

Revolutionary America 1763–1815

A Political History

Second Edition

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Introduction to the Second Edition

In the early 1780s, a middle-aged Persian in Calcutta, Ghulam Husain Khan Tabatabai, completed a substantial historical work, *Siyar-al Muta'akbhirin*, “the history of modern times.” Ghulam Husain’s forbears had migrated to India generations previously to serve the Mughal Empire. His father had been a successful official in the Mughal bureaucracy. The son enjoyed less success as he was caught up in the internal politics of the Mughal state, which was under increasing pressure from the British East India Company. *Siyar-al Muta'akbhirin* presented the history of Mughal India from the rule of the emperor Aurangzeb (1618–1707, ruled 1658–1707) until 1781. Ghulam Husain, whose family history made him acutely sensitive to the rise and fall of empires, included a brief but perceptive analysis of the ongoing American Revolution in his history. The upheavals in North America assumed a unique character in the eyes of a writer embedded in the civilization of South Asia. Ghulam Husain noted that recent conflicts between the Dutch and British in India originated in the American conflict, which “arose from this event: the king of the English maintained these five or six years past, a contest with the people of America (a word that signifies a new world), on account of the [East India] Company’s concerns.” After briefly summarizing the British settlement of the New World, Ghulam Husain gave this brief account of the Revolution:

They [the colonists] paid such tributes as had been established after the English pattern, and matters remained on that footing until the [Americans] having increased so greatly in population . . . the king by the advice of his ministers and principal men, imposed upon them a new sum of money, over and above that which they had been accustomed to pay. This happened about six or seven years ago. The [Americans] displeased with the new imposition, refused to obey the king’s commands; and the latter having ordered

his governors and officers, then in that land, to enforce obedience to his edicts, the inhabitants joined together in opposing those officers; and having seized most of them, revolted from their authority and set up for themselves, spreading full open the standard of rebellion and defiance, and preparing every thing for a vigorous defence. As these people are of the same blood with the English, and of course equal to them in military talents, in courage, and every thing that pertains to war; and they were as much skilled as themselves in the art of managing their flint-locks and their artillery; and as over and above those advantages they had had plenty of necessaries, they made no difficulty of encountering the king's troops and generals, to which they gave several defeats, so as at last to destroy or ruin his army.

Ghulam Husain explained that the colonial British dispute became, in turn, a conflict between the British and the French, Spanish and Dutch respectively. With regard to the latter, Ghulam Husain returned to his main theme, noting, "the Hollanders likewise came to be involved in this war against the English, whose prevalent power they feared, and whose conquests in Hindostan they had beheld with the utmost jealousy." Seen from the perspective of the mighty empires and ancient civilizations of India the American Revolution was primarily a trade dispute arising from British efforts to assist the East India Company which engulfed Europe and the various colonial holdings of those European states with major overseas imperial interests.¹

Ghulam Husain's distance made his analysis insightful and as one of the earliest non-western accounts of the American Revolution, his history anticipated some of the major recent historiographical trends adopted by historians seeking a broader perspective on the American Revolution and its larger context. Such works have transformed our understanding of the Revolution and the eighteenth-century world—particularly the reassessment of British imperial history, and the rise of Atlantic history. Ghulam Husain told his readers that the rebellious colonists in America and the British "are of the same blood." Almost thirty years ago, J. G. A. Pocock asserted, correctly, that the American Revolution should be seen as part of a *British* revolutionary tradition. The proceedings which led to the creation of the United States were events in British as well as American history.² Over the past two decades British historiography has undergone a transformation which has inevitably changed and enhanced our understanding of the American Revolution. We now have a more nuanced appreciation of the development of Britishness during the eighteenth century, for example.³

Simultaneous to new inquiries into the nature of Britishness, other historians have examined the development of the British Empire during the eighteenth century. Rather than finding a sclerotic entity which was swept aside by the American Revolution, a new picture has emerged which shows the British Empire to have been economically and ideologically dynamic, and surprisingly well-governed. While the loss of some of its American colonies was a setback, far more significant was the empire's consolidation of British control of India and the defeat of Napoleonic France, as Ghulam Husain would have recognized. In other words, rather than viewing the American Revolution as a hinge between the first and second British empires, the new imperial history takes a broader view and portrays the empire as a dynamic, durable, and flexible global body.⁴

This new turn in the history of British imperialism has coincided and intersected with the rise of Atlantic history. Scholars have come to see the Atlantic as a topic of historical enquiry—a dynamic geographic area where people, ideas, commodities, disease, wealth, and power were exchanged. The rise of Atlantic history is one of the most important and exciting historiographical developments of recent years. The Atlantic approach has allowed scholars to transcend traditional nationalist approaches to the past and to see events from new and refreshing perspectives.⁵ The Atlantic approach has enlivened the study of the American Revolution. Some of the best scholarship on the Revolution in recent years addresses the larger questions raised by the new imperial and Atlantic histories. For example P. J. Marshall's *The Making and Unmaking of Empires* contrasts the British experience in India and America during the latter eighteenth century. Eliga H. Gould's *Persistence of Empire* considers the evolution of British political culture during the era of the American Revolution. Andrew Jackson O'Shaughnessy's *An Empire Divided* considers the impact of the Revolution on the British Caribbean, helpfully reminding us that most of Britain's American colonies did *not* declare independence in 1776. Stephen Conway's *British Isles and the War of American Independence* considers the impact of the Revolutionary War on Britain, not America, as most previous military studies have.⁶ Each of these works, and numerous others, suggests new ways of thinking about the American Revolution and its broader context and impact.

It is not surprising that many of the finest works on the American Revolution, especially those which draw on the new perspectives and fresh approaches offered by imperial and Atlantic history, have been written by scholars either trained or working outside of the United States, especially in Britain. In the introduction to the first edition of this book I noted that there is a long and distinguished British historiographical tradition related

to the study of the American Revolution.⁷ In the decade since this book first appeared that tradition has grown stronger and some of the best scholarship on the American Revolution, such as the titles noted above, has arisen from it.

Where do these developments leave the study of the American Revolution? In March 2008 I attended a round-table discussion on the state of early American history, which was held at the annual meeting of the British Association for American Studies in Edinburgh. Several leading scholars reflected on developments in the historiography of early America, broadly defined, over the past two decades and suggested future directions for scholarly inquiry. The speakers, as well as many in the audience who offered comments, endorsed the Atlantic and imperial interpretations outlined above. Several of the speakers suggested that historians of early America need to transcend narrow nationalist interpretations, often premised on unexamined triumphalist and exceptionalist assumptions, by placing the history of early America, including the American Revolution, in a broader chronological and geographic perspective. Specifically, the American Revolution should be seen from an Atlantic perspective or, as Ghulam Husain had done more than two centuries ago, in a global context. David Armitage's recent history of the Declaration of Independence, which views the most "American" of documents as a global text in its origins and impact, is a splendid example of how this might be done.⁸ Living in a world bound together by globalized trade, information, and culture, a world which the shifting imperial system of the eighteenth century helped to create, this call to internationalize the study of early America has met with widespread support within the scholarly community. As the foregoing brief review suggests, some of the best scholarship on the American Revolution in recent years has adopted a transnational or transoceanic approach.

And yet for all of the significance of the larger contexts in which the American War of Independence unfolded, it was, nonetheless, a revolutionary transformation that created a new—and, indeed, a new kind of—nation state, as Ghulam Husain recognized. This book aims to tell the story of the creation and the early political history of the United States. This is not the only approach one might take to study of the Revolution, as the recent scholarship on the subject demonstrates. Nor is a study such as this one, focused on the emergence and the development of the United States as a political and legal entity, incompatible with calls for different and broader perspectives. Indeed such perspectives have informed my thinking in writing this book. However, one of the fundamental consequences of the American Revolution was that it created an independent republican nation state, the first in the western hemisphere. In the words

of Jack P. Greene, the American Revolution can be seen “as the first step in the still incomplete process of dismantling the imperial structures created during the early modern era to bring newly encountered areas of the globe into political, economic, and cultural association with the new nation-states of Europe.”⁹ We live in a world dominated by nation states, one where the particular nation state created by the American Revolution wields disproportionate power and influence. One need only attempt to cross an international border, especially since 2001, to realize and experience the continuing potency of the state. Acknowledging this need not be an expression of triumphalism or an endorsement of notions of American exceptionalism.

When reflecting on this second edition of *Revolutionary America*, I concluded that I would like to make several changes to the structure and content of the first edition, published a decade ago. While the emphasis in the first edition was on presenting a political narrative that explained the emergence and development of the early republic, I think the structure of that book inadvertently presented too narrow an interpretation of American politics. The first edition presented a political narrative of events from 1763 to 1815. This was followed by two chapters that addressed the experiences of African Americans and women as two of the groups who were largely excluded from the political settlement achieved in North America during the latter eighteenth century. Upon reflection this was not an entirely satisfying structure. It has two significant limitations—it was not inclusive enough and, by structuring the book in this way, I unintentionally conveyed the impression that the experiences of those groups excluded from the revolutionary settlement were marginal to the larger political processes involved in the creation of the United States.

