

American Government

Constitutional Democracy Under Pressure

SECOND EDITION



Cal Jillson



AMERICAN
GOVERNMENT

This brief textbook highlights the tension between constitutional democracy and populism in American government, focusing on questions of constitutionalism. In this well-written book, Cal Jillson gets students to ask key questions regarding the dynamic, complicated relationship between contemporary populism and government institutions in an interesting and well-executed departure from his usual American political development focus.

Mark C. Miller, *Clark University*

This timely text is a fantastic resource for students and professors, focusing on the most pressing issue facing America today: the functioning of our constitutional democracy amid increasing partisanship, polarization, and populism. The book is well-written, well-organized, and well-focused on the concepts, theories, and history that will allow students to engage the big questions of the modern day.

Morgan Hazelton, *Saint Louis University*

Cal Jillson's new brief textbook is outstanding. With a well-researched, comprehensive set of historical analyses and effective writing style that is clear and flows well, it will be easy for American Government students to follow. I will surely use it in the future, and highly recommend it!

Benjamin J. Kassow, *University of North Dakota*

In *American Government: Constitutional Democracy Under Pressure*, Cal Jillson provides an accessible and engaging treatment of the U.S. federal government. Understanding the formal and practical features of the Republic has arguably never been more important than in the midst of these challenging times. Constitutionally designed to lean into the winds of change, the structure and flows of the Republic are wonderfully elucidated and explained by Jillson in this text.

John W. Patty, *University of Chicago*

AMERICAN GOVERNMENT

Constitutional Democracy Under Pressure

CAL JILLSON

Southern Methodist University

Second Edition

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To J_{ANE}

WHO TO BELIEVE

"While the people retain their virtue and vigilance no Administration by any extreme of wickedness or folly can very seriously injure the Government in the short space of four years."

Abraham Lincoln, First Inaugural Address, 1861

"Ultimately there are only two deadly sins in the field of politics: lack of objectivity and – often but not always identical with it – irresponsibility. Vanity . . . tempts the politician to commit one or both of these sins . . . There is no more harmful distortion of political force than the parvenu-like braggart with power."

Max Weber, *Politics as a Vocation*, 1918

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PREFACE

American Government: Constitutional Democracy Under Pressure is a modestly foreboding title. But few watched the struggles of the Trump administration without being aware of the tension between the structure of our political institutions and the ideological, partisan, and populist politics of our time. Still, it takes just a moment's thought to recall that President Obama was stymied during the last six years of his administration, both Bushes left office in disappointment, and Bill Clinton was impeached though not convicted during his presidency. Now a new president, Joe Biden promises to bring unity—many are skeptical. Our constitutional democracy has been under pressure for some time, but fears for its fate have deepened in just the past few years. This new book offers to help American Government teachers lead their students to a nuanced theoretical and practical understanding of Constitutional Democracy and of what is happening in and to ours.

Constitutional democracy is democracy constrained. The Founders believed that a written constitution, with limited and separated powers, checks and balances, federalism, a bill of rights, and an empowered people and press would authorize and protect both government and liberty. The U.S. Constitution was designed to make governing slow and deliberate, but it was not designed to make it impossible or even unsteady. Nevertheless, we must acknowledge that our modern politics have become increasingly partisan, polarized, and populist and our political institutions have struggled to govern in ways that citizens accept as valid and see as effective.

How concerned should we be about the state of our politics. After all, the Founders designed the Constitution both to frustrate populist insurgencies and to require compromise, even of passionate majorities. Presidents arriving in Washington flushed with victory and with partisan supporters demanding change, whether Donald Trump with a blue collar uprising pushing him to unexpected victory or a more traditional “pol” like Joe Biden, feel entitled to enact their agenda and are disappointed when opposition soon arises to check their momentum. However, Trump, a real estate tycoon and reality television star, who had become an insurgent populist candidate for the Republican presidential nomination and then a somewhat populist president, was—shall we say—less predictable. How Donald Trump would respond to the frustration of

our constitutional democracy was a question that concerned many even as he refused to acknowledge defeat in the 2020 election. Republicans remained sullen in the wake of Trump's defeat and they maintained a slim majority in the Senate. Deadlock seemed likely.

What makes American politics feel especially uncertain today is that populism directly challenges constitutionalism. We are familiar with partisanship, Democrats versus Republicans, and ideology, conservatives versus liberals, but populism is different. Populism is more a perspective on politics than it is a partisan or ideological commitment. That is why we see populist insurgencies on the left and the right. A few years ago, both the Occupy Wall Street movement and the Tea Party movement were described as populist and in 2020 both Bernie Sanders, before he was dispatched by Biden, and Donald Trump were so described. Though these movements and candidates differed in many ways, they all shared a distinctly populist conviction that politics is "us against them," the people against an entrenched and corrupt elite intent on serving their own purposes and interests. The Founders mistrusted populist insurgencies so they built our constitutional democracy to check, at least for a time, just the kinds of populist passions that we see at large in our nation today.

American Government: Constitutional Democracy Under Pressure highlights the necessary tension between our constitutional principles and institutions and the populist heat that sometimes roils our national politics. We assume that our political institutions will limit and contain contemporary populism, just as the Founders intended and as these institutions have in the past, but will they? An increasingly polarized electorate, urging their representatives to fight and never compromise, will put our *Constitutional Democracy Under Pressure*, and ultimately, perhaps, under threat, just as the subtitle of this new book suggests.

I have chosen to write the brief American government text that you have before you rather than a book three times its size because faculty know too much that is fascinating and students have too many interesting questions for any book to try to anticipate and address them all. What I have tried to do is to describe how the American political system works, why it seems to struggle in so many ways, and what the general range of possibilities, both for continuity and for change, seem to be. Where the conversation goes from there is up to students and their teachers, as it should be.

To students, I hope to say more than that politics is important, that it will affect your lives, time and again, continuously, and in important ways. I hope to provide a sense of how politics works so that when an issue arises about which you care deeply you will not feel helpless. Politics is not just a spectator sport. Rather, it is a sport in which all who turn out make the team and all who come to practice get to start—not always with the varsity, to be sure, but politics is a game that we are all entitled to play. To faculty teaching American government, I hope to help you communicate to your students both what we know as political scientists and how much fun we had in being part of the process of discovering it and teaching about it.

FEATURES

This new brief *American Government* text contains several important learning and engagement features.

