in the business of the nation. Byrd gives this count: Eight had been members of the Constitutional Convention; 42 legislators in the Continental Congress or the Confederation Congress; 84 in state legislatures; 89 governors. Sixty had served as Revolutionary War soldiers.

Byrd, who earned his own law degree while in the Congress after 10 years of night classes, admits that most were lawyers, criticized as "machines of precedent" and "legal harpies." Maclay writes that lawyers and

merchants were generally the choice of the electorate, but added that "it seems as difficult to restrain a Merchant from striking at gain, as to prevent the keen spaniel from Spring at Game . . . Lawyers have keenness and a fondness for disputation. Wrangling is their business."

Anyway, the Senate, under the suspicious watch of the House, counted the electoral votes and sent messengers to George Washington to certify his election. The great man, elected by 69 votes to John Adams' 34 and John Jay's 9, set off for New York. Runner-up Adams, according to the rule of the time, was named vice president.

Adams, subsequently presiding as president of the Senate, commended his men by calling them "those celebrated defenders of the liberties of this country, whom menaces could not intimidate, corruption seduce, nor flattery allure."

Not that everyone was so complimentary of the Congress. Christman quotes Elbridge Gerry, a contemporary opponent of the Constitution: "Their names then ought not have been distinguished by federalists and antifederalists, but rats and antirats."

Washington Inaugurated

As today, there was much attention to the president's inaugural speech, then given on April 30. Maclay describes it (punctuation and capitalization his):

" . . . this great Man was agitated and embarrassed more than ever he was by the levelled Cannon or pointed Musket. he trembled, and several times could scarce make out to read, tho it must be supposed he had often read it before. he put part of the fingers of his left hand, in the side, of what I think the Taylors call the fall, of his Breatches, changing the paper into his left hand, after some time, he then did the same with some of the fingers of his right hand. When he came to the Words *all the World*, he made a flourish with his right hand, which left rather an ungainly impression. I sincerely, for my part, wished all set ceremony in the hands of the dancing Masters, and that this first of Men, had read off, his address, in the plainest Manner without ever taking his Eyes From, the paper. for I felt hurt, that he was not first in everything."

Maclay thought Adams funnier in his ruminations about titles. He quotes the vice president worrying about how, as president of the Senate, he should receive the president of the United States:

" . . . I do not know whether the framers of the Constitution had in view the Two Kings of Sparta or the



Sen. Robert Byrd with his first volume of orations on Senate history.

BY JAMES K.W. ATHERTON—THE WASHINGTON POST

Two Consuls of Rome when they formed it, one to have all the power while he held it, and the other to be nothing; nor do I know whether the Architect that formed our room, and the wide Chair in it, (to hold two I suppose) had the Constitution before him.

"Gentlemen I feel great difficulty how to act. I am possessed of two separate powers, the one in esse, and the other in posse, I am Vice President, in this I am nothing, but I may be everything, but I am President also of the Senate. When the President comes into the Senate, what shall I be, I cannot be then, no Gentlemen I cannot, I cannot—I wish Gentlemen to think what I shall be."

Maclay goes on to describe Adams' actions and his own reactions:

"here as if oppressed with a Sense of his distressed situation, he threw himself back in his Chair. A Solemn Silence ensued. God forgive me, for it was involuntary, but the profane Muscles of my face, were in Tune for laughter, in spite of my indisposition. [Oliver] Ellsworth thumbed over the Sheet constitution and turned it for some time; at length he rose, and addressed the Chair with the most profound gravity."

Maclay quotes Ellsworth:

"Mr. President I have looked over the Constitution (paused) and I find Sir, it is evident & Clear Sir, that wherever the Senate is to be, then Sir, you must be at the head [of] them, but further Sir, (here he looked aghast, as if some tremendous Gulp had Yaned before him) I shall not pretend to say."

The Cabinet Is Appointed

Maclay was one of, if not the first, to fume against big government. Christman quotes Maclay noting in April 1790 "in full blast against the burgeoning of the national government."

"The first thing done under our new government was the Creation of a Vast number of Offices and officers. A Treasury dilated into as many branches, as invention could Frame. A Secretary of War with an host of clerks; and above all a Secretary of State, and all these men labor in their several vocations. Hence We must have a Mass of National Debt, to employ the Treasury; an Army for fear the department of War should lack Employment. Foreign engagements too must be attended to keep Up the Consequence of that Secretary."

When Henry Knox, secretary of war, asked to raise regiments to protect frontier settlers, Maclay fussed: "The first Error seems to have been the appointing of a Secretary at War When we were at Peace, and now we must find Troops, lest his office should run out of employment."

Congress Votes Its Pay

Then, as now, the Senate was considered a bastion of conservatism, dedicated to keeping bank balances up. Robert Morris of Pennsylvania was "the Financier of the Revolution." William Bingham, also of that state, was a war profiteer and a land speculator. The wealth of Charles Carroll of Carrollton, Md., was said to be half a million, a high figure in that day; Philip

Schuyler owned "thousands of acres in New York state. George Cabot and Ralph Izard were from old families. Even so, setting the salaries of the members of Congress turned out to be one of the toughest fights.

Charles Pinckney of South Carolina believed that Congress should be limited to members who would need no salary, but of course, not everyone agreed.