With respect to the question of inclusiveness, the first edition of this book lacked a separate chapter on Native Americans. Although the experiences of Native Americans were treated at appropriate moments within the text, I did not devote an entire chapter to their experience because they, unlike women and African Americans, were almost entirely excluded from the early republican polity and the focus of the book was the political history of revolutionary and early national America. Such a view was premised on too narrow a definition of politics. Even as they were excluded from the political benefits of the Revolution, Indians shaped the development of the early American republic in profound ways. I argued in the first edition, as I do here, that the creation of an independent American republic was an unmitigated disaster for Native Americans. It is crucial, however, to tell the Indian side of the story if one is to appreciate the significance of the American Revolution. I have attempted to remedy the

omission in the first edition by adding a new chapter on Native Americans to this edition.

By including separate chapters on African Americans, women, and, now, Native Americans I do not intend to convey the impression that these groups should be marginalized in telling the story of the American Revolution. The previous edition of this book may have unintentionally done so by placing these chapters at the end of the text after the more straightforward narrative chapters. In the first edition the American Revolution unfolds in an apparently logical and coherent manner, which renders the exclusion of women and African Americans from the benefits of citizenship in the new nation as inevitable. I have sought to remedy this problem by integrating the chapters on Native Americans, African Americans, and women into the chronological flow of the chapters on political narrative. The story begins, as it should, with the first Americans, providing an overview of the Native American experience between 1763 and 1815 in Chapter 1. The War of Independence was a turning point in the history of African Americans, perhaps the most important event in African American history prior to the Civil War and emancipation. As such, Chapter 6 on African Americans follows and complicates that on the war. Following the chapter dealing with the constitutional settlement that delineated citizenship and the political structure of government, Chapter 9 illuminates the uncertainty surrounding women's role and significance within the new republic.

This new structure may not satisfy all readers. The narrative of the first edition is interrupted by the thematic chapters and the narratives within the thematic chapters occasionally jump ahead of the text. On balance, I think these changes improve the text. The American Revolution affected almost all of the peoples of eastern North America in different ways. The thematic chapters allow us to consider how the Revolution looked from different perspectives. They provide a corrective to any assumptions that the outcome of the Revolution was inevitable. As such, I think the new ordering reminds us of the importance of contingency in history. While we impose well-ordered narratives on the past, emphasizing themes and events with retrospective significance, contemporaries did not always see events as we do. By interspersing the alternative perspectives of Native Americans, African Americans, and women—a majority of the American population, after all—throughout the political narrative of the Revolution I hope to show that the outcome of the Revolution was anything but inevitable and that it affected—and was affected by—different groups of Americans in different ways.

By way of illustrating the related issues of perspective and contingency, it might be useful to engage in a little counterfactual speculation. Consider,

for example, how the history of North America might have unfolded if the American Revolution had failed (as it very nearly did in the summer of 1776). Had the American rebellion collapsed and the colonies remained within the British Empire, then, to take two notable examples, Native Americans may not have been displaced as quickly or as completely during the nineteenth century; and slavery might have been abolished in North America in 1833 rather than 1865. The British offered protection to Native Americans in 1763 via the Proclamation Act, which suggests they might have continued the policy had there been no revolution in North America, though the pressure for the growing Anglo-American population to expand westward would have been acute. With respect to African Americans, Britain acted to prohibit the Atlantic slave trade in 1807, which was when the United States Congress took the same decision (with effect from 1808). Parliament abolished slavery throughout the British Empire in 1833, more than three decades before the United States ended the institution, at the cost of 620,000 dead in the Civil War. While it is possible that the retention of the American colonies might have strengthened the slavery interest in Parliament, thereby making abolition in 1833 less likely, it is undeniable that slavery was abolished peacefully and earlier within the British Empire than the United States. While the Revolution invested the actions of American women with political significance, it is arguable that this had a limited long-term impact on the political rights of American women. British women won the right to vote in national elections in 1918, two years before their American counterparts. The parallels between the abolition of slavery and the success of women's suffrage on both sides of the Atlantic suggest that there was a shared culture of rights in the British-American Atlantic world, which might have been fulfilled *without* American independence. However, the way that Americans constructed their new republic and institutions and articulated their political ideals clearly colored the way these stories played out in North America.¹⁰

Setting such counterfactual musings aside, the American rebels *did* succeed and created the United States of America as a self-governing republic. That is the story this book intends to tell. It is impossible to know what might have happened if this were not the case. Nonetheless, as Ghulam Husain demonstrated more than two centuries ago, when viewed from a different perspective the Revolution takes on a different meaning. Alternative views and perspectives help us to better understand what happened in North America between 1763 and 1815, and I have restructured this edition accordingly.

Introduction to the First Edition

In the past two decades there have been three very good overviews which consider the period of the founding of the United States: Robert Middlekauff's *The Glorious Cause*, Edward Countryman's *The American Revolution*, and Colin Bonwick's book, also titled *The American Revolution*.¹ Each of these works made a significant contribution to the literature and advanced our knowledge of the subject. Middlekauff provided a detailed political, military, and diplomatic account of the American struggle for independence. Countryman's more concise treatment had as its major theme the impact of the Revolution on American society. Bonwick presented a detailed synthesis of the literature on the rebellion of the American colonies and the creation of the United States. Given the strengths of these works, one might ask: Why another book on the American Revolution?

In part, the nature of the exercise itself provides the answer to the question. It has been nearly a decade since the most recent of the studies noted above, Colin Bonwick's *The American Revolution*, appeared. Early American history remains one of the most active fields in American historiography. The discussion groups on early America sponsored by H-Net are among the most active academic discussion groups on the Internet. The annual output of significant articles in journals such as the *Journal of American History*, the *Journal of the Early Republic* and especially *The William and Mary Quarterly* is testimony to the strength of the field. Each year, aspects of the revolutionary and early national period are the subject of high-quality monographs such as those published by the University of North Carolina Press under the auspices of the Omohundro Institute for Early American History and Culture. Given the quality and quantity of the scholarship on the period, it is necessary to take stock of the literature periodically. At a basic level, this work endeavors to present a synthesis of the secondary literature on the Revolution, with particular attention to the scholarship of the past decade.

As Middlekauff, Countryman, and Bonwick have demonstrated, such a synthesis is a worthy and challenging undertaking. In the course of writing the present work, I have often questioned my own worthiness for such a task. The present literature on the American Revolution is so vast that it would be impossible to digest in a lifetime. As noted above, more works pour off the presses monthly. Given such circumstances, to undertake a synthesis of such a literature relatively early in one's career seems foolhardy at best and presumptuous at worst. At the conclusion of his own book, Professor Countryman wrote: "This book has tried to summarize what historians now think. But it will be successful only if readers argue with it, and if some decide to go to the sources and encounter the Revolution for themselves."² As one who read and was inspired by Professor Countryman's book as an undergraduate, I have taken up his challenge. What follows is one scholar's attempt to explain and assess the remarkable events of two centuries ago, which gave birth to the United States. I hope that this work, like that of my predecessors, will inspire present and future students to turn their attentions to early America.

Both Countryman and Bonwick were British-based when they published their studies of revolutionary America. They contributed to a long and distinguished historiographical tradition of British-based historians writing about the revolutionary and early national periods of American history.³ Like Professor Countryman when he completed his study, I am an American based at a British university. I believe these circumstances have been of inestimable value in terms of my approach to this subject. This book had its genesis in my experiences teaching British undergraduates about the American Revolution. Like their American counterparts, I have found that British students have a keen interest in the events which led to the creation of the United States. Unlike their American counterparts, most British students bring little foreknowledge and few or no preconceived notions to their study of the subject. This experience convinced me of the value of producing a work that provides a clear, concise description of the early history of the United States. Residence in Britain during the writing of this book has brought home to me the fact that the American Revolution was a British as well as an American event. Although this book focuses on the American aspects of the story, it has a trans-Atlantic theme as a premise.⁴

My point of departure in this book is the assumption that the fundamental question between 1763 and 1815 in the American colonies, latterly the United States, concerned relations with Europe. Between 1763 and 1783, the most important issue facing most Americans was their relationship with Britain. After 1783, American relations with and attitudes toward Britain and France were of primary importance. This was especially true

during the period from 1789 until 1815 when the French Revolution and Napoleonic Wars posed a series of diplomatic, economic, and ideological challenges to the new republic that fundamentally shaped its development. During these years, the question of trans-Atlantic relations assumed an importance in American life to an extent that would not be replicated again until after 1945. Of course, in 1945 the United States approached trans-Atlantic relations from a position of strength. Between 1763 and 1815, however, the colonies/United States were, in most respects, weaker than their European adversaries and allies. Approaching early American history from a trans-Atlantic premise leads to another theme of this book. The book contends that, between 1763 and 1815, Americans were compelled to *react* to external events and decisions: changes in parliamentary legislation, the French and Haitian Revolutions, and so on. These reactions eventually led Americans to seize the initiative and undertake a revolution. I am certain that the trans-Atlantic theme and the thesis that emerges from it in this book might not have emerged as clearly had I approached this subject from the perspective of the United States. As such, I feel my presence in Britain was essential to the writing of this book.

