# We the People: 

 Exploring Early American Identity through the First Federal Census
## Sara Lyons Davis

Wthe People. The three opening words of the U.S. Constitution underscore its central tenet, that the power and authority of the newly independent nation resides with the people. Debate and discussion around who those words actually represent has evolved and expanded like many other of the concepts enshrined-or omit-ted-by this documentary foundation of our government.

To consider late eighteenthcentury representation, we can look to the first Federal Census of the United States, enumerated in 1790 as mandated by Article 1, Section 2 of the Constitution. This is the section of the Constitution related to the legislative branch, one of the three branches of government which forms the framework for the system of checks and balances. The Census was a tool for enacting a count of the population upon which both representation in the legislative branch and taxation would be based. The document states,

Representatives and direct Taxes shall be apportioned among the several States which
may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons. The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. [Article 1, Section 2 of the Constitution] ${ }^{1}$

The Census schedules
asked for information that was significantly limited compared to what we know as the modern Census. The information collected on the 1790 Census included the name of the head of household followed by a count of the number of free white males aged under 16 years, and of 16 years and upward; the number of free white females; number of other free persons; number of enslaved individuals. ${ }^{2}$ By way of the 1790 U.S. Federal Census, all were enumerated in relation to the head of the household, almost always the father of the family. ${ }^{3}$
Like so many other tools of representation, this changed incrementally. The United States of the late eighteenth century was very much a nation still defining itself and its citizenry, and what it meant to be a part of either. Congress passed the Naturalization Act of 1790, the first of a series of legislations that would define citizenship and naturalization requirements
in the early United States, on March 26, 1790, less than six months before the Census enumeration began on August 2nd of that same year. Consequently, the first Census contained sparse demographic information: no questions of literacy, veteran status, or even citizenship, a question that would not be added until the 1820 U.S. Federal Census asked the "number of foreigners not naturalized." It would be several decades more before the 1850 U.S. Federal Census would list the names of all members of the household.

The Federalist Papers, anonymous essays that urged New Yorkers to ratify the U.S. Constitution just a few years earlier, explored many of these same ideas. Published in 1788, Federalist No. 54 whose authorship is now attributed to either James Madison or Alexander Hamilton, although which of the men wrote it is not confirmed, considered several topics including that same Article 1, Section 2 of the Constitution and representation of those who were enslaved. "Let the compromising expedient of the Constitution be mutually adopted, which regards them as inhabitants, but as debased by servitude below the equal level of free inhabitants, which regards the slave as divested of two fifths of the man." ${ }^{4}$ [Emphasis added] This Three-Fifths Clause of the Constitution, part of The Great Compromise, ensured that representation in the House of Representatives would be based on population, while
each state would receive the equal number of two senators. It helped to advance the ratification process for both larger and smaller states, as well as Northern and Southern states with the question of counting the enslaved population towards the number of representatives in Congress. As with so much under the system of slavery, this dehumanizing agreement further disenfranchised people who were enslaved by not even acknowledging their complete personhood. In a way that ultimately satisfied neither party completely, this "value" was decided at three-fifths worth as compared to those who were free.

This inhumane calculation stood until 1865 when the 13th amendment outlawed slavery, and was officially repealed with the ratification of the 14th amendment in 1868. Opponents of the Three-Fifths Clause argued that Southern States could not both consider enslaved individuals as property and also count them as individuals towards congressional representation. This argument was noted ironically in a petition submitted to Congress in 1844 from citizens of Ashtabula County, Ohio. It demanded a constitutional amendment and argued that representation should be uniform throughout the country and based only on free inhabitants (see p. 223). ${ }^{5}$

As noted in relation to representation in the legislative branch, members of Native communities would not be
counted at all as they were not taxed. From the earliest official diplomacy on behalf of the federal government, treaties with Native nations were negotiated as they were with other sovereign nations; state interactions were similarly structured. The Federalist Papers highlighted a question about identity as it pertained to the regulation of commerce, "What description of Indians are to be deemed members of a state, is not yet settled; and has been a question of frequent perplexity and contention in the federal councils." Raised anonymously by James Madison when published in 1788 in Federalist No. 42, the court system would ultimately take up this question and similar ones numerous times over the next two centuries with interpretation evolving along with public sentiment and cultural considerations. ${ }^{6}$ It would not be until over 135 years after the ratification of the U.S. Constitution that American Indians born in the United States were extended rights of citizenship under the Indian Citizenship Act of 1924. Voting rights, however, as stated in the Constitution, remained privileges governed by the states, and North Dakota became the last state to fully enfranchise American Indians living on reservations, and therefore "not taxed," in 1958. Without the right to vote, the ability to fully participate in a representative democracy, such as the United States, is inherently limited.