The Constitution Today

“The Constitution Today” opens each chapter with a vignette that highlights the continuing relevance, even centrality, of the Constitution to our most critical modern political debates and controversies. The United States is very unusual in this regard. The Founders invented the idea of a written constitution resting on the foundation of popular sovereignty. Many nations now have written constitutions, but no nation reveres its constitution the way Americans do theirs. Moreover, no nation gives its constitution the central role that Americans do in shaping the outcome of important substantive political debates and battles. But few today would deny that our Constitution is under great stress from a populist polarization that roils our politics—deepening partisan divisions among our people and deadlock among our governing institutions. This book explores the sources of these dangerous pressures and how they might be relieved.

In each chapter we highlight the relevance of key provisions of the Constitution to our most important contemporary political battles. The first chapter of this book deals with the origins of American political principles and how those principles informed and shaped the Declaration of Independence and the Constitution. We open the chapter with an exploration of what the Founders meant by the Constitution’s opening phrase, “We the People.” This feature, “The Constitution Today,” spotlights the way that the provisions of the Constitution shape and structure our fights over issues like gay marriage, gun control, campaign contributions and free speech, states rights, congressional redistricting, health care reform, domestic surveillance, war powers, and much more. These vignettes bring to life provisions of the Constitution by highlighting the critical issues that they decide. They are identified in the text by the following symbol:



Focus Questions

Each chapter opens with a set of focus questions or learning goals that prepare the student for the major points made in the chapter. The questions later appear in the margin where the text addresses that particular question, allowing students to easily scan the chapter for a quick review after they have completed their reading.

Pro & Con Boxes

“Pro & Con” features offer opposing viewpoints on controversial issues currently in the news. For example, what are the arguments, Pro & Con, for the continuing relevance of states’ rights, seeing money as speech, judicial activism, and federal resistance to marijuana sales in the states.

Struggling Toward Democracy Boxes

In each chapter, “Struggling Toward Democracy” boxes will feature several brief references to striking people, events, and facts that highlight the ongoing struggle to realize and refine our democracy.

What Do You Think?

We include a feature called “What Do You Think?” Throughout the book, where an important and interesting question has been discussed, we pose a couple of questions designed to make students stop and think. These are also an invitation to teachers to pause the lecture and engage the class in a discussion of an important issue.

End-of-Chapter Features

Each chapter closes with a summary, a list of key terms, and suggestions for additional reading. Finally, students also are directed to the Internet for more information on topics discussed in the text. At the end of each chapter are URLs that direct students to further information on issues, institutions, groups, and data discussed in the book.

Online Instructor Resources

A full Test Bank for all chapters, with multiple choice, true–false, and open ended questions, is available to professors as a password-protected Word document on the eResource tab on the Web page for the book.

PLAN OF THE BOOK

American Government: Constitutional Democracy Under Pressure is divided into ten chapters. Each chapter begins with a vignette and several focus questions designed to introduce and display the main themes of the chapter. The subject matter of each chapter is presented in five or six major sections, with each major section divided internally into subsections, in explicit outline form, so that it is easy for students to understand and study.

Chapters 1 through 4 present the political principles and constitutional foundations of American politics. Chapter 1 describes the social, economic, and political institutions that were in place in the American colonies as the Revolution approached. The historical and practical knowledge of the revolutionary generation provided the menu of institutional possibilities from which they chose as they designed their state governments, the Articles of Confederation, and later the U.S. Constitution. Chapter 2 describes changes in the broad structure of American federalism as the nation evolved from agriculture, to industrial powerhouse, to global superpower. Chapters 3 and 4 link the

changing scope and character of our civil liberties and civil rights to the evolving character of our society.

Chapters 5 through 7 describe how Americans learn about politics, organize their thinking about politics, and come together in interest groups and political parties to affect the course of politics. Chapter 5 describes how Americans get their political information, what the distribution of partisan and political opinion among Americans looks like, and the role that the media play in determining which political issues and what political information comes to our collective attention. Chapter 6 describes how Americans come together in interest groups and political parties to press their ideas, interests, and demands for change on government. Chapter 7 describes how citizens, variously informed and organized, use the process of campaigns, elections, and voting to select their political leaders and, much more broadly, the policies that their leaders will implement.

Chapters 8 through 10 describe the major institutions of the national government and how they relate to each other and to the problems and issues that confront them. Chapter 8 describes the structure of the Congress and the legislative process through which it seeks to represent and respond to the ideas, needs, and interests at large in the country. Chapter 9 describes the range of responsibilities and expectations that confront the American president and the American presidency. Chapter 10 presents the structure of the federal judiciary and the ongoing controversy over whether its role should be one of judicial activism or of judicial restraint.



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Many debts were incurred in the writing and production of this book. My greatest debt remains to all the authors who went before and upon whom I had the good fortune to draw. Completion of this brief edition of *American Government* leaves me with a renewed sense of pleasure and pride in our collective enterprise—political science.

Much of this sense of pleasure and pride comes from remembering how many fine people contributed to the conception, development, and completion of this book, particularly the Routledge team and the reviewers. Jennifer Knerr, acquisitions editor, was unwavering in support of this enterprise. The team that she assembled eased my way tremendously. Jacqueline Dorsey, Julie Willis, and Colin Morgan pulled all of the pieces together in the end and actually made a book of the raw materials that I provided them. Thanks also to John Pottenger for his work on the Test Bank.

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Finally, the expertise and patience of friends and colleagues around the country were shamelessly exploited. Among the reviewers, whose invaluable and constructive feedback I've incorporated throughout the book, were Morgan L.W. Hazelton, Saint Louis University; Benjamin Kassow, University of North Dakota; Mark C. Miller, Clark University; Michael G. Miller, Barnard College; Glenn W. Richardson Jr., Kutztown University of Pennsylvania; and Steven White, Lafayette College.

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Chapter 1

THE REVOLUTION AND THE CONSTITUTION

Focus Questions and Learning Goals

- Q1** What circumstances led Europeans to leave their homelands to settle in America?
- Q2** What are the decisive events and arguments that produced the American Revolution?
- Q3** What changes in institutional design and allocation of powers were reflected in the first state constitutions?
- Q4** How did the Virginia and New Jersey Plans differ about the kind of national government that each envisioned?
- Q5** What role did the debate over a bill of rights play in the adoption of the U.S. Constitution?





THE FOUNDERS AND THE PEOPLE

Preamble to the Constitution (in part): “We the People of the United States, in Order to form a more perfect Union, . . . do ordain and establish this Constitution for the United States of America.”