My desire to address the question of how trans-Atlantic relations affected early American development has led me to adopt a relatively wide chronological approach. Most works on the American Revolution, including those of Middlekauff, Countryman, and Bonwick, conclude with the ratification of the Constitution in 1788 or with the triumph of the Federalists in 1789. When the subject is approached from a trans-Atlantic perspective, then one is compelled to consider the period until 1815. No sooner had the colonies won their independence and erected a national government than the sovereignty and independence of the new nation faced fundamental challenges from the French, British, and Spanish. Only by considering how the revolutionaries addressed these questions can the extent and implications of the American Revolution be properly examined. The adoption of a broader chronological approach does have significant limitations. In order to present a coherent narrative, I have focused primarily on the political history of the American Revolution. At times this means that I have paid careful attention to academically unfashionable high politics in order to tell the story of the creation of the United States. I have, where possible, also tried to tell the story of the Revolution from the perspective of America's common people, whose sacrifices and efforts made the United States possible. Among these, one particular group, white males, were empowered by the events of 1763 to 1815. By drawing on the literature of the "new" political history, I have been able to tell their story as well. It is my hope that I have been able to weave the two together in a coherent fashion.

Such a politically oriented narrative of the Revolution is in danger of ignoring those groups which were marginalized within American society at the turn of the nineteenth century, notably women of all races and African Americans. No history of the Revolution, political or otherwise, could be written without considering these segments of American society. Indeed, much of the most important scholarship of the past generation has focused on recovering the revolutionary experiences and contributions of these two groups. In consequence, my final two chapters consider the experiences of women and African Americans by way of illustrating the limits of the Revolution. I had originally eschewed the idea of such distinct chapters; I felt that separating the histories of female and black Americans from that of the white males of all classes who dominated the Revolution would be to contribute to the intellectual Balkanization of American history into a variety of sub-specialisms. My intent had been to integrate groups on the political margins into the overall narrative. Intellectually, such an approach still seems to me to be correct. In practice, however, it proved nearly impossible to achieve. As I wrote my narrative, I felt that the treatment of women and African Americans would be too superficial and contrived.⁵ Consequently, I resolved to dedicate discrete chapters to both groups. Because political power in eighteenth-century America was confined to white males, a political history of the Revolution must, of necessity, focus primarily on them. Nonetheless, Chapters 9 and 10 demonstrate that the ideology of the Revolution was impossible to contain. The attempts by those in power to exclude those without power constitute one of the most profound and distressing aspects of the early (and later) history of the United States.⁶

Due to my focus on the political history of the American Revolution, other areas such as military affairs, diplomacy, and economic developments are addressed insofar as they influenced the political struggle at the heart of the independence movement. Constraints of space and organization prevent detailed discussion of other themes, such as religion or culture. These remain crucial areas in which excellent scholarship is being conducted, but they fall outside of the remit of this study. This organizational difficulty arose because the American Revolution was fundamentally a political and ideological struggle. As such, the history of the political struggle is crucial to an understanding of these other areas. Put another way, while it is possible to write a history of the American Revolution that pays scant attention to religious or cultural developments, it would not be possible to write a religious history of early America without considering the political implications of the Revolution. The lowest common denominator in the early history of the United States was the political struggle for independence and the

creation of a national republic. I have endeavored to write a history that concentrates on those events.

This book is intended for advanced undergraduates and inquisitive general readers (though I hope that my colleagues, past, present, and future, will be engaged by its interpretations). I have attempted to let my readers glance over my shoulder by providing citations which acknowledge the sources of quotations, interpretations, and facts which are not my own; and to expand upon historiographical issues. I have tried to keep my citations to a minimum so that they do not intrude upon the text. In the main I have relied on published primary and secondary sources so that readers possessing sufficient curiosity and access to an academic library can follow my intellectual path. In order to assist them, I have provided a detailed bibliographic essay at the conclusion of my text. Like the nation that it created, the American Revolution remains a fascinating bundle of contradictions. In terms of the questions it raises, and the richness of the primary and secondary sources, it remains one of the great historical events since the Renaissance. I hope this book will be a suitable introduction to the topic and might inspire some of its readers to contribute to the literature summarized in the bibliographic essay.

Creating the Constitution

Introduction

From the perspective of elitist republicans, Shays's Rebellion and its aftermath epitomized the failure of government as it was practiced in the states. They felt that the popular discord in Massachusetts and other states was the result of excessively democratic governments. Congress, rendered weak by the Articles of Confederation, had lost much of its popular support since the conclusion of the War of Independence, and was largely impotent in remedying the situation. From his retirement at Mount Vernon, George Washington gave his assessment of recent events in a letter to Virginia Congressman Richard Henry Lee on October 31, 1786:

You talk, my good sir, of employing influence to appease the present tumults in Massachusetts. I know not where that influence is to be found, or, if attainable, that it would be proper remedy to the disorders. *Influence* is no *government*. Let us have one by which our lives, liberties, and properties will be secured, or let us know the worst at once. Under these impressions, my humble opinion is, that there is a call for decision. Know precisely what the insurgents aim at. If they have *real* grievances, redress them if possible; or acknowledge the justice of them, and your inability to do it in the present moment. If they have not, employ the force of government against them at once. If this is inadequate *all* will be convinced that the superstructure is bad, or wants support. To be more exposed in the eyes of the world, and more contemptible than we already are, is hardly possible.¹

Washington's comments constitute a perceptive elitist analysis of the postwar American political situation. The general concedes that Shaysites'

grievances may have been legitimate. He argues, however, that the uprising revealed a more significant problem of inadequate government. If the Shaysites were correct, then the Massachusetts authorities and Congress had failed in their duty to govern properly and to protect the liberty of their citizens. If the grievances of the Shaysites were not legitimate, then the state and national governments were inadequate to the task of preserving order and justice. The problem was one of governance, and Washington felt that the Articles of Confederation had to undergo significant amendment if the Revolution was to be preserved.

He was not alone. By the mid-1780s, a majority of American political leaders, both democrats and elitists, felt that reform of the national government was necessary. They differed, however, over the extent of the necessary changes. In general, democrats favored minimal reforms; they sought to tinker with the Articles of Confederation in order to strengthen the national government, while the preponderance of sovereignty remained with the states that made up the Confederation. The elitists, on the other hand, favored more substantial changes. Many of the elitists, men such as Robert Morris of Pennsylvania, who served as Superintendent of Finance under the Confederation from 1781 to 1784, Alexander Hamilton, who represented New York in Congress in 1782 and 1783, and James Madison of Virginia, who had served in Congress from 1780 to 1783, had experience in national politics during the years when the national government was in apparent decline and political authority was mainly exercised at the state level. They saw in the political upheavals of the 1780s an opportunity to recapture the political momentum and to create a strong national government which would have the power to curb the democratic excesses of the states at home while defending and promoting American interests abroad.²

The elitists seized the reform initiative and ultimately overturned the Articles of Confederation, replacing them with a more durable Constitution.

The Movement for Reform

The impetus for political reform had two sources: the apparent democratic excesses of the states discussed in the previous chapter, and the perceived weakness of the national government under the Confederation. With respect to the former, the elitists had little choice but to fight at the local level where they found themselves at a disadvantage. As British policy-makers had learned a generation before, American assemblies jealously protected their rights and prerogatives. In the more democratic atmosphere in the wake of the War of Independence, this was even truer than in the decade before the war. It was unlikely, even under the best of circumstances, that

popularly elected state governments would willingly agree to curbs on their authority or to surrender a significant measure of their sovereignty. As events in Massachusetts revealed, when state governments undertook unpopular measures they faced the specter of rebellion or defeat at the polls. Given that those Americans who favored the implementation of more elitist-oriented governments sought to limit popular political control, they were unlikely to meet with much success in the states where that control was strongest. Rather, they looked to the central government, the Confederation Congress, to seek remedies for the country's political ills.

The Continental, later Confederation, Congress had had a schizophrenic existence. Beginning in May 1775, when the Second Continental Congress began sitting at Philadelphia, it acted as the *de facto* national government of the rebellious colonies. Congress assumed this role out of the necessity of war. In the main, the men who sat in Congress acquitted themselves well during the rebellion. They took the decision to declare the colonies independent, assuming responsibility for diplomacy as well as financing and managing the war against Britain. Despite obvious handicaps, notably the inability to tax, unstable finances, diplomatic uncertainty, the presence of large numbers of Americans who denied and resisted its authority, and a foe which was better equipped and trained than its own force, the congressional effort was successful. The United States won its independence and Congress, along with its creation the Continental Army, was the only national institution with which Americans could identify. Despite its achievements, however, the authority of Congress steadily diminished after 1783. With the arrival of peace the states no longer felt the necessity of cooperating with each other or with Congress. In consequence, a once-respected institution became increasingly weak and moribund. By the mid-1780s, American finances were in disarray, and by 1786 the United States had suspended the repayment of its loans from France, Spain, and the Netherlands. The crisis in national government revealed by financial difficulties was also reflected in the nation's diplomatic relations. The British made a mockery of the Peace of Paris and the Northwest Ordinances by continuing to occupy their forts in the Northwest. The Spanish, meanwhile, refused to allow American settlers the right to navigate the Mississippi in order to market their crops. In the face of these difficulties, Congress could not protect and promote American interests. An institution that had acted as midwife at the birth of the United States had been rendered powerless by the indifference and contempt of its creation.³

The Articles of Confederation limited the options of those who sought to reform the national government from within. The Articles could only be amended with the unanimous agreement of all thirteen states. For

example, when Superintendent of Finance Robert Morris proposed that Congress secure its own revenue by collecting a duty on imports, the states dithered for nearly four years before the proposal died for lack of unanimous support. Members of Congress recognized the need for reform. In May 1786, Charles Cotesworth Pinckney of South Carolina proposed that Congress create a committee to review national affairs and propose amendments to the Articles of Confederation. The committee labored throughout the summer, and in August it proposed new articles which would create a federal court to oversee the actions of the states, give Congress a limited authority to tax and regulate trade, and diminish the number of states required to approve new articles from thirteen to eleven. Congress never acted on the proposals. Had it done so, it is unlikely that all thirteen states would have agreed to such changes. Under the articles, Congress was unable to take steps that its members felt were in the best interests of the country.