The Constitution does not spell out who was included
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The Constitution of the United States, 9/17/1787-9/17/1787 [Online Version, https://docsteach.org/documents/document/constitution]


First page of Petition from Citizens of Ashtabula County, Ohio for a Constitutional Amendment that Representation in Congress be Uniform throughout the Country; ca. 1844.

U.S. Federal Census Listing for John Adams, ca. 1790; First Census of the United States, 1790 [Online Version, www.archives.gov/ research/census/presidents/adams]

## THE FIRST FEDERAL CENSUS

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within "we the people," even beyond the issues of free status and members of sovereign indigenous nations. The Constitution is silent, for example, on free women whose legal standing in the eighteenth century varied based on the laws of the state in which they resided. While women's rights varied by state, each did follow the ideology that those privileges were inextricably linked to marital status. Unmarried women enjoyed more rights than their married counterparts, with a certain level of legal autonomy whereas they could choose where they lived, be a party in court cases, serve as guardians, and more, as part of their identity as "femme soles." ${ }^{7}$ When women married, however, their legal status was linked to that of their husbands under the system of coverture. They relinquished legal autonomy under this doctrine that colonial Americans followed from English Common Law, and ultimately incorporated into their own eighteenth- and early nineteenth-century legislation. Abigail Adams's often-quoted letter to her husband, John, references this principle:

I long to hear that you have declared an independancy [sic]-and by the way in the new Code of Laws which I suppose it will be necessary for you to make I desire you would Remember the Ladies, and be more
generous and favourable to them than your ancestors. Do not put such unlimited power into the hands of the Husbands. Remember all Men would be tyrants if they could. If perticuliar [sic] care and attention is not paid to the Laidies [sic] we are determined to foment a Rebelion [sic], and will not hold ourselves bound by any Laws in which we have no voice, or Representation. ${ }^{8}$

As a married woman, Abigail Adams would have been bound by coverture and therefore lacked what one would consider legal autonomy. Known, however, as a voracious reader who possessed an astute intelligence, she demonstrates through her surviving letters a familiarity and understanding of the implications of these laws and the limitations that they presented.

Mercy Otis Warren, poet and author of the three-volume History of the Rise, Progress and Termination of the American Revolution (1805), maintained an extensive correspondence with Abigail Adams. Warren wrote to her in 1812:

> I admire your political and judicious observations on the perturbed state of the American Nation. I could dilate on this subject, but it is unnecessary.-Everyone feels \& laments the divided state of society, nor can the wisest
of men, calculate on consequences.-I have little to feel or fear for myself, but much for my children, my friends and my country.-If age or experience has any influence, my mite has been and shall be thrown in, to suppress animosities and to quiet the ferments that are wrought up by the worst passions, and the constant endeavours, to insult and vilify the best characters that still exist and adorn our country. -9

Women may not have been represented within the legal discussions and documents framing the emerging American system of government, but extant primary sources such as the correspondence between Adams and Warren highlight ways they were aware of the debates, the struggles, and the issues at hand.

The Constitution provided the framework for how the government would be set up. The symbolic words of the Preamble introduced the lofty ideas of just who would be involved in that process, but even those not represented within the documents had a vested interest in their success or failure. As part of her 1974 remarks during the debates in the House Judiciary Committee over the impeachment of President Richard Nixon, Representative Barbara Jordan, the first African American woman elected to the House from the South since 1898, invoked the famous words from
the Preamble. She said:

> Earlier today we heard the beginning of the Preamble to the Constitution of the United States, 'We, the people.' It is a very eloquent beginning. But when that document was completed on the 17 th of September in 1787 I was not included in that 'We the People.' I felt somehow for many years that George Washington and Alexander Hamilton just left me out by mistake. But through the process of amendment, interpretation and court decision I have finally been included in 'We, the people.'

Like so much else of the founding documents, this phrase has been debated and discussed since its writing, with interpretation varying widely across eras and ideologies. We see this as we consider who is counted, literally and figuratively, in the United States through tools such as the Federal Census. The United States, and we the people who define it, are all the better for this continued expansion of rights, identity, and representation.