Article IV, section 4 (in part): “The United States will guarantee to every State in this Union a Republican Form of Government.”

Most of the Founders, though not all, respected the common people even if they did not fully trust them. Because they were ambivalent about the political capacities of the common people, the Founders set out to build a republican form of government—not a democracy. Sorting out how the Founders felt about “the People” will help us understand why they favored republics and feared democracies.

The Founders believed that stable government rested on the consent of the governed, but most did not believe that the people could or should govern directly. The Constitutional Convention of 1787, which drafted the U.S. Constitution, debated the strengths and weaknesses of the people and the roles that they might play in government. One of the delegates most skeptical of the people was Alexander Hamilton of New York. On June 18, relatively early in the convention, Hamilton made a long speech in which he declared; “The people are turbulent and changing; they seldom judge or determine right.” Hamilton was not alone. John Dickinson of Pennsylvania and Delaware, in an extended debate on voter qualification on August 7, declared that, “the freeholders of the Country . . . [were] the best guardians of liberty; And . . . a necessary defence agst. the dangerous influence of those multitudes without property & without principle.”

Others took a more generous view of the people’s rights and abilities. In the same August 7 debate mentioned above, Benjamin Franklin favored a broad suffrage and “expressed his dislike of every thing that tended to debase the spirit of the common people.” Virginia’s George Mason called upon his colleagues to see the whole question of voting rights in a new light, warning that, “A Freehold is the qualification in England, & hence it is imagined to be the only proper one. The true idea . . . was that every man having evidence of attachment to & permanent common interest with the Society ought to share in all its rights and privileges.”

James Madison, as he so often did, sought the middle ground. The people, Madison thought, should have the responsibility for selecting local officials, state legislators, and members of the lower house of Congress; but then, in his famous phrase, the people’s choices should be subject to “successive filtrations” in search of the best men to serve in higher offices. Madison advocated popular election of members of the lower house of Congress, but no more. State legislatures would select U.S. senators, the Electoral College would select the president, and the president, with the advice and consent of the Senate, would select high officials of the executive branch, judges, ambassadors, and military officers.

Because most of the Founders doubted the people's knowledge and judgment, they were opposed to democracy. They knew that democracy always had been defined narrowly to mean direct democracy—government immediately by the people themselves. Madison stated the distinction between democracy and republic in *Federalist* No. 14; writing that, “in a democracy, the people meet and exercise the government in person; in a republic they assemble and administer it by their representatives and agents. [Elected representatives] refine and enlarge the public views, by passing them through the medium of a chosen body of citizens, whose wisdom may best discern the true interest of their country.” Everyone understood that the new nation was too large to be a direct democracy, but they worried that the democratic elements of the new government, limited though they might be, could produce tumult.

Over the course of the Constitutional Convention, James Madison and others came to believe that a written constitution allowed institutions to be carefully constructed to limit and separate power, to allow officeholders to watch and check each other, and to define and secure the liberty of citizens. In this chapter, we see the Founders move tentatively toward independence, and then, after a period of instability, confront the complexity of building their republican form of government—what today, after 230 years and several critical constitutional amendments, we call a constitutional democracy.



The Founders were an educated, accomplished, confident elite wrestling with questions and problems that they knew were unprecedented. A few, like John Adams, James Madison, and Thomas Jefferson, were deeply read in ancient and contemporary European history and politics and most were broadly familiar with these topics. All knew that human history was the story of the powerful—chiefs and warlords, kings and tyrants—ruling the mass of common people as they wished and for their own benefit.

As late as the seventeenth century, European monarchs claimed to hold their thrones by “divine right,” by the will and gift of God. These powerful claims left common people with a fearsome choice: obey or resist and, in resisting, risk the wrath of the king and of God. Most chose obedience until oppression forced another choice: fight or flee. Those who fought always looked for arguments to justify and explain their resistance and those who fled often gained the space to think anew. The English colonies in North America provided such space in abundance.

In this chapter, we survey the European history and colonial political experience upon which the Founders drew when tensions with England forced them to ask what social, political, and economic systems would serve their interests and protect their individual rights and liberties. We describe their initial fumbings with state constitutions and the Articles of Confederation before turning to a more detailed consideration of the Constitutional Convention of 1787. The Constitution has been tested throughout our history and is again being tested today.

THE EUROPEAN ROOTS OF AMERICAN POLITICS

individualism The idea that the people are the legitimate sources of political authority and that they have rights that government must respect.

During the sixteenth and seventeenth centuries, traditionalists argued that social order required hierarchy and privilege while new voices proclaimed choice and opportunity for more, if never all, people. The steady rise of **individualism**, first in religious thought, then in politics, and later in economics, was the solvent that weakened and ultimately dissolved privileges and hierarchy as the dominant ways of thinking about social organization. Francis Bacon (1561–1626), Thomas Hobbes (1588–1679), John Locke (1632–1704), and Charles Secondat, the Baron de Montesquieu (1689–1755), represented the growing commitment to freedom and progress that would come to dominate thinking in Europe and America. Once the battle was won, this period became known as the Age of Reason. The idea that freedom has an order and structure of its own found its brightest moment in the era of the American Revolution.¹

Francis Bacon believed that science, discovery, and invention work to the eternal benefit of human society. Human history need not always collapse back into tyranny and barbarism. Rather, social, economic, and political progress—perhaps interrupted now and again by backsliding and slippage, but always tending toward discovery and improvement—could be the new future of humanity in the world. Two centuries later, Bacon’s optimism endeared him to Americans like Benjamin Franklin and Thomas Jefferson.

Unfortunately, English politics in the half-century following Bacon’s death in 1626 seemed to mock this vision of peace and progress. England’s rising middle class and its representatives in Parliament challenged the monarchy and landed aristocracy for the right to guide the nation’s future. England’s ruling elites fought back and the nation suffered the misery and violence of civil war. For many, including Thomas Hobbes, the constant political conflict and frequent violence inspired such fear that absolute monarchy seemed the only way out. Hobbes’ classic work, *Leviathan* (1651), argued that individual self-interest, unconstrained by political force, would produce a war of all against all in which life would be, in his memorable phrase, “solitary, poor, nasty, brutish, and short.”² Only after an all-powerful monarch had established and assured peace was it even reasonable to think about social and economic progress. Hobbes thought that individualism without hierarchy would result in chaos. He was wrong. After nearly fifty years of political conflict and civil war, peace finally came when Parliament and England’s new commercial middle class triumphed in the Glorious Revolution of 1688.