Had they been approved, the amendments to the articles proposed by Congress would have been met with skepticism for a number of reasons. Not only did the states jealously defend their rights, but many Americans of the revolutionary era also questioned whether governments and officeholders should initiate constitutional reform. At the state level, a model of constitution-making had evolved whereby new frames of government were drafted by special conventions and submitted to the people, often a broader spectrum than those traditionally allowed to vote, for popular ratification. There was no reason that the same process could not be tried at the national level. The Constitutional Convention should be seen, therefore, not as an illegal conclave but as the culmination of the series of extralegal meetings that began with the Stamp Act Congress of 1765.

The immediate origins of the Constitutional Convention lay in a dispute between Virginia and Maryland over the navigation of the Potomac River. Such intramural disagreements were not uncommon during the 1780s, and the national government was largely powerless to act as an arbitrator in them. In March 1784, James Madison, then a member of the Virginia assembly, proposed that commissioners from the two states meet to negotiate a solution. George Washington, at his estate at Mount Vernon, hosted representatives from the two states on March 25, 1785. The delegates agreed on questions of jurisdiction and navigation of the Potomac. They then went beyond their brief and suggested that their states should cooperate on financial and customs policy, and they recommended that an appeal should be made to Pennsylvania to join in future deliberations on such matters of common interest. Madison, who had previously served in Congress and witnessed its ineffectiveness at first hand, saw an opportunity for interstate cooperation for constitutional reform in the meeting. In the

wake of the events at Mount Vernon, he proposed a resolution to the Virginia assembly for a national convention to meet at Annapolis, Maryland, in 1786 to discuss commercial regulations.

The Annapolis Convention, which met from September 11–14, 1786, was a mixed success. Although eight states expressed interest in the meeting, in the end delegates from only five attended. In practical terms, a meeting of such an unrepresentative body could not propose reforms, commercial or otherwise, to the nation with any credibility. But the meeting at Annapolis did bring together elitist republicans from across the country, who agreed on the urgent need for constitutional change. They resolved to build on their meeting by calling for an additional meeting to be held at Philadelphia the following spring. The purpose of the Philadelphia meeting was made clear in a public address adopted by the Annapolis Convention. The address stated that the delegates to the convention at Philadelphia should “devise such provisions as shall appear to them necessary to render the Constitution of the Federal Government adequate to the exigencies of the Union.” The Annapolis Address was the handiwork of Alexander Hamilton of New York, a successful lawyer and leading elitist. The delegates at Annapolis intended that the Philadelphia meeting should initiate wholesale constitutional change. Congress acquiesced to this purpose on February 21, 1787, when it endorsed the meeting at Philadelphia, “for the sole and express purpose of revising the Articles of Confederation.” During the summer of 1787, the Constitutional Convention would produce a constitutional plan that would supersede and overturn the articles.

Antidemocratic Revolutionaries

Because of the endurance of the constitutional settlement that emerged from its deliberations, admirers of the Constitution have largely endorsed the view of Thomas Jefferson, who described the Constitutional Convention as “an assembly of demigods.” According to this view, the “Founding Fathers” intervened at the crucial moment to save the American Revolution. They thus re-launched the American republic and laid the foundation for its expansion and democratization during the nineteenth and twentieth centuries. Critics of the Constitution see the convention that produced the document as a conclave of self-interested elitists who sought to undermine the democratic principles of the Declaration of Independence in order to safeguard the interests of the wealthy. For some, the Constitution represents a counter-revolutionary subversion of American liberty. In truth (and apparent contradiction), the convention and Constitution it produced were antidemocratic *and* revolutionary.⁴

There is no question that most of the men who gathered in Philadelphia were antidemocratic. Before the meeting, former Continental Army general Henry Knox declared, “mad democracy sweeps away every moral trait from the human character,” and that the convention “should clip the wings of mad democracy.” Within the convention, Elbridge Gerry of Massachusetts declared, “the evils we experience flow from the excess of democracy.” Virginia’s Edmund Randolph clearly stated the purpose of the convention when he “observed that the general object was to provide a cure for the evils under which the U.S. labored; that in tracing these evils to their origin every man had found it in the turbulence and follies of democracy.”⁵ Although antidemocratic, the movement for constitutional reform was not counter-revolutionary, as some historians have suggested. Indeed, if George Washington, who was to lead the new elitist republic, is to be believed, then the elitists sought to prevent a counter-revolution. He wrote in August 1786:

I am told that even respectable characters speak of a monarchical form of government without horror. From thinking proceeds speaking; thence to acting is often but a single step. But how irrevocable and tremendous! What a triumph for our enemies to verify their predictions! What a triumph for the advocates of despotism to find that we are incapable of governing ourselves, and that systems founded on the basis of equal liberty are merely ideal and fallacious! Would to God that wise measures may be taken in time to avert the consequences we have but too much reason to apprehend.⁶

Most delegates at the convention, like elitist republicans across the United States, believed that the nation’s problems sprung from the democratic excesses of the states, and that the antidote to these difficulties would be to erect a national government powerful enough to counter the force of popular will. This is what they set out to accomplish at Philadelphia.

The antidemocratic tendencies of the framers of the Constitution need to be placed in the context of eighteenth-century republicanism. According to the political ideas that circulated in the Anglo-American political world, the most stable governments were those which mixed and balanced the interests of society. The unwritten British constitution achieved this (when it functioned properly) by balancing the elements of monarchical (in the person of the king), aristocratic (in the House of Lords), and democratic (in the House of Commons) government. Whenever one or the other element predominated, it was believed, liberty was under threat. Having

eliminated the monarchical element from their society, Americans faced the difficulty of constructing enduring republics. At stake were the outcome of the Revolution and the survival of liberty. In 1787, Benjamin Rush of Pennsylvania reflected back on the constitutional experiments since 1776 and observed, "Although we understood perfectly the principles of Liberty yet most of us were ignorant of the forms and combinations of power in republics." The crucial distinction, therefore, was between a properly designed republic that protected liberty and democracy which would eventually endanger it. Excessive democracy was as dangerous as the monarchical tyranny from which Americans had just freed themselves. Writing in 1807, John Adams tried to explain the difference: "I was always for a free republic, not a democracy, which is as arbitrary, tyrannical, bloody, cruel, and intolerable a government as that of Phalaris with his bull is represented to have been." The purpose of the Philadelphia Convention was to perfect those forms so as to safeguard liberty and consolidate the achievements of the Revolution.⁷

There was, of course, an alternative view. There were American republicans who felt that the chief danger to liberty lay in the creation of a strong, centralized government which vested power in the hands of a few. These were republicans, whom we have described as democrats, not because they favored the type of excessive democracy described by Adams, but because they felt the American republics must have a high degree of popular input if liberty were to be preserved. The elitists, conversely, accepted that some degree of popular participation was necessary in a republic. As James Wilson, the Scots-born delegate to the Constitutional Convention from Pennsylvania, explained, "No government could long subsist without the confidence of the people. In a republican Government this confidence was peculiarly essential." Nonetheless, elitists felt that popular participation should be limited. Elitists lacked faith in the ability of the common people to exercise careful judgment. Elbridge Gerry explained, "The people do not want virtue, but are the dupes of pretended patriots."⁸ The difference between the elite- and democratically-inclined republicans was not over whether America should be a republic, but over how much popular influence there should be in the republic. In a crucial miscalculation, the democrats largely abstained from participating in the Constitutional Convention, believing that because the Articles of Confederation could not be amended except by unanimous decision, they could block any proposals they found distasteful. In consequence, they left it to the elitists to set the agenda on political reform.

The Constitutional Convention

The Constitutional Convention—or Federal Convention, as it was known at the time—was scheduled to begin its deliberations on May 17, 1787. When the appointed day arrived, the delegations of only two states—Pennsylvania, the hosts, and Virginia, which had taken the lead in proposing the convention—were present. Poor weather and poorer roads delayed the arrival of the other delegates. The Virginia delegation contained two of the most important delegates to the conclave, George Washington and James Madison. Washington was probably the most famous and respected man in America. His success commanding the rebel forces during the recent War of Independence had won him nearly universal acclaim. He rose still further in the public's esteem at the end of the war when, like a modern-day Cincinnatus, he relinquished his command, submitted to civilian authority and retired from public life. To many Americans, Washington embodied the selfless virtue that they believed was essential to a successful republic. Although his political ideas were unknown to most Americans, the general's presence lent immediate credibility to the convention and its work.