## Teaching Activities

1. This activity can be used to introduce the Constitution, the concept of self-government, and the role of the Constitution in creating community. It would also be appropriate during a unit on the Constitutional

Convention and the ratification process. (A digital version of this activity is available at: https://docsteach.org/ activities/teacher/we-the-people-elementary-edition).
Before beginning, share with students that delegates from across the United States met as part of the Constitutional Convention in Philadelphia, Pennsylvania, from May 25, 1787, through September 17, 1787. The first printed draft was prepared for the delegates to show the resolutions and current language of the document on July 23, 1787:

- George Washington's Annotated Copy of a Draft of the U.S. Constitution; 8/6/1787; Official Records of the Constitutional Convention of 1787; Records of the Continental and Confederation Congresses and the Constitutional Convention, Record Group 360; National Archives Building, Washington, DC. [Online Version, https://docsteach.org/ documents/document/ washington-annotated-draft-constitution]

In September, delegates appointed a committee to revise and arrange the articles of the Constitution-including changing the language of the opening of the Constitution, known as the Preamble. On September 17th, 39 delegates signed the Constitution and sent it to Congress for approval
before being sent to the states for ratification. This version of the finalized text was printed on September 29, 1787, based on the type already set by the New York newspaper the Independent Journal:

- [Printed version of the United States Constitution] Resolve Book of the Office of Foreign Affairs; 9/28/1787; Records of the Continental and Confederation Congresses and the Constitutional Convention, Record Group 360. [Online Version, https:// www.docsteach. org/documents/ document/\%5Bprinted-version-of-the-united-states-constitution\%5D-resolve-book-of-the-office-of-foreign-affairs

Provide students with copies of both documents. Begin the activity as a full class, or ask students to work in pairs or small groups. They should consider the following questions as they examine the two documents displayed: What are the major differences between the draft of the Preamble and the final version? Why do you think the wording was changed? How do these differences help explain the purpose of the Constitution? What words added to the Preamble suggest the need for building a unified American community? (Note: To
prevent any misunderstanding, inform students that both versions use a now-antiquated version of a long $s(f)$ that appears similar to a lowercase f.)

Once the students have responded to the questions, hold a class discussion based on their answers. Focus attention on which parts of the Preamble changed and which parts stayed the same. Ask students to hypothesize reasons for some of the changes. Inform students that the first major change involved opening the Preamble with the words, "We the People of the United States," rather than listing each state individually. The second change lengthened the Preamble, which explained the document's intention to establish a new government and outlined the purposes of the new government. Another major change throughout was including words like United, Union, common, and general to explain how this new federal form of government was trying to be a more unified country different from the earlier Articles of Confederation.

## 2. Amendments to the

 Constitution have helped to expand rights and privileges to different communities since the early Republic. The First Amendment includes five freedoms within it, one of which is "the right to petition the government for a redress of grievances." As a full class discussion, consider the term "to petition the government,"and ask students to define what that means.
a. Introduce page one of the document, "Petition from Citizens of Ashtabula County, Ohio for a Constitutional Amendment that Representation in Congress be Uniform throughout the Country; ca. 1844" (on p. 223 and available at https:// docsteach.org/documents/ document/petition-uniform-representation).
Using the Document Analysis worksheet for a textual document, lead students through the primary source analysis questions.
(A worksheet outlining the process of document analysis for written documents is available at www. archives.gov/education/ lessons/worksheets). Ask students to identify what the petition is asking of the government. Did the citizens of Ashtabula County, Ohio, provide a strong argument in support of their request? Why or why not?
3. John Adams was the second president of the United States, but the first for whom there is an existing 1790 Census sheet (see p. 224). Census schedules from 1790 only remain for 11 of the 17 states at the time; they did not survive for Delaware, Georgia, Kentucky, New Jersey, Tennessee, or Virginia. John Adams was enumerated on the first four federal censuses. The questions asked by the Federal Census have changed
over time with different census years requesting different information.
Divide students into small groups and have them examine both the 1790 and 1820 U.S. Federal Census schedules that include John Adams (Digital versions for both documents are available at www. archives.gov/research/census/ presidents/adams). In 1790, John Adams is listed in the third column, 10 names from the bottom, while in 1820, he is listed 15 names from the top. Ask students to look at the different questions asked in 1790 and 1820. What has changed? What does this information tell us about the Adams household? What other historical questions could we explore based on this information? Discuss other historical documents that students could incorporate into their research to broaden the information interpreted from the Census.