John Locke thought that the Glorious Revolution offered the opportunity of peace and security based on freedom and equality. In the second of his famous *Two Treaties of Government* (1689), Locke rejected divine right monarchy and, instead, reasoned that “Men being by Nature, all free, equal, and independent, no man can be subjected to the Political Power of another, without his own Consent, by agreeing with other Men to join and unite into a Community, for their comfortable, safe, and peaceable living one

amongst another.”³ Clearly, free men, thinking about what kind of government would be most useful to them, would choose a moderate regime to protect rather than to threaten them. Montesquieu made the related point that political power was limited most effectively if the government’s power was distributed across executive and legislative offices and institutions—separation of powers. Locke’s **social contract theory**, which held that only the consent of the governed can produce political legitimacy, peace, and prosperity, and Montesquieu’s description of separation of powers as a means to limit and control government authority, underlay the political thinking of the American eighteenth century.⁴

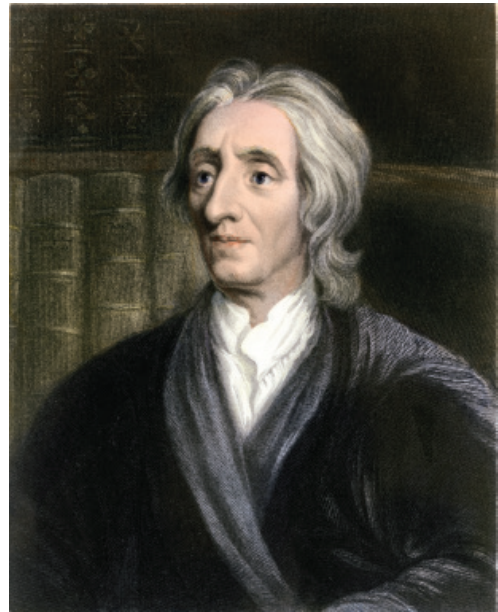
Within just a few years, Adam Smith (1723–1790) had applied the ideas of free choice and consent to the economic realm, arguing that commerce and markets, when not regulated by the state, have a natural order too.⁵ The implication was that hierarchy and compulsion were not required to assure peace and order in religious, political, and economic life. Peace and order were compatible with—in fact, they might require—freedom and choice as opposed to hierarchy and compulsion.

These ideas had to struggle for recognition in the societies of Europe, with their titled nobilities, state-supported churches, and managed economies. In America, on the other hand, questions about what kinds of political and economic institutions men would create if their society had none—questions that seemed merely academic in Europe—were of immediate and even urgent importance.

Immigrants in a New Land

The English civil wars that so shaped Hobbes and Locke and similar disturbances in other European lands drove tens of thousands of settlers to America during the seventeenth century. Throughout the colonial period, individuals and groups fled religious persecution in their own countries to settle in America. Others fled poverty, starvation, and a seemingly permanent lack of economic opportunity. Still others fled from political oppression. Many of these early settlers sought to guarantee their new liberties by oppressing others, but they soon found that vast open spaces, cheap land, and a diverse population made freedom and toleration too difficult to deny. Ideas that were radical in Europe—individualism, freedom, liberty, and equality—seemed invited by the vast openness of America to fulfill themselves.

Still, to be entirely true to our early history, we must always keep clearly in mind that these lofty ideals applied only to propertied white men.⁶ While we often describe freedom, liberty, and opportunity in colonial and founding America in general terms, they applied to white women only through



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John Locke thought that the rule of law and limited government could produce peace and order.

social contract theory

Argument identified with Hobbes and Locke that the legitimate origin of government is in the agreement of a free people.

Q1 What circumstances led Europeans to leave their homelands to settle in America?

religious persecution Over the course of American colonial history, wave after wave of European immigrants were driven to American shores by a desire to worship God in a way denied them by authorities at home. The English Pilgrims and Puritans came first and they were followed by rising tides of English Quakers, French Huguenots, German Pietists, and many others.

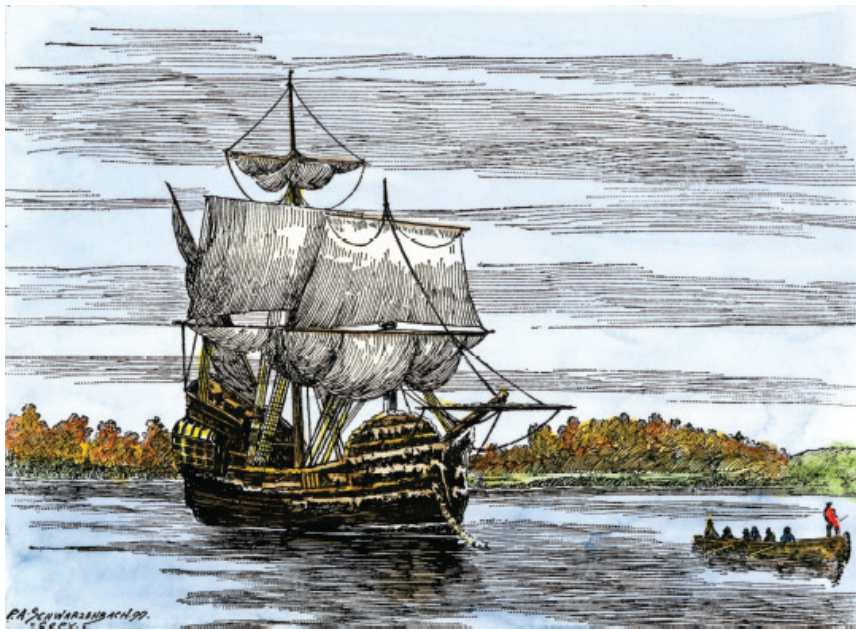
their fathers and husbands, and they applied to Native Americans and slaves not at all. American history has been and remains a slow and as yet incomplete unfolding of equal rights for all.

English Pilgrims and Puritans came generally from among the middling merchants, artisans, yeomen, and husbandmen, usually free and often successful, but barred on the basis of their religious beliefs from advancing through the social and political hierarchies of the day. Puritan religious and secular leaders worked with Puritan parliamentary leaders to open up English society. Not surprisingly, the king, the established Anglican Church, and economic elites benefiting from royal favor opposed with force Puritan demands for religious freedom. Twenty-one thousand English Puritans led by John Winthrop and John Cotton departed for New England between 1620 and 1640. They were willing to sever ties to the place of their birth in exchange for the opportunity to build what they intended to be a more godly society in America.