Thirty-six-year-old James Madison was not well known to most of his countrymen, or at least not to those who were not Virginians. Nonetheless he, more than any other man, would have the greatest impact on the events that were about to unfold. Intellectually gifted, Madison was educated at Princeton. Although frail health prevented him from undertaking military service during the war, Madison had assisted the rebel effort in his native Virginia through extensive public service. He served in the Virginia Convention, which severed the state's ties with Britain, and created one of the earliest state constitutions. While representing the state in Congress during the early 1780s, Madison became acutely aware of the limitations of the Articles of Confederation, which convinced him of the urgent need to strengthen the national government. Madison spent the winter of 1786–87 intently studying the history and theory of republican government. He came to the convention not only with a clear idea of what was wrong with America but also of how to fix it. In April 1787, he wrote a lengthy memorandum entitled “The Vices of the Political System of the United States,” in which he outlined the defects in the present government and his proposed remedy for those defects: the creation of a powerful national republic with a centralized government. In anticipation of the meeting, he circulated his memo among prospective delegates. As such, he set the agenda for the convention. William Pierce, who represented Georgia at the convention, aptly summarized the role played by the Virginian: “In the management of every great question he evidently took the lead in the Convention.” The

Georgian continued, “he always comes forward the best informed Man of any point in debate.”⁹ While waiting for the delegates from the other states, Madison met in caucus with Virginia’s representatives—Washington, George Wythe, John Blair, John McClurg, Edmund Randolph, and George Mason—in order to outline and sell his plan for a stronger federal union. By the time the other delegates arrived, the Virginians were ready to dominate the opening stages of the convention.

By Friday, May 25, 1787, twenty-nine delegates from seven states had arrived, giving the convention a quorum. Over the next few weeks a further twenty-six delegates straggled in. Each of the thirteen states that had declared independence in 1776, with the exception of Rhode Island, was represented at the convention. All told, fifty-five delegates attended the gathering. Most had been selected by their states’ legislatures. The delegates brought a broad range of experience in public service to the meeting. All fifty-five had held public office: forty-two had served in the Continental or Confederation Congresses, seven were sitting or former governors, and eight were judges in their home states. Twenty of the delegates had helped to draft their state’s constitution. The delegates, therefore, had practical experience of the strengths and limitations of republican government in America as it had been experimented with at the state and national levels. They also brought a high level of energy and commitment to their deliberations. Although there were several older delegates at the meeting, such as the eighty-one-year-old Benjamin Franklin and Connecticut’s Roger Sherman, who was sixty-six, most of the delegates who took a leading role in the deliberations were in their thirties and early forties.¹⁰

Whether or not the delegates to the Constitutional Convention were Jefferson’s “assembly of demigods,” they were certainly a remarkable group. There were notable omissions from the convention’s ranks, including Jefferson (who was representing the United States in France) and John Adams (who was representing the United States in Britain). Leading “democratic” politicians, such as Patrick Henry of Virginia, eschewed the convention because they did not agree with its purpose. More significant were those who were not represented at all at the convention. The delegates to the Constitutional Convention were assuredly not a cross-section of the four million Americans in 1787. There were of course no women delegates to the convention. The 600,000 African Americans (most of whom were still enslaved) had no representatives: rather, they had to rely on the goodwill of the thirty-six delegates who had no slaves and the willingness to compromise of the nineteen delegates who owned black bondsmen and women. Native Americans too were unrepresented at the convention. Despite the fact that tens of thousands of Indians lived within the borders

of the United States, the framers of the Constitution never seriously considered including Native Americans in the revolutionary political settlement. In so doing, they closely followed colonial precedents. As Gregory Evans Dowd has noted, “if in the 1780s American citizens failed to see Indians as potential citizens, so British subjects in the 1760s generally refused to see Indians as British subjects.” During the colonial period, Indians had been excluded from public life and marginalized as dangerous outsiders. The framers of the Constitution continued this regrettable tradition and denied the right of citizenship to Indians under the Constitution produced by the convention.¹¹

The exclusion of women, African Americans, and Indians from the Constitutional Convention is not particularly remarkable. By tradition, law, and custom, all of these groups were outside the recognized polity—be it imperial or republican—in eighteenth-century America. Common white men—the small farmers, artisans, sailors, traders, and laborers—had, however, won an increased voice in American politics since the Stamp Act. It was primarily by their efforts that independence had been won. As a result of their contributions, the average white male head of household had won a greater voice in his own government. There were no common men at the Constitutional Convention. Twenty-six of the delegates were college graduates, thirty-four were lawyers, three were physicians, and the balance was large planters and merchants. Although there were self-made men like Benjamin Franklin among the delegates, all enjoyed economic success above the norm. The delegates were as elite as the political outlook which most of them shared.

During its first days, the Constitutional Convention took two important procedural decisions. On May 25, George Washington was elected president of the convention, which would certainly help win public support for the outcome of the meeting. Three days later, the convention decided that its deliberations would be kept secret. There would be no public account of the convention during the meeting (or for years afterwards). This decision encouraged frank discussion and prevented those who were politically opposed to the meeting from marshaling their opposition. It also meant that the public would be kept in the dark until the convention had a formal proposal to lay before it. Since one objective of the meeting was to limit democracy within the United States, such an approach had clear advantages. Also on May 28, it was decided that the voting in the convention would be conducted as it had been in Congress: that is, each state delegation would have one vote.

Having dealt with procedural matters, the convention got down to its work in earnest on Tuesday, May 29. That day, Governor Edmund Randolph

of Virginia rose and delivered a lengthy speech in which he reviewed the troubles which had plagued the country in recent years, including the proliferation of paper money, the rebellion in Massachusetts, and the commercial discord among the states. He noted that many of these problems stemmed from “the democratic parts of our [state] constitutions.” He further noted that the Confederation government was largely powerless to remedy these difficulties. In consequence, Randolph submitted a series of fifteen resolutions that would create a new, stronger, federal government. The content of Randolph’s resolutions, known as the Virginia Plan, were largely the handiwork of James Madison. Madison’s plan, if adopted, would radically alter the government of the United States by replacing the Confederation government with one modeled after the elitist state constitutions like that of Massachusetts. Under the Virginia Plan, the new government would be divided into three branches: legislative, judicial, and executive. The legislature would have two houses, both to be elected according to population. The voters in the states would directly elect the first house of the legislature. The members of the second house would be elected from among those of the first. The legislature would have the authority to adopt national laws, to negate laws adopted by the individual states, and to tax. The judiciary would be elected by the legislature and would arbitrate disputes between the states and oversee the collection of federal revenue. The government would have a plural executive elected from among the legislature, which would be charged with executing the laws adopted by the legislature. Madison’s plan also had a provision that called for the creation of a Council of Revision, elected from among the members of executive and judiciary. The council would review all legislative acts whether adopted by the national legislature or the states, and it could exercise a veto over these acts.¹²

Madison’s thinking, as reflected in the Virginia Plan, combined elements of the traditional and the new. The tripartite separation of power in the plan, derived from the British constitution and tested at the state level, had become common by 1787. The size and scope of Madison’s proposed republic government, however, flew in the face of the theory and practice. It was a commonplace of eighteenth-century republican thinking, derived from Montesquieu’s *Spirit of the Laws*, that a successful republic must be confined to a relatively small geographic area. Republics large in geographical extent were felt to be unstable and ungovernable. This is one reason why in their first attempt at national government the revolutionaries opted for a confederation of fairly autonomous republics. Under Madison’s plan, the federal government with its veto over state action, would have clear superiority in its dealing with the states. The Virginia Plan lacked

much in the way of specific details. Nonetheless it was a bold proposal, one that went far beyond the convention's brief to recommend revisions to the Articles of Confederation. Most importantly, because it was the first proposal put before the convention, the Virginia Plan set the agenda for the gathering. For the remainder of the summer the delegates would debate and amend Madison's proposal. Although the convention would make significant changes to the plan, it would remain at the center of its deliberations.

Beginning on May 30, the convention agreed with Madison's intention to create a government "national and supreme," and proceeded to debate the specific details of the plan. The delegates rejected Madison's proposed plural executive and Council of Revision as unworkable and replaced them with a single executive, the president, who would have the authority to veto legislation. One of the first difficult issues that the convention confronted concerned whether slaves should be counted for the purposes of representation in the national legislature. Northerners feared that southerners would reap undue political benefit (and influence) if their slaves were fully counted for the purposes of representation. The convention took a crucial decision on June 6, when it revived a formula first proposed by James Madison in 1783, and voted that representation in the national legislature and the apportionment of taxation would be calculated according to a proportion of the free population plus three-fifths of the slave population. This so-called three-fifths clause represented a compromise between the interests of the southern and northern states. It was the first of several crucial compromises made during the summer, which sought to reconcile competing interests.¹³

The most significant conflict of interests at the convention was not between the North and the South but between the large and the small states. In the Virginia Plan, Madison proposed to create a super-republic, with the states reduced to the status of administrative units not unlike English counties in relation to Parliament. The implementation of such a scheme would naturally result in a significant diminution of authority of states. This would affect the small states especially. In the Continental and Confederation Congresses (as well as within the Constitutional Convention), all the states were equally represented. If representatives to the proposed national legislature were selected according to population, then the authority of the states would be undermined in two significant ways. First, if legislators were directly elected by the voters, as proposed by Madison, then the state legislatures would no longer be able to delegate their representatives as they had traditionally done. More significantly, if representation were based on population, then the representatives of the large states might easily outvote the representatives of the small states. In consequence,

delegates from a collection of states with small populations—New Jersey, New York, Connecticut, Maryland—prepared a proposal to counter the Virginia Plan and safeguard the interests of the small states.