The House, composed of hungrier citizens, asked for \$6 a day and \$6 for each 25 miles of travel. The Senate, writes Byrd, "objected to the implied equality and amended the bill to increase the senators' pay to eight dollars per day . . . The issue was one of prestige not penury."

Maclay wrote "that \$5 would suit him, then added, 'Up now rose Izard, said that the members of the Senate went to boarding houses, lodged in holes and corners, associated with improper company, and conversed improperly, so as to lower their dignity and character; that delegates from South Carolina used to have 600 pounds per year, and could live like gentlemen, etc. Butler rose; said a great deal of stuff of the same kind; that a member of the Senate should not only have a handsome income, but should spend all'."

Byrd notes that "the amended bill had come back to the House in August, uncomfortably close to the end of the session, Representatives feared that, if they defeated it outright, they would have to go home without any pay at all. While Rep. James Jackson of Georgia claimed he would rather go home penniless than accept the principle of House inferiority, his colleagues . . . reluctantly accepted the salary discrimination, but only for special sessions."

Benjamin Goodhue of the House, an opponent of high salaries, quoted Robert Morris as saying, "We had but just put our thumb upon the latch of revenue and the next session We should open the door which would supply easily all our wants."

Morris raised the specter of Great Britain and the Stamp Act, a cause of the American Revolution, by going on to suggest casually "a stamp duty of paper." Goodhue retorted: "He would find himself mistaken if he supposed the people of America would submit to such impositions for the purpose of feasting a few Favorites in luxury and profusion."

George Washington said he'd be happy enough not to take a salary, he'd just settle for his expenses. But remembering Washington's expense account during the Revolution, Congress allotted him \$25,000 a year.

Byrd points out that Congress was wise, considering that the Father of the Country's liquor bill alone for 1790 amounted to \$2,000, somewhat more than the attorney general and postmaster general's salaries of \$1,500.

See CONGRESS, 75, Col. 1

Congress' Bicentennial

CONGRESS, From F4

The chief justice's salary was set at \$4,000; his associate justices, the secretaries of state and treasury \$3,500. The secretary of war, thought to hold a lesser position, got only \$3,000.

Christman wrote that "John Adams, who felt himself much put upon by the niggardly five thousand dollars awarded the Vice-President, spoke up sharply when he broke a tie vote giving judges a \$500 increase over the \$3,000 first proposed. 'Somebody had said Judges could be had for less, . . . ' Maclay quoted Adams as saying. 'That People must be abandoned and forsaken by God, who could speak of buying a Judge as you would an horse.'

Advice and Dissent

A foreshadowing of the John Tower confirmation controversy arose in the Senate when William Short was nominated by Washington to succeed Thomas Jefferson as the minister of the United States in Paris.

Maclay thought the vote should be secret, lest a senator who voted against the president "lose his place in the presidential sunshine or, conversely, might vote against his conscience to win the president's warmth."

Oliver Ellsworth of Connecticut said that secret ballots were "the devices of, at best, the bashful, and at worst, the most 'bad and unprincipled' men." Maclay won, and the Senate consented to Short's appointment.

But the next time the president sought approval from Congress, he was not so lucky. Intending to awe the Congress with his majesty, he came to the hall itself on Aug. 22 with Gen. Knox, the war secretary, and his proposed treaties with Indians.

Maclay wrote that the noise of carriages outside was so loud when Adams read the treaties aloud, the only word he could understand was "Indians." The Senate asked for another reading, and then another.

Byrd writes: "The Senators had not been able to digest the material that quickly, but were so in awe of having the president in their midst that they hesitated to ask him questions."

Finally Morris moved to refer the treaties to committee. Maclay voted for the motion, saying there was "no chance of a fair investigation of sub-

jects while the President of the United States sat there, with his Secretary of War, to support his opinions and overawe the timid and neutral part of the senate.

"As I sat down, the President of the United States started up in a violent fret. 'This defeats every purpose of my coming here' were the first words that he said."

Byrd agrees, saying, "This episode ended forever the idea that obtaining the Senate's advice and consent was merely a formality.

"Though the senators approved the treaties two days later, they had vigorously asserted their independence from the executive. Washington was deeply insulted. His first visit to the Senate was his last, establishing the precedent of presidential communications by message."

Counting the Accomplishments

Despite Maclay's worst fears, the First Federal Congress did make important advancements, and laid down precedents for that body's conduct for two centuries to come.

The First Federal Congress counted the first electoral votes; inaugurated the first president; established the advice and consent powers; set up the departments of war, state and treasury and the judiciary; sited the capital; passed 118 bills of which 94 became law (first public law was signed on June 1, 1789); provided for officials to take an oath to support the Constitution; established custody of the great seal; ordered lighthouses to be constructed and sailing vessels, patents and copyrights registered; and counted the 4 million citizens, including 700,000 in slavery—from 59,000 in Delaware to 692,000 in Virginia.

Alas, Maclay, who had drawn only a two-year Senate term, lost his bid for reelection, and Christman says he went back to Pennsylvania and sank into obscurity. In his diary, he wrote this farewell:

"As I left the Hall I gave it a look, with that kind of Satisfaction which A Man feels on leaving a place Where he has been ill at Ease, being fully satisfied that many A Culprit, has served Two Years at the Wheel-Barrow, without feeling half the pain & mortification, that I experienced, in my honorable Station."