Others facing religious oppression in their homelands made similar decisions. In 1682, the first English Quakers left for Pennsylvania to pursue William Penn's "holy experiment" in peace. Only three years later, Louis XIV's revocation of the Edict of Nantes, the century-old promise of toleration to Protestant French Huguenots, led fifteen thousand of them to flee to America. Several colonies, including Pennsylvania, Delaware, and Maryland, were established as safe havens for the oppressed of one or all of these religious groups.

Denial of Social and Economic Opportunity. Although religious motivations were strong, defeat in the social and economic struggles that swirled around the religious conflicts in England and the rest of Europe also helped to people America. For example, when Oliver Cromwell and Parliament rose up against Charles I, defeat of the royalists in 1642 and again in 1651 led thousands to flee to the new settlements in Virginia. Even after Charles II was restored to the throne in 1660, the exodus to Virginia of land-hungry second and third sons and cousins of English country lords continued. For most European men below the propertied classes, feudal restrictions made the prospect of obtaining one's own land almost inconceivable. Visions of immense opportunity, of free or cheap land in a society that had no entrenched and oppressive hereditary aristocracy, energized the poor and even the middle classes to consider removal to America.

Nonetheless, few colonists came to America willing to live and let live. Most whites came, as the Puritans did, to establish societies in a particular form and for particular purposes. America, however, was simply too spacious, too open and bountiful, to permit elites to hold common men to patterns and purposes that were not their own. Throughout the colonial period, it was possible to go just down the road or just over the next hill to organize religious, political, or economic life just as one wished. Open space and a diverse population corroded hierarchy in colonial America.



AP Photo/North Wind Picture Archives

Representation of the *Mayflower's* arrival in Plymouth Harbor with the first Pilgrims in 1620.

Economic Opportunity and Social Fluidity. The social and economic openness of the British colonies in North America to white men during the eighteenth century was distinctive in the world. The populations of all of the colonies were overwhelmingly rural and agrarian. Even as late as 1765, only five American cities—Boston, New York, Newport, Philadelphia, and Charleston—could claim more than eight thousand inhabitants. Fully eight in ten Americans drew their livings directly from the land. Throughout the colonial period, as William Penn noted, America was “a good poor Man’s country.” Although “land was easier to acquire, keep, work, sell, and will in the colonies than in any other place in the Atlantic world,” it was the special combination of “cheap land, high wages, short supply, and increasing social mobility [that] permitted the worker to shift for himself with some hope of success.”⁷ Although great wealth was rare, sufficiency was available to the hardworking, and movement into the ranks of the gentry was open to the smart and the fortunate.

In the seventy-five years preceding the American Revolution, the people and economy of the British colonies in North America became self-sustaining. Between the year 1700 and independence, the population of the colonies doubled approximately every twenty years, rising from 250,000 to 2,500,000. As population grew, the domestic economy became more important and the burden of imperial regulations less obviously beneficial.⁸

BACKGROUND TO THE REVOLUTION

Revolutions are inherently tumultuous affairs. Among the great revolutions of modern history—the American (1774–1781), the French (1787–1800), the Russian (1917–1921), and the Chinese (1911–1949)—most American historians have judged our revolution to have been less thoroughgoing, bloody, and socially divisive than the others. This reading promoted a smooth storyline from America wronged, to a just and moderate revolution, to the founding of the world’s first popular, if not quite yet democratic, government. But contemporary historians, led by Holger Hoock, author of *Scars of Independence: America’s Violent Birth*, increasingly describe a violent national birth that left social and political traumas that never fully healed.⁹

The Colonial Political Environment

British rule rested lightly on the colonists in America. For the most part, although the opportunity to direct and control was always there, imperial administrators in London chose not to involve themselves deeply in the political and economic affairs of the colonies.

Political Control in Colonial America. The basic structures of the colonial governments varied little. Familiar ideas drawn from Locke and Montesquieu, popular sovereignty, separation of powers, checks and balances, representation, and bicameralism were present from the beginning.¹⁰ Each colonial government was headed by a governor. Generally, governors were empowered to call and dismiss legislatures, collect taxes and propose expenditures, enforce imperial and colonial laws, command troops, and appoint officers of the executive branch. Behind each governor stood the power and majesty of the British king and Parliament.

There were, however, important limitations on the powers of the governors, and these limitations became tighter over time. Each governor faced a legislature composed primarily, if not exclusively, of colonials. Most of these colonial legislatures had an upper house selected by the governor and a lower house elected by the people. The upper house, often referred to as the Governor’s Council, represented the interests of the governor and the empire to the lower house and to the people of the colony. The lower house, frequently called the House of Representatives, the House of Burgesses, or simply the Assembly, used the “power of the purse” to control and limit the independence of colonial governors. In almost every colony, the people’s representatives gained the upper hand over the governor and his council.

The rights and responsibilities of citizenship also varied by colony. In all of the colonies there were limitations on who could vote. Most commonly, the limitations involved race, gender, and property holding. Moreover, most of the colonies had restrictions on office holding. These restrictions often increased with the prestige of the office or required that service in a less

prestigious office precede service in a more prestigious office.¹¹ Nonetheless, the average white man in colonial America wielded an economic and political influence enjoyed by the mass of men in no other place on earth because most had access to property.

The Assertion of British Imperial Authority. The political implications of the social and economic growth of the colonies were masked for a time by the presence of the French in Canada. This was particularly true while the massed forces of the British and French empires clashed worldwide between the mid-1750s and 1763 in the Seven Years War. In North America, this conflict was known as the French and Indian War. British victory in the Seven Years War made Canada a British colony, thereby removing the threat that hostile French troops had posed, but leaving England with a national debt twice what it had been before the war. In the view of the British government, because an important part of the war had been fought in North America, it seemed reasonable that the colonists would help pay some of the debt. The American colonists took a different view. They regarded imposition of a tax designed to raise revenue in America to fill British coffers in London as a dramatic change of imperial relations.