On June 14 and 15, William Paterson of New Jersey presented the small states' alternative, which came to be known as the New Jersey Plan. Paterson outlined a proposal in which the government would retain a unicameral legislature, with each state delegation having one vote. This system had the force of recent history behind it, as it had been used at every major representative gathering of the revolutionary era since the Stamp Act Congress. Because the legislature would be organized by state, the states would continue to play a crucial role within the national government. Under the New Jersey Plan, the Congress would be vested with the power to tax, regulate commerce, and coerce recalcitrant states. Additionally, a plural executive would administer the nation and a national judiciary would oversee the implementation of national law, which would be superior to state legislation. This plan was much closer to the convention's brief of suggesting revisions to the Articles of Confederation. The authors of the New Jersey Plan recognized the importance of strengthening the national government. Proponents of the plan contended that it would create more vigorous central government that would still safeguard the interests of the individual states, particularly the smaller ones. Its critics felt that the small states would exercise undue and unfair influence within the government, and that the changes proposed did not go far enough to create a national government potent enough to address the nation's ills. On June 19, the plan was defeated decisively when seven states voted against and three in favor of it. That two small state delegations—Connecticut and Maryland—voted against the design they had helped draft, indicates that the plan may have been as much a protestation by the small states that their interests must be considered as a real alternative to the Virginia Plan.¹⁴

Although the convention rejected the New Jersey Plan, the issue of representation in the national legislature went unresolved. For the next two weeks, the issue was thoroughly debated with increasing acrimony yet without a successful conclusion. The convention was deadlocked and facing collapse. On July 2, Roger Sherman of Connecticut declared, "We are now at a full stop, and nobody he supposed meant that we should break up without doing something."¹⁵ Facing failure, the convention agreed to Sherman's proposal that the question of representation be referred to a committee chaired by Elbridge Gerry. Three days later, on July 5, the committee proposed a compromise to the convention: representation in the lower house of the legislature would be apportioned according to population and in the upper house each state would have an equal vote. Small

state delegates earlier in the convention had suggested equal representation in the upper house. It took the specter of failure to convince the large states to accede to the proposal. On July 16, the convention narrowly voted in favor of the proposal—which came to be known as the Great Compromise—by five votes to four.

From July 17 to 26, the convention dealt with miscellaneous details regarding the form of the Constitution before adjourning to allow a committee of detail to attempt to make sense of the various recommendations and amendments to the Virginia Plan that had been agreed and suggested over the previous two months. Crucially, during this period the convention agreed to drop Madison's cherished federal veto over state actions. Although national law would be superior to state law, this was a blow to Madison's vision of total federal supremacy. The committee of detail was charged with producing a draft Constitution. In so doing, it fleshed out many of the features of the Constitution and lived up to its name by taking important decisions regarding specific aspects of the structure and powers of the proposed government. In its draft Constitution, the committee specified that the national government would have the power to tax, regulate commerce, engage in war and peace, establish courts, and adopt any laws "necessary and proper" to achieve these ends. The states were forbidden from waging war, engaging in diplomacy, coining money, or laying duties on imports. The committee named the lower house of the legislature as the House of Representatives and the upper house as the Senate: the whole legislature would continue to be called the Congress. As in the states with bicameral legislatures, the approval of both houses was required for a bill to become law. Under the committee's draft Constitution, the president was to be elected by Congress and the powers of the executive had yet to be fully elaborated.

In the weeks after the committee of detail made its report, a new clash of interests emerged in the convention. In August, slavery again emerged as an issue at the meeting as the delegates from the southern states, particularly those of the Lower South, sought protection for their labor practice in the Constitution. They had already secured limited recognition for their peculiar institution in the three-fifths clause. Article VII, section 4 of the proposed Constitution submitted by the committee of detail prohibited Congress from taxing or banning the slave trade. The convention began debating the article on August 21. Cantankerous Luther Martin, the attorney general of Maryland, criticized the clause as being "inconsistent with the principles of the Revolution and dishonorable to the American character." The issue was hotly debated on August 22. The debate did not simply pit northern against southern delegates: indeed, some northern

delegates like Connecticut's Oliver Ellsworth and Roger Sherman argued that Congress should not interfere with the slave trade. There was also division among southerners. Delegates from the Upper South, which had a surfeit of slaves, wanted to abolish the slave trade so that they could increase the value of their excess chattel. Thus George Mason, the largest slaveholder at the convention, had the audacity to declaim the slave trade as an "infernal traffic," the blame for which he ascribed to "the avarice of British Merchants." Delegates from the Lower South, especially the Carolinians Charles Cotesworth Pinckney and John Rutledge, threatened that their states would leave the union rather than allow Congress to interfere with slavery. As with other divisive issues, the convention decided to refer the question of the slave trade to a committee, which would seek a compromise solution.¹⁶

Although some delegates found the slave trade objectionable, it did not present the same obstacle to a settlement that the question of representation had. The opponents of the slave trade were more concerned with securing a constitutional settlement and creating a strong federal government than they were with the inhumanity of the slave trade. In the face of threats to leave the union by delegates from the Lower South, the opponents of the slave trade expressed a willingness to be flexible over the issue. In late August a compromise was reached whereby Congress would not have the authority to abolish the slave trade until 1808 at the earliest, and the federal government would compel states to assist in returning runaway slaves to their masters. The elitists who framed the Constitution were more concerned about creating a strong, stable national government than they were about addressing any inconsistencies posed by the ownership of slaves and the principles of the Revolution.

In late August and early September, the convention turned its attention to the presidency. Several major questions had to be addressed: the manner by which the executive would be elected, how long he would serve, and what particular powers and responsibilities he would have. Eventually the convention rejected a proposed seven-year term in favor of a four-year span with unlimited re-election. The election of the president was removed from Congress and vested in an Electoral College. Each state legislature would select electors for the Electoral College, which would be apportioned according to population. Each elector would cast two votes, and the leader in the polling would become president and the runner-up would become vice-president. In the event of a deadlock in the Electoral College, the House of Representatives would determine the outcome of an election. The president would have considerable powers. His signature was required make acts of Congress law. He would have the authority to veto acts of Congress.

He would serve as commander-in-chief of the armed forces. Further, he was authorized to direct the nation's diplomacy (the Senate was required to ratify treaties), and to appoint judges and diplomats (again, with Senate approval). If the Constitution were adopted, then the American president would have more authority to influence the lives of American citizens than George III had ever exercised over his American subjects. Crucially, the voters would be the master of the president. For all his power, the president had to be elected and could be removed by the voters.

On September 17, thirty-nine of the remaining forty-two delegates at the Constitutional Convention signed their handiwork and adjourned. The convention had gone far beyond simply recommending simple modifications to the Articles of Confederation. The delegates had audaciously proposed the creation of a powerful federal government in which power was separated between the three branches of the government: the Congress, the President, and the judiciary. Laws originated with Congress, which also had to approve the federal budget. The president had to give his assent to congressional acts (and he could exercise his veto of such acts), and the Supreme Court was empowered to oversee and uphold the Constitution. Most significantly, the power of the federal government under the proposal would be superior to that of the states. Here was an elitist solution to the problems facing the nation, but would it become law?

Ratification

When the Constitutional Convention finished its work, it immediately transmitted a copy of the proposed Constitution to the Congress, which was sitting in New York. Article VII of the proposed frame of government stipulated the means by which the convention felt the Constitution should be ratified: "The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution." In a covering letter that accompanied the Constitution, the convention provided specific advice as to how the process should work. After Congress received the document, "it should afterwards be submitted to a Convention of Delegates, chosen in each State by the People thereof, under the recommendation of its Legislature, for their Assent and Ratification." The Constitution was read before the Congress on September 20. On September 28, Congress unanimously voted to submit the document to the states for ratification according to the method outlined by the convention. Thus the American people—at least those with political rights—would have two opportunities to express their views on the proposed Constitution: when they voted for

delegates to their state ratifying conventions, and when those delegates debated and voted on the proposed frame of government.¹⁷

By 1787, it had become a common procedure to submit state constitutions to special ratifying conventions, so it is not surprising that the same procedure was recommended at the national level. Such a process had a strong ideological basis. The American revolutionaries were committed to republican government. Although its proponents intended that the Constitution should curb the democratic excesses of the Confederation governments, they also intended that the American electorate should give its consent to its new system of government. As James Madison put it somewhat awkwardly, if the Constitution “be found to depart from the republican character, its advocates must abandon it as no longer defensible.” Given the commitment of even elitists to republican government, it was crucial that the proposed frame of government be submitted to the public for some form of approval; otherwise the government that it created would lack legitimacy. Although drafted in secret by elitist-inclined opponents of democracy, the Constitution was not the engine of counter-revolution because it was submitted before the American polity for (in theory) careful consideration and discussion.¹⁸

There were pragmatic as well as ideological reasons why the Constitutional Convention suggested the ratification process it did. The assent of all thirteen states was required to amend the articles of Confederation. The proposed Constitution was far more than an amendment of the articles. As such, the framers of the Constitution recognized that it would be impossible to achieve such unanimity for a radical overhaul of the political system. Faced with an impossible set of rules, they proposed to change them. Moreover, because the supporters of the Constitution recognized that opposition to the plan would coalesce in the state governments, they proposed to bypass the state legislatures with special ratifying conventions. Such conventions gave the impression—often legitimate—of appealing directly to the people. At the same time, they excluded many opponents of the proposed plan while allowing its supporters to exercise great influence within the conventions. This mix of the idealistic with the pragmatic characterized the struggle over ratification. The result was a contest of supreme importance—each side believed the very outcome of the Revolution was at stake—marked by discourse of the very highest order concerning the meaning of the American experiment with republicanism and by hard-nosed politicking which frequently reduced the contest to the political equivalent of bare-knuckles boxing.

