

The Confederation and the Constitution, 1776–1790

Should the states reject this excellent Constitution, the probability is that an opportunity will never again offer to make another in peace—the next will be drawn in blood.

George Washington, on signing the Constitution, 1787

Prologue: The nation's first written constitution—the Articles of Confederation (in force 1781–1789)—provided a toothless central government. Disorders inevitably erupted, notably in Massachusetts, though they were exaggerated by those who hoped to substitute a potent federal government. Such pressures eventually bore fruit in the new Constitution framed in Philadelphia during the humid summer of 1787. A century and a quarter later, Charles A. Beard advanced the sensational thesis that propertied men had foisted the Constitution upon the less privileged classes. He underscored the fact that many of the fifty-five framers owned depreciated government securities that would rise in value with the establishment of a powerful central regime. But recent scholarship has indicated Beard overemphasized economic motivation. The crucial struggle was between the big states, which had reluctantly accepted an equal vote in the Senate, and the small states, which rather promptly approved the Constitution. Several of the stronger and more self-sufficient commonwealths, notably Virginia and New York, were among the last to ratify.

A. The Shock of Shays's Rebellion

1. Daniel Gray Explains the Shaysites' Grievances (1786)

When debt-ridden farmers in Massachusetts failed in 1786 to persuade the state legislature to issue cheap paper money and take measures to halt farm foreclosures, violence erupted. One of the Shaysites, Daniel Gray, issued the following statement of

¹George Richards Minot, ed., *History of the Insurrection in Massachusetts in 1786 and of the Rebellion Consequent Thereon* (Worcester, Mass.: Isaiah Thomas, 1788), as reprinted by Da Capo Press, 1971, pp. 83–84.

the farmers' grievances. What was their principal complaint? Were they justified in taking up arms?

An Address to the People of the several towns in the county of Hampshire, now at arms.

GENTLEMEN,

We have thought proper to inform you of some of the principal causes of the late risings of the people, and also of their present movement, viz.

1st. The present expensive mode of collecting debts, which, by reason of the great scarcity of cash, will of necessity fill our goals with unhappy debtors, and thereby a reputable body of people rendered incapable of being serviceable either to themselves or the community.

2d. The monies raised by impost and excise being appropriated to discharge the interest of governmental securities, and not the foreign debt, when these securities are not subject to taxation.

3d. A suspension of the writ of *Habeas corpus*, by which those persons who have stepped forth to assert and maintain the rights of the people, are liable to be taken and conveyed even to the most distant part of the Commonwealth, and thereby subjected to an unjust punishment.

4th. The unlimited power granted to Justices of the Peace and Sheriffs, Deputy Sheriffs, and Constables, by the Riot Act, indemnifying them to the prosecution thereof; when perhaps, wholly actuated from a principle of revenge, hatred and envy.

Furthermore, Be assured, that this body, now at arms, despise the idea of being instigated by British emissaries, which is so strenuously propagated by the enemies of our liberties: And also wish the most proper and speedy measures may be taken, to discharge both our foreign and domestic debt.

Per Order,

Daniel Gray, *Chairman of the Committee, for the above purpose.*

2. George Washington Expresses Alarm (1786)

The retired war hero Washington, struggling to repair his damaged fortunes at Mount Vernon, was alarmed by the inability of the Congress under the Articles of Confederation to collect taxes and regulate interstate commerce. The states, racked by the depression of 1784–1788, seemed to be going their thirteen separate ways. The worthy farmers of western Massachusetts were especially hard hit, burdened as they were with inequitable and delinquent taxes, mortgage foreclosures, and the prospect of imprisonment for debt. Hundreds of them, under the Revolutionary captain Daniel Shays, formed armed mobs in an effort to close the courts and to force the issuance of paper money. "Good God!" burst out Washington on hearing of these dis-

²J. C. Fitzpatrick, ed., *Writings of George Washington* (Washington, D.C.: U.S. Government Printing Office, 1938), vol. 28, pp. 502–503 (August 1, 1786).

A. *The Shock of Shays's Rebellion*

orders; "who, besides a Tory, could have foreseen, or a Briton have predicted them?" He wrote despairingly as follows to John Jay, the prominent New York statesman and diplomat. What single fear seems to disturb Washington most, and why?

Your sentiments, that our affairs are drawing rapidly to a crisis, accord with my own. What the event will be is also beyond the reach of my foresight. We have errors to correct; we have probably had too good an opinion of human nature in forming our Confederation. Experience has taught us that men will not adopt, and carry into execution, measures the best calculated for their own good, without the intervention of coercive power. I do not conceive we can exist long as a nation without lodging, somewhere, a power which will pervade the whole Union in as energetic a manner as the authority of the state governments extends over the several states.

To be fearful of investing Congress, constituted as that body is, with ample authorities for national purposes, appears to me the very climax of popular absurdity and madness. Could Congress exert them for the detriment of the people without injuring themselves in an equal or greater proportion? Are not their interests inseparably connected with those of their constituents? By the rotation of appointments [annual elections], must they not mingle frequently with the mass of citizens? . . .