Passage in Parliament of the Sugar Act late in 1764 and the Stamp Act early in 1765 brought protests and threats of boycott from individual colonial legislatures and from an intercolonial meeting called the **Stamp Act Congress**. Howls from London merchants that their valuable colonial trade was being harmed led Parliament in February 1766 to rescind the Stamp Act and to modify the Sugar Act. To cover its retreat, Parliament passed the **Declaratory Act**, which restated its right to make laws binding on the American colonies “in all cases whatsoever.”

Strained relations between Parliament and the American colonies erupted most strikingly in the **Boston Massacre** on March 5, 1770, and the **Boston Tea Party** on December 16, 1773. Parliament’s reaction to continued colonial resistance was broad, firm, and inflammatory. General Thomas Gage, commander of the British troops in Boston, was appointed governor of Massachusetts and citizens were required to house his troops in their homes. The port of Boston was closed to commerce, town meetings were suspended, and the right to appoint the Governor’s Council was removed from the Assembly and transferred to the king. And colonists were informed that Crown officials accused of committing crimes while pursuing their official duties were to be tried not in Boston but in Nova Scotia or London.

A young Thomas Jefferson spoke for many Americans when he declared that “single acts of tyranny may be ascribed to the accidental opinion of a day, [but] a series of oppressions pursued unalterably plainly prove a deliberate and systematic plan of reducing us to slavery.” Jefferson’s conclusion seemed equally obvious: “when tyranny is abroad, submission is a crime.”¹² Few Americans chose to submit, but fewer still had any idea of how far resistance would take them.

Q2 What are the decisive events and arguments that produced the American Revolution?

Stamp Act Congress

Delegates from nine colonies met in New York City in October 1765 to coordinate their resistance to Parliament’s attempt to tax the colonies directly. They argued that only colonial legislatures could levy taxes in the colonies.

Declaratory Act An act passed in Parliament in March 1766 declaring that the British king and Parliament had the right to pass laws binding on the colonies in America “in all cases whatsoever.”

Boston Massacre A clash on March 5, 1770, between British troops and a Boston mob that left five colonists dead and eight wounded.

Boston Tea Party Boston patriots oppose British attempts to tax the colonies by dumping tea into Boston Harbor rather than pay the required taxes.

First Steps toward Independence

After Americans decided to resist, and the authorities in London decided to meet their resistance with force, the impulses that led to Lexington, Concord, Bunker Hill, and independence took over. Misinterpretation of motives, over-reaction on both sides, and the difficulties of transatlantic communication led first to heated rhetoric and then to a spiral of threats and violence that neither side knew how to stop.¹³

The First Continental Congress. Military pressure on Boston brought calls for an intercolonial conference to develop a coordinated response. Every state but Georgia appointed delegates to meet in the first **Continental Congress**. The Congress met in Philadelphia and began its deliberations on September 5, 1774.

Independence was not on the agenda. Most of the delegates hoped to heal the rift that had developed between the colonies and England. Therefore, the Congress appointed two committees. The first was to compose a petition stating grievances and seeking redress, and the second was to state the rights of trade and manufacture due the colonies and to identify the grounds upon which these rights rested. The petitions that resulted from the work of these committees were adopted by the Congress and forwarded to the king and Parliament in London. The delegates to the first Continental Congress adjourned on October 26, 1774, after agreeing that if necessary they would hold a second Congress in the spring.

Continental Congress

Met in September 1774 and from May 1775 forward to coordinate protests against British policy and then revolution. The Continental Congress was superseded by the Confederation Congress when the Articles of Confederation went into effect on March 1, 1781.

Struggling Toward Democracy

Support for the American Revolution was by no means universal. The best estimates are that 40 percent of adult white males were patriots, 20 percent were loyalists, and 40 percent were bent mostly on staying out of harm's way.

What do you think?

- What values do you suppose those who opposed the Revolution thought they were defending?
- What issues today would likely divide society similarly?

Revolutionary Action. British authorities took the mere fact that a Continental Congress had met in America to be defiance. The American petitions were rejected summarily, and talk in Parliament quickly turned to the use of force. Parliament ordered reinforcements to Boston, extended the trade sanctions then in place against Boston to all of New England, and ordered General Gage to seize arms and military stores that might be used by colonial rebels. Benjamin Franklin, then in London as agent for several of the colonies, sent word to Congress that "three regiments of foot, one of dragoons, seven hundred marines, six sloops of war, and two frigates are now under orders for America."¹⁴

Preparation and posturing on both sides erupted into violence early on the morning of April 19, 1775. A column of British troops dispatched from Boston to seize weapons clashed with colonial militia at Lexington and Concord. Finding no military stores in either place, the troops sought to withdraw to Boston. The militia harassed the redcoats from cover all along the line of march, inflicting heavy casualties. When the column finally reached Boston, the militia took up defensive positions on the hills surrounding the city to block further incursions into the countryside.

Into this volatile situation stepped a recent Irish immigrant named Thomas Paine. Paine captured the emotion of the moment in an incendiary pamphlet called *Common Sense*. Paine denounced King George as the "royal brute," called

for immediate independence, and declared that “the cause of America is in a great measure the cause of all mankind.” *Common Sense* sold 120,000 copies in the first three months of 1776 and shifted the tone of public discussion toward confrontation.

The Second Continental Congress. New England delegates returning to Philadelphia for the second Continental Congress in early May 1775 traveled roads clogged with militia moving to reinforce the patriots encamped on the hills around Boston. Delegates arriving from the southern colonies pledged their firm support. By May 10, 1775, forty-nine delegates, virtually all of them veterans of the first Congress, were present and the Congress was gavelled into session.

The second Congress agreed to organize a Continental Army (really to adopt the troops around Boston). Colonel George Washington, a delegate from Virginia, was selected to take command of this new army. Congress also authorized signing contracts with and soliciting loans from foreign governments, particularly the French. The French could be expected to support anyone willing to give their British enemies a difficult time.

The Declaration of Independence

On May 15, 1776, the Virginia House of Burgesses voted to instruct its delegates in Congress to propose independence. On June 7, 1776, Virginia’s Richard Henry Lee introduced the following resolution: “These United Colonies are, and of right ought to be, free and independent States, that they are absolved from all allegiance to the British Crown, and that all political connection between them and the State of Great Britain is, and ought to be totally dissolved.” Lee’s resolution was set aside in order to give each member time to consider its implications.