The supporters of the Constitution won an important first trick in the struggle for ratification when they appropriated the term “Federalists” to

describe themselves and designated their opponents as “Antifederalists.” (These are the first of several labels adopted by the groups we have thus far denoted as elitists and democrats.) Jackson Turner Main has noted that these terms are not really accurate: “Originally the ‘federal’ meant anyone who supported the Confederation.” Since the Antifederalists actually sought to defend the Confederation against the innovative and (from the standpoint of the Confederation) destructive plan advocated by the Federalists, it would be more appropriate to swap the labels. Nonetheless, the men who would destroy the Confederation called themselves Federalists and their opponents Antifederalists. In so doing, they scored an important propaganda victory for they not only cast themselves as defenders of the Confederation but, more importantly, they cast their opponents in the negative role as opponents of reform. Main writes, “The victors took what name they chose, and fastened on the losers one which condemned them. Since the victory was a lasting one, the name and the stigma have endured.”¹⁹

At the conclusion of the Constitutional Convention Alexander Hamilton, one of the leading Federalists, speculated about the prospects of the Constitution during the forthcoming ratification process. According to Hamilton, the “very great weight of influence of the persons who framed, particularly the universal popularity of General Washington,” augured well for the Constitution. He felt especially that “the commercial interest” as well as men of property and creditors would welcome the stable, powerful government promised by the Constitution and support it at their state ratifying conventions. When coupled with the “strong belief in the people at large of the insufficiency of the present confederation,” he was fairly confident that the proposed frame of government would be ratified. Hamilton recognized that there would be opposition to the Constitution. He expected the ranks of the Antifederalists to be drawn from local officeholders—both competent and incompetent—who would fear a diminution of their authority, ambitious trouble-makers who would profit from continued political and economic instability, debtors, and “the democratical jealousy of the people which may be alarmed at the appearance of institutions that may seem calculated to place the power of the community in the hands of a few individuals to stations of great preeminence.” Recognizing the bias of his comments, Hamilton’s analysis proved remarkably accurate.²⁰

John Jay, a leading advocate of the Constitution in New York, succinctly summed up Federalism when he declared, “those who own the country ought to govern it.” The leading student of Antifederalism has corroborated this view. According to the most important study of Antifederalism, the crucial socioeconomic factor in distinguishing between supporters and opponents of the Constitution was their level of engagement in commercial trading.

“In all parts of the country,” writes Jackson Turner Main, “the commercial interest with its ramifications, including those who depended primarily and directly upon commerce, were Federal, and the ‘non-navigating’ folk were Antifederal.” Federalism drew its main support from among the men engaged in commerce and those dependent upon them. As a rule, men of wealth were usually Federalists. So too were creditors, those who held both public and private debts. This has led some commentators and historians to conclude that the struggle over the Constitution was class-based. Although this interpretation has some merit, it does not account for the wide support for Federalism among all classes in towns where class divisions were most acute. Every major town and city in the United States had a Federalist majority. Thus urban artisans, laborers, and seamen often supported the Constitution because they, like their wealthy employers, depended on the commercial stability they believed the new government would provide. Antifederalism, by contrast, drew its strength from among the small farmers of rural America, including the backcountry and more isolated parts of settled regions. Small farmers, debtors and proponents of debt relief, as well as local officeholders, opposed the Constitution.²¹

Antifederalists made a number of criticisms of the proposed Constitution. They felt that the Constitutional Convention had exceeded its mandate in proposing a system to replace the Articles of the Confederation. They further objected to the proposed ratification process, which was at odds with the articles. Their greatest fear was that the powerful, centralized government to be created by the proposed Constitution would destroy the sovereignty of the individual states and undermine republicanism. They contended, along with Montesquieu, that it was impossible to maintain republican government over an extended land area and that the government must inevitably threaten the liberty of its citizens. Samuel Bryan, a Pennsylvania Antifederalist, described the Constitution in October 1787 as: “the most daring attempt to establish a despotic aristocracy among freemen that the world has ever witnessed.” The chief defect of the plan was that those in power would not really be accountable to the governed. Thus republican principles would be permanently undermined. The Constitution, Bryan continued, “is devoid of all responsibility or accountability to the great body of the people, and that so far from being a regular balanced government, it would be in practice a *permanent* ARISTOCRACY.” Many Antifederalists were especially concerned that the proposed document lacked a Bill of Rights—a list of enumerated and legally protected liberties—such as were appended to many of the state constitutions. All in all, the Antifederalists objected to the means by which the Constitution was drafted, how it would be ratified, its provisions for a strong national government

at the expense of the states, and its failure to protect individual liberty. The Antifederalists conceded that something had to be done to reform the national government. They also realized they had made a crucial error in failing to attend the Constitutional Convention. Many proposed that a second convention be held to redraft the Constitution.²²

Federalists addressed the criticisms of the Antifederalists in hundreds of pamphlets and newspaper articles. Of these, the most famous are a series of eighty-five *Federalist* essays, which appeared in New York newspapers in 1787 and 1788. Written under the pseudonym "Publius," the Federalist essays were the handiwork of Alexander Hamilton, James Madison, and John Jay. Taken together, they constitute the most coherent explication of Federalist principles with respect to the Constitution. Although they addressed a multiplicity of issues with respect to the Constitution, perhaps the most significant argument made in the series was that of James Madison in the tenth *Federalist*. In that essay, Madison addressed the Antifederalist tenet, derived from Montesquieu, that a large republic was impossible to sustain. On the contrary, Madison argued, republics were suited to large nations because the large number of competing interest groups in a large republic would ensure that no one faction or group could predominate and oppress the others. In other essays the authors, especially Madison and Hamilton, argued that the separation of powers and checks and balances within the Constitution would guarantee civil liberty and that Antifederalist concerns about governmental abuse were unfounded. Only time would tell whether the Federalist or Antifederalist interpretation of the Constitution was correct.

The debate over the merits of the Constitution constitutes the most significant public discourse in American political history. It was also a political battle played out across the thirteen states. Although it is difficult to be precise, it seems likely that a majority of American voters were probably opposed to the Constitution. The Federalists, however, enjoyed several considerable advantages during the ratification contest. Perhaps most importantly, the Federalists were offering a specific set of solutions to the pressing political problems that faced the nation. Most Antifederalists conceded that some reform was necessary. When set against their suggestion that another convention be called, the Constitution seemed a surer solution. Even those who were displeased with parts of the proposed plan felt it was better than inaction. People felt it was necessary to accept the proposed Constitution, even with its flaws, in order to create a more vigorous national government, rather than endure the weakness of the Articles of Confederation any longer. Such feelings prevailed in the towns and cities of the United States that, as previously noted, were overwhelmingly

Federalist. Most of the ratifying conventions were held in such towns, and local people gave delegates the impression that the majority of Americans favored the Constitution. The Antifederalists' support, by contrast, was scattered across the small farms of the hinterland. It was widely dispersed and difficult to organize. In the main, rural Antifederalism did not directly influence the ratifying conventions, especially when the Federalists could champion a concrete plan which they could argue was the antidote for the country's ills.

Federalists also enjoyed social advantages over their rivals, which gave them an edge in the ratification struggle. The leading Federalists were well-educated, wealthy men with inter-state political and economic connections, and many had had experience of leadership during the War of Independence and its aftermath. Most importantly, they had a strong national outlook. In consequence, they were much better placed to conduct a national campaign for ratification than the Antifederalists. The Antifederalists were, in the main, locally oriented. Although there were certainly wealthy and prominent Antifederalists, the majority were small farmers. The Antifederalists often felt ill at ease with their wealthier, more polished rivals. According to Amos Singletary, a miller from Sutton, Massachusetts, who opposed the Constitution, the Federalists would derive direct benefits from their apparent social advantages:

These lawyers, and men of learning, and moneyed men, that talk so finely and gloss over matters so smoothly, to make us poor illiterate people swallow down the pill, expect to get into Congress themselves, they expect to be the managers of this Constitution and get all the power and all the money into their own hands, and then they will swallow up all us little folks, like the great *Leviathan*. . .²³

The Federalists undoubtedly did use their social, economic, and political advantages to good effect. They were better organized and better able to produce and disseminate propaganda in support of the Constitution. The overwhelming majority of newspapers in the country, for example, were Federalist owned and inclined. Indeed, only five major newspapers (out of approximately one hundred) consistently opposed the Constitution. The newspapers did much to promote the view that the Federalists were in the majority. They did not always allow the truth to stand in the way of their cause, as when the *Pennsylvania Gazette* informed its readers that Patrick Henry, the leading Virginia Antifederalist, was working hard for the ratification of the Constitution.²⁴