## Notes

1. Constitution of the United States; 9/17/1787; The Constitution of the United States, 9/17/1787 9/17/1787; General Records of the U.S. Government, Record Group 11; National Archives Building, Washington, DC. [Online Version, www.docsteach.org/documents/ document/constitution, June 6, 2023]
2. Index of Questions-1790. United States Census Bureau. [Online Version, www.census.gov/history/ www/through_the_decades/ index_of_questions/1790_1.html, June 6, 2023]
3. Heads of Families at the First Census-1790. United States Census

Bureau. [Online Version, https://www2.census.gov/prod2/ decennial/documents/1790j-02.pdf, June 6, 2023]
4. "The Federalist No. 54, [12 February 1788]," Founders Online, National Archives, https://founders.archives.gov/ documents/Hamilton/01-04-02-0203. [Original source: The Papers of Alexander Hamilton, vol. 4, January 1787-May 1788, ed. Harold C. Syrett. New York: Columbia University Press, 1962, pp. 508-514.]
5. Petition from Citizens of Ashtabula County, Ohio for a Constitutional Amendment that Representation in Congress be Uniform throughout the Country; ca. 1844; Petitions and Memorials, Resolutions of State Legislatures, and Related Documents Which Were Referred to Various Select Committees during the 28th Congress; (HR28A-G26.1); Records of Early Select Committees, 1793 1909; Records of the U.S. House of Representatives, Record Group 233; National Archives Building, Washington, DC. [Online Version, www.docsteach.org/documents/ document/petition-uniform-representation, June 6, 2023]
6. "The Federalist Number 42, [22 January 1788]," Founders Online, National Archives, https://founders.archives.gov/ documents/Madison/01-10-02-0244. [Original source: The Papers of James Madison, vol. 10, 27 May 1787-3 March 1788, ed. Robert A. Rutland, Charles F. Hobson, William M. E. Rachal, and Frederika J. Teute. Chicago: The University of Chicago Press, 1977, pp. 403-409.]
7. Marylynn Salmon, "The Legal Status of Women, 1776-1830," The Gilder Lehrman Institute of American History, June 6, 2023, https://ap.gilderlehrman.org/essay/legal-status-women-1776\�\�\�\�\�\�\� \%9C1830.
8. "Abigail Adams to John Adams, 31 March 1776," Founders Online, National Archives, https://founders.archives. gov/documents/Adams/04-01-02-0241. [Original source: The Adams Papers, Adams Family Correspondence, vol. 1, December 1761-May 1776, ed. Lyman H. Butterfield. Cambridge, MA: Harvard University Press, 1963, pp. 369-371.]
9. "From Mercy Otis Warren to Abigail Smith Adams, 1 September 1812," Founders Online, National Archives, https://founders.archives.gov/documents/Adams/99-03-02-2183. [This is an Early Access document from The Adams Papers. It is not an authoritative final version.]
10. Representative Barbara Jordan's Corrections to the Transcript of Her Statement on the Articles of Impeachment of President Richard Nixon; 7/25/1974; Committee Papers, 1813-2011; Records of the U.S. House of Representatives, Record Group 233; National Archives Building, Washington, DC.

## Records

The Constitution of the United States, 9/17/1787-9/17/1787; General Records of the United States Government, Record Group 11; National Archives Building, Washington, DC. [https://docsteach.org/documents/document/constitution] Petition from Citizens of Ashtabula County, Ohio for a Constitutional Amendment that Representation in Congress be Uniform throughout the Country; ca. 1844; Petitions and Memorials, Resolutions of State Legislatures, and Related Documents Which Were Referred to Various Select Committees during the 28th Congress; (HR28A-G26.1); Records of Early Select Committees, 1793 1909; Records of the U.S. House of Representatives, Record Group 233; National Archives Building, Washington, DC. [https://docsteach.org/documents/document/ petition-uniform-representation]
United States Federal Census Listing for John Adams, ca. 1790; First Census of the United States, 1790; Records of the Bureau of the Census, Record Group 29; National Archives Building, Washington, DC. [www.archives.gov/research/ census/presidents/adams]

## Additional Resources

Representative Barbara Jordan's Corrections to the Transcript of Her Statement on the Articles of Impeachment of President Richard Nixon; 7/25/1974; Committee Papers, 1813-2011; Records of the U.S. House of Representatives, Record Group 233 [https://docsteach.org/documents/document/ jordan-impeachment-nixon]
"The Federalist No. 42 [22 January 1788]," Founders Online, National Archives, https://founders.archives.gov/ documents/Madison/01-10-02-0244.
"Abigail Adams to John Adams, 31 March 1776," Founders Online, National Archives, https://founders.archives.gov/ documents/Adams/04-01-02-0241.
From Mercy Otis Warren to Abigail Smith Adams, 1 September 1812," Founders Online, National Archives, https://founders. archives.gov/documents/Adams/99-03-02-2183. [This is an Early Access document from The Adams Papers. It is not an authoritative final version.]


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