On June 10, 1776, Congress elected a committee of its leading members—Thomas Jefferson, John Adams, Benjamin Franklin, Roger Sherman, and Robert R. Livingston—to prepare an explanation and justification of Lee’s motion. Jefferson’s reputation as a literary craftsman led the committee to assign him the task of producing a draft. Jefferson’s draft declaration was lightly revised, mostly by Franklin and Adams, and submitted to the full Congress. The work of this committee, debated and amended in Congress in early July and adopted on July 4, is the document that we call the **Declaration of Independence**. In fact, the actual declaration, Lee’s resolution, had been passed two days earlier.

The imprint of John Locke’s social contract theory is especially heavy on the Declaration of Independence (the Declaration is Appendix A in the back of this book). Jefferson put human rights, the right of individuals to security, respect, and self-development, at the core of the American promise. The justly famous second paragraph of the Declaration reads, “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness.—That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed,—That

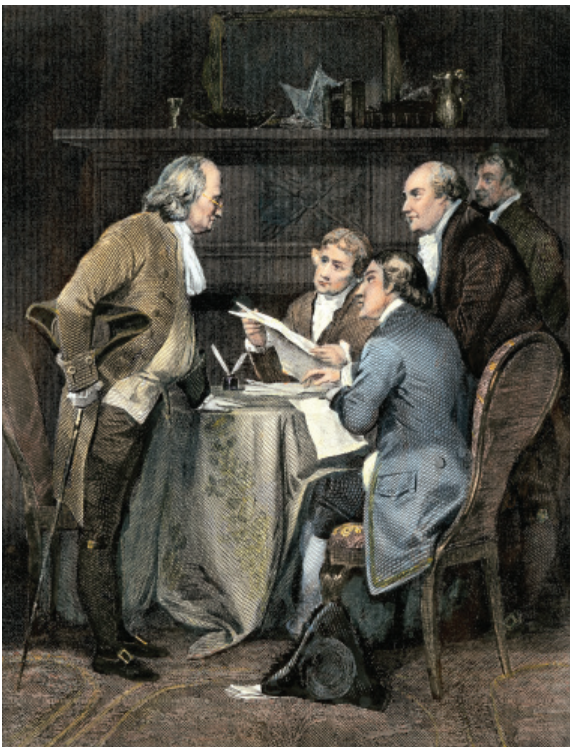
Declaration of Independence

The document adopted in the Continental Congress on July 4, 1776, to explain and justify the decision of the American colonies to declare their independence from Britain.

whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their safety and Happiness."

The opening sentence of that paragraph makes two key points. First, it defines as "self-evident," meaning beyond dispute, that "certain unalienable rights," "among" which are "Life, Liberty, and the pursuit of Happiness" belong to all men. The idea of self-evidence is a striking way of saying, despite all of the evidence of difference and inequality that you see around you, a free society must treat people as fundamentally equal. Moreover, the simple phrase "among these" suggests that there may be, and probably are, inalienable rights in addition to life, liberty, and the pursuit of happiness.

Second, the Declaration argues that free men create governments, through a process of social contract, to create order and security and if government fails to do so, they can redesign or replace it. But it did more than that. Thomas Jefferson's declaration defined the goals of American public life—the promise of Life, Liberty, and the pursuit of Happiness—in positive and expansive language that has thrilled and challenged every subsequent generation of Americans.



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Thomas Jefferson and his colleagues prepare the Declaration of Independence. The declaration was meant to provide the reasons justifying American independence from Great Britain.

GOVERNANCE DURING THE REVOLUTIONARY PERIOD

In May 1776, the Continental Congress advised states that had not already done so to discard institutions based on ties to Britain and to establish governments grounded on their own authority. This was a more complicated instruction than might at first appear. No nation in the world, including Great Britain, had a written constitution. The colonies had written charters, but these assumed the superior authority of British laws and institutions. Ten new or revised state constitutions were produced in 1776 alone. Between 1776 and 1787 all thirteen states produced at least one new constitution.

In the American experience, constitutions are written documents that describe and define the structure and powers of government. They usually begin with a preamble describing the goals and purposes of government and contain a bill of rights designed to prohibit government from imposing on the freedom and liberty of citizens. The bulk of the document, usually in a series of numbered articles or sections, describe the structure of the government, how the parts relate to each other, their respective powers, and how one achieves election

or appointment to these offices. Constitutions frame and legitimate politics; they are prior to and superior to regular laws and other decisions of government, so they must be approved by popular vote and can only be amended or changed by popular vote.¹⁵

Independence Sparks Constitutional Change

The call to armed resistance and ultimately to revolution, based as it was on the rhetoric of liberty, equality, and popular sovereignty, sparked extensive political change. Political institutions were redesigned to remove powers from their more elitist elements and add powers to their more popular elements. Despite the rousing rhetoric of the Revolution, few white men imagined and even fewer argued that rights and liberties should be expanded to groups—women, slaves, Native Americans—that had not previously enjoyed them.

The State Constitutions. Most of the new state constitutions retained the basic structure of a legislature with an upper and a lower house and an executive branch headed by a governor, although the distribution of power within and among the institutions shifted dramatically. In all of the constitutions of 1776, most power was lodged in the lower house of the legislature. The upper house and the governor, suggesting the aristocratic and monarchical elements of the old regime, were reduced in influence. Popular involvement was usually assured through an expanded suffrage and through annual, or at most biannual, elections.

The new state constitutions were careful to expand and make more explicit the protection of individual rights and liberties traditionally enjoyed by white men including trial by jury, free speech, press, and assembly, and protections against unreasonable searches. These rights and others like them were widely seen as part of the fundamental law that controlled and limited the power of government over society and citizens.

The Articles of Confederation. The Articles of Confederation produced a “league” of states, not a nation of citizens. Each state delegation to the **Confederation Congress** had a single vote, and the presidency of the Congress rotated among the states. There was no executive, no judiciary, no separation of powers, and no checks and balances. The Revolution created an increased sense of unity among Americans, but not yet a sense of nationhood.

The Confederation Congress’s authority over foreign policy included sending and receiving ambassadors, negotiating treaties and alliances, and making decisions of war and peace. Congress was empowered to regulate its own coinage, fix the standards for weights and measures, establish a postal system, regulate trade with Native Americans living outside the individual states, and appoint the senior officers of army and navy units serving under the control of the Congress. Congress was authorized to borrow money and to requisition the states for money, men, and materials needed to fight the war and support Congress’s other activities.

Q3 What changes in institutional design and allocation of powers were reflected in the first state constitutions?