The Federalists, who had outmaneuvered their opponents in drafting the Constitution, used their advantages to good effect during ratification. Where their support was strong they moved rapidly to secure approval, and where it was weak they prevaricated to allow themselves time to campaign effectively. Because of poor weather and the haste of the elections, perhaps only a third of qualified voters participated in the elections for the state ratifying Conventions. Those most likely to stay away were Antifederalists in isolated communities. Thus even from the outset, the Federalists seemed likely to have a significant advantage when the conventions began to meet. Delaware was the first state to act. A small state used to living in close economic and political harmony with its large neighbor, Pennsylvania, the Delaware Convention voted unanimously in favor of the Constitution on December 7, 1787. Pennsylvania was the first real test of the Constitution. The assembly there had been bitterly divided over the Constitution, and resisted calling elections for the ratifying convention. The Federalists resorted to political strong-arm tactics (a crowd prevented Antifederalist representatives from leaving the chamber and denying the assembly a quorum) to secure the call for a convention. On December 12, the Pennsylvania Convention ratified the Constitution by a vote of 46 to 23. Less than a week after Pennsylvania approved the Constitution, New Jersey, another small state that depended on harmonious commercial relations with its neighbors, gave its verdict on the document. On December 18, the New Jersey ratifying convention voted 38 to 0 in favor of the Constitution. On January 2, 1788, Georgia, which hoped for Federal protection for its frontiers from the Spanish and Indians, voted 26 to 0 for the Constitution. One week later, the Connecticut ratifying convention added its assent by a margin of 128 to 40. Thus within the first month of the ratification campaign the Federalists had secured the support of five states and enjoyed significant momentum before the Antifederalists had hardly even begun to organize their opposition.

While happy with their results thus far, the Federalists recognized that they needed four more states, and a union without Massachusetts, Virginia, New York, and South Carolina in particular would be a weak entity. The Massachusetts ratifying convention began its deliberations on January 9, 1788. Although forty-six towns, the majority of which were probably Antifederalist, failed to send delegates to the conclave, the Federalists reckoned at the start of the meeting that the Antifederalists would prevail. Defeat in Massachusetts, one of the largest states and a leader in the Revolution, would be a severe blow to the Federalist campaign. Moreover, in Massachusetts the Antifederalists had competent leadership in the revolutionary stalwarts Samuel Adams and John Hancock. The Federalists

in the Massachusetts Convention sought to delay a vote on the Constitution in order to sway the leading Antifederalists. They did so by debating the proposed Constitution clause by clause. Behind the scenes appeals were made, especially to Adams and Hancock. When Boston artisans demonstrated in favor of the document, Adams was swayed. The Federalists suggested to Hancock that he might be vice-president if the Constitution were ratified, which appealed to the one-time President of the Continental Congress. Eventually moderate Antifederalists were won over by a Federalist pledge to consider appending a Bill of Rights to the Constitution. On February 9, Hancock recommended nine proposed amendments to the Constitution (which were non-binding) to guarantee civil liberties, and he endorsed the document. That day the Federalists narrowly triumphed by a margin of 187 to 168. In other states a similar formula was followed, whereby Antifederalists came to support the Constitution on the condition that it be amended to protect civil liberty.

After Massachusetts, there was a delay in the pace of ratification. Maryland became the seventh state to endorse the Constitution when its convention voted in favor by 63 to 11 on April 21. The Federalists triumphed in South Carolina by 149 to 73 on May 23. On June 21, after a bitter contest within its convention, New Hampshire narrowly ratified by 57 to 47. In so doing, New Hampshire became the ninth state to approve the Constitution and it became the law of the land. Four states—Virginia, New York, North Carolina, and Rhode Island—remained outside the federal fold. The first two were crucial to the success of the union, and the ratification campaigns continued. In Virginia, the Antifederalists had the able leadership of Patrick Henry (newspaper reports notwithstanding). As in Massachusetts, the promise of a Bill of Rights swayed moderate Antifederalists and on June 26, 1788, the Virginia Convention approved by 89 to 79. In New York, the struggle was even closer. Under the aggressive leadership of Alexander Hamilton and John Jay and with threats by the commercial leadership of New York City, the convention narrowly ratified by 30 to 27 on July 26. With the agreement of eleven of the thirteen states—including the largest and wealthiest states—the Federalists had affected their own revolution.²⁵

Finishing Touches: The Judiciary Act and the Bill of Rights

After ratification, there were two significant additions to the constitutional structure of the United States that should be viewed as part of the political settlement to emerge from the Revolution. These were the Judiciary Act and the Bill of Rights, adopted in 1789.

The Constitution had created a federal judiciary for the United States but left the detail as to how it should be structured, what its precise responsibilities should be, and what its relationship with the state courts should be for settlement at another time. In 1789, the first Congress under the new Constitution adopted the Judiciary Act to address many of these issues. This act gave form and breathed life into the judicial system of the United States, thereby completing the tripartite structure of the federal government. According to the act, the Supreme Court created by the Constitution would have six members. The Supreme Court would be at the apex of a federal system of three circuit and thirteen district courts. Under this system, the federal courts were to uphold the Constitution and adjudicate federal laws. Although federal law would be superior to that of the states if the two came into conflict, state courts were still responsible for upholding laws in their own jurisdictions. The Judiciary Act, therefore, divided judicial authority between the federal government and the states. The act did provide that when a state court denied a claim of federal right the case could be appealed to the Supreme Court, thereby establishing the principle of judicial review. The Supreme Court began to exercise this right in a meaningful way under the chief justiceship of John Marshall (1801–35). In the 1803 case of *Marbury vs. Madison*, the court overturned a provision of the Judiciary Act on the grounds that it violated the Constitution. The *Marbury* decision was the first in which the Supreme Court exercised judicial review and established the authority of the judiciary as the third branch of the government, coequal with the executive and legislative branches.

One of the chief Antifederalist criticisms of the Constitution had been that it lacked a Bill of Rights. Some Federalists were opposed to adding such a list because they felt that the Constitution provided sufficient safeguards for personal liberty. Nonetheless, after the Massachusetts ratifying convention agreed to recommend proposed amendments to the new Congress as a condition of ratification, every subsequent state to ratify (except Maryland) resorted to the same mechanism. In essence, Antifederalists had secured a Federalist commitment to a Bill of Rights during the ratification contest. Given the significance the Bill of Rights has come to have in American life (many Americans identify “the Constitution” as the Bill of Rights), the Antifederalist contribution was crucial. That the opponents of the Constitution helped ensure what has become the most prominent feature of the Constitution is ironic indeed.

More than two hundred suggested amendments were submitted by the state ratifying conventions. As a leading member of the first Congress, James Madison, who had argued that a Bill of Rights was unnecessary,

made drafting the Bill of Rights a high priority. Madison was swayed by the amendments recommended by his home state of Virginia. The Virginia ratifying convention submitted forty proposed amendments, many drawn from the Virginia Constitution of 1776. From these, Madison pared the list down. On September 24–25, 1789, the House of Representatives and Senate approved twelve proposed amendments to protect civil liberty and limit federal power, and submitted them to the states for ratification. Of these, the states approved ten, including those guaranteeing freedom of religion and of speech, the right to bear arms, protection from unlawful searches, the right to due process of law, and the right to a speedy trial by jury. Other amendments prohibited quartering soldiers with civilians in time of peace, excessive fines, and cruel and unusual punishments. The final amendments stipulated that the enumeration of these rights did not “deny or disparage” the other unspecified rights which the American people retained and that all powers not expressly delegated to the United States by the Constitution were reserved to the states and the people. The amendments took effect in December 1791, when Virginia, appropriately, became the last state to ratify them. The adoption of the Bill of Rights helped to convince Antifederalists in North Carolina and Rhode Island to drop their opposition to the Constitution and allowed those states to enter the new union.²⁶

Conclusion

The adoption of the Bill of Rights ended a generation of constitutional experimentation on the part of Americans. The fundamental question raised by American protests to British taxation had been that of the constitutional relationship between the colonies and Parliament. The Americans had resolved that question by declaring independence. In so doing, they raised a host of new constitutional questions: what form should their new governments take, who was entitled to participate in those governments, what should the relationship between the states be, what rights did citizens have. At the state and national level, Americans experimented with a range of governmental structures in their search for the answers to these questions, from the democratic egalitarianism of Pennsylvania and Vermont to the elitism of Massachusetts and New York and the Federalist solution of James Madison. The revolutionaries never wavered in their commitment to republican government: that is, government where sovereignty was derived from the people. Thus the Constitution of 1787, while antidemocratic and adopted, in part, to limit popular participation in government, was not counter-revolutionary. Drafted in secret, it was subject to popular scrutiny

by a public ratification process. Although the Federalists enjoyed decided advantages in that process, both sides accepted its outcome as legitimate and binding.

Having agreed on the structure of the national government for the second time in a decade, the key question was whether the new Constitution would last longer than the Articles of Confederation. Over the coming decade the new government would endure several severe challenges, including the rise of political partisanship. The most important challenges arose from how the new republic reacted to events thousands of miles from the United States. As Americans launched their new republic in 1789, their French allies began a process leading them to overthrow their monarchy and add another nation to the world's short roster of republics. The French Revolution and the political, diplomatic, and ideological questions it raised would be at the heart of American life for the next decade and beyond.