Articles of Confederation

Written in the Continental Congress in 1776 and 1777, the Articles outlining America’s first national government were finally adopted on March 1, 1781. The Articles were replaced by the U.S. Constitution on March 4, 1789.

Confederation Congress

The Congress served under the Articles of Confederation from its adoption on March 1, 1781, until it was superseded by the new Federal Congress when the U.S. Constitution went into effect on March 4, 1789.

However, certain critical powers were denied to Congress altogether. Congress had no power to regulate trade and commerce between the states or to tax the citizens of the individual states. Congress's only domestic source of revenue was requisitions on the states. Finally, amendments to the Articles required the unanimous approval of the thirteen state legislatures. No amendment ever passed because at least one state always opposed, no matter how critical the need seemed to the others.

In a nation fighting its way to independence, the flaws and weaknesses of the Articles were frustrating to many and infuriating to some—including General Washington. The root of the problem was that while Congress could requisition from the states the men and supplies needed to fight the war, it was the hard-pressed states that decided whether to comply in full, in part, or not at all. Even after independence was secured, Congress's inability to resolve commercial disputes, or even consistently to keep a quorum, deepened pessimism about the new nation's future.

Political Instability during “The Critical Period”

Increasingly, many Americans came to believe that the weakening of the executives and the upper houses of the state legislatures and their total elimination at the national level had left American governments unable to ensure social stability and foster economic growth. State governments sought to address this instability through constitutional reform. By 1780 both New York and Massachusetts had adopted new constitutions that reempowered their governors and upper houses.

Other states, especially Rhode Island, but Pennsylvania, North Carolina, and Georgia as well, seemed to drift toward a dangerous populism. The right to vote had been expanded and new men, sometimes poor farmers and debtors, challenged traditional elites for places in town councils and state legislatures. Wartime inflation threatened the value of property and state legislatures frequently sided with poor debtors. Men of property and wealth, always wary of populist turmoil, concluded that a more powerful national government was necessary to restore order, security, and prosperity.

The Annapolis Convention. In 1786, Virginia proposed an interstate conference to discuss commercial regulation. Although disputes between Maryland and Virginia concerning trade on the Chesapeake provided the focus, other states were invited in the hope that a general set of commercial recommendations might be crafted. The **Annapolis Convention** met on September 11, agreed that trade issues were part of a larger set of federal issues that needed to be dealt with together, and adjourned on September 14. Its report, sent to Congress and the states, called for a general convention to meet in Philadelphia in May 1787 “to render the constitution of the Federal Government adequate to the exigencies of the Union.” Events conspired to suggest that the Philadelphia meeting would be of the utmost importance.

Annapolis Convention Held in Annapolis, Maryland, in September 1786 to discuss problems arising from state restriction on interstate commerce, it was a precursor to the Constitutional Convention.



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Massachusetts farmers led by Daniel Shays rose up against high taxes and oppressive government during the winter of 1786–1787. The movement—a scene from which is shown here—came to be called Shays's Rebellion.

Shays's Rebellion. Although a modest conflict by any realistic measure, **Shays's Rebellion** was taken by many to be a warning of worse to come. The conservative administration of Massachusetts Governor James Bowdoin had increased taxes on land. This bore heavily on the small farmers of central and western Massachusetts who frequently found their farms seized for back taxes. In August 1786 and throughout the subsequent winter, farmers under the leadership of Daniel Shays, a Revolutionary War veteran and local officeholder, closed courts, opposed foreclosures by force of arms, and clashed with local militia called out to restore order.¹⁶ By February 1787, troops of the state militia, paid with \$20,000 in private money raised mostly among the merchants and tradesmen of Boston, put the rebels to flight in a series of skirmishes. Nonetheless, the threats that social instability posed to persons and property worried conservatives.

Shays's Rebellion An uprising of Massachusetts farmers during the winter of 1786–1787 that convinced many Americans that political instability in the states required a stronger national government.

Struggling Toward Democracy

In the wake of Shays's Rebellion, 4,000 rebels confessed to taking part and received pardons. Eighteen leaders were tried and sentenced to death, though only two, John Bly and Charles Rose, were actually hanged. The rest were eventually pardoned. Shays escaped, hid out until tensions died down, and eventually was pardoned too.

What do you think?

- In a democracy, should public protest, even if it slides toward violence, be lightly punished or not?
- Would you be willing to engage in protest over something you felt strongly about, even if it became violent?

THE CONSTITUTIONAL CONVENTION

Failure of the Annapolis Convention and concern over Shays's Rebellion focused great attention on the **Constitutional Convention** held in Philadelphia from May to September 1787. Virginia, the largest and most prominent state, sent a delegation that included George Washington, Governor Edmund Randolph, James Madison, and George Mason. Other states also sent their leading citizens.

History and experience offered the delegates several pieces to the still-unsolved puzzle of republican constitutionalism—limited government, separation of powers, checks and balances, bicameralism, and federalism—but no persuasive description of how the pieces fit together to produce justice, strength, and stability over time. Most delegates shared a sense that the central government had to be strengthened and that, at minimum, this meant that authority to control commerce and collect taxes had to be lodged with the Congress. This suggested, however, that the central government would need executive agencies to enforce its laws and judicial agencies to resolve disputes. Nonetheless, it was unclear whether the necessary reforms would add up to a truly national government or merely to a series of amendments to the existing Articles of Confederation.¹⁷

Constitutional Convention

Met in Philadelphia between May 25 and September 17, 1787, and produced the U.S. Constitution. It is sometimes referred to as the Federal Convention or Philadelphia Convention.

The Convention Debates

Fifty-five delegates from twelve states (Rhode Island refused to send delegates) attended and took some part in the proceedings of the Federal Convention. Thirty-nine delegates remained to the end and signed the final document. The delegates were often relatively young, generally well educated, and usually well placed within their state's social, economic, and political elite.¹⁸

Most of the delegates had already seen extensive public service. Twenty-four had served in the Continental Congress between 1774 and 1781, and thirty-nine had served in the Confederation Congress between 1781 and 1787. Twenty-one had fought in the Revolutionary War, seven had served as gover-

TABLE 1.1 Contrasting the Articles and the Constitution

	Articles of Confederation	U.S. Constitution
Units Represented	States	People and states
Voting in Congress	States	Individual members
Executive	None	President
Judiciary	None	Federal courts
Foreign Policy	Congress	President and Congress
Power to Tax	Requisitions on the states	Tax citizens, businesses, imports
Amendments	Unanimity	Three-fourths of the states