What then is to be done? Things cannot go on in the same train forever. It is much to be feared, as you observe, that the better kind of people, being disgusted with these circumstances, will have their minds prepared for any revolution whatever. We are apt to run from one extreme to another. To anticipate and prevent disastrous contingencies would be the part of wisdom and patriotism.

What astonishing changes a few years are capable of producing! 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.

3. *Thomas Jefferson Favors Rebellion (1787)*

Thomas Jefferson was the successor to Dr. Benjamin Franklin as American minister to France, 1785 to 1789. ("I do not replace him, sir; I am only his successor," he remarked with both wit and modesty.) As an ultraliberal and a specialist in revolution, this author of the Declaration of Independence wrote as follows about Shays's Rebellion to his Virginia neighbor, James Madison. The complete crushing of the uprising had not yet occurred. What did Jefferson regard as the most important cause of the disturbance, and what was most extreme about his judgment?

. . . I am impatient to learn your sentiments on the late troubles in the Eastern [New England] states. So far as I have yet seen, they do not appear to threaten

³P. L. Ford, ed., *Writings of Thomas Jefferson* (New York: G. P. Putnam's Sons, 1894), vol. 4, pp. 361-363.

serious consequences. Those states have suffered by the stoppage of the channels of their commerce, which have not yet found other issues. This must render money scarce, and make the people uneasy. This uneasiness has produced acts absolutely unjustifiable; but I hope they will provoke no severities from their governments. A consciousness of those in power that their administration of the public affairs has been honest may perhaps produce too great a degree of indignation; and those characters wherein fear predominates over hope may apprehend too much from these instances of irregularity. They may conclude too hastily that nature has formed man insusceptible of any other government but that of force, a conclusion not founded in truth, nor experience. . . .

Even this evil is productive of good. It prevents the degeneracy of government, and nourishes a general attention to the public affairs. I hold it that a little rebellion now and then is a good thing, and as necessary in the political world as storms in the physical. Unsuccessful rebellions indeed generally establish the encroachments on the rights of the people which have produced them. An observation of this truth should render honest republican governors so mild in their punishment of rebellions as not to discourage them too much. It is a medicine necessary for the sound health of government.

B. Clashes in the Philadelphia Convention

I. The Debate on Representation in Congress (1787)

After Shays's Rebellion collapsed, pressures for a stronger central government mounted. Finally, in the summer of 1787, delegates from twelve states met in Philadelphia to strengthen the Articles of Confederation—actually to frame a new constitution. The most complete record of the debates was kept by James Madison of Virginia, the youthful "Father of the Constitution." A portion of his notes follows. The reader must be warned that two of the speakers, Elbridge Gerry of Massachusetts and George Mason of Virginia, not only refused to sign the Constitution but fought against its adoption. Do these debates show the Framing Fathers to be truly democratic? What were the most impressive arguments for and against popular election of representatives? Which side was right?

Resolution 4, first clause: "that the members of the first branch [House of Representatives] of the national legislature ought to be elected by the people of the several states" (being taken up),

Mr. Sherman [of Connecticut] opposed the election by the people, insisting that it ought to be by the state legislatures. The people, he said, immediately should have as little to do as may be about the government. They want [lack] information and are constantly liable to be misled.

Mr. Gerry [of Massachusetts]. The evils we experience flow from the excess of democracy. The people do not want virtue, but are the dupes of pretended patriots.

¹Max Farrand, ed., *The Records of the Federal Convention of 1787* (New Haven: Yale University Press, 1911), vol. 1, pp. 48–50 (May 31, 1787).

The eighth section, Mr. President, provides that Congress shall have power to lay and collect taxes, duties, imposts, excise, etc. We may, sir, be poor; we may not be able to pay these taxes, etc. We must have a little meal, and a little meat, whereon to live, and save a little for a rainy day. But what follows? Let us see. To raise and support armies. Here, sir, comes the key to unlock this cabinet; here is the means by which you will be made to pay taxes! But will ye, my countrymen, submit to this?

Suffer me, sir, to say a few words on the fatal effects of standing armies, that bane of republican governments. A standing army! Was it not with this that Caesar passed the Rubicon and laid prostrate the liberties of his country? By this have seven eighths of the once free nations of the globe been brought into bondage! Time would fail me, were I to attempt to recapitulate the havoc made in the world by standing armies. . . .

Sir, had I a voice like Jove, I would proclaim it throughout the world; and had I an arm like Jove, I would hurl from the globe those villains that would dare attempt to establish in our country a standing army. I wish, sir, that the gentlemen of Boston would bring to their minds the fatal evening of the 5th of March, 1770, when by standing troops they lost five of their fellow townsmen [in the Boston Massacre]. I will ask them, What price can atone for their lives? What money can make satisfaction for the loss? . . .

What occasion have we for standing armies? We fear no foe. If one should come upon us, we have a militia, which is our bulwark. . . . Therefore, sir, I am utterly opposed to a standing army in time of peace. . . .

3. *A Farmer Favors the Constitution (1788)*

The Massachusetts convention finally ratified the Constitution by the narrow margin of 187 to 168 votes. But the majority did not fall into line until Samuel Adams, an experienced subverter of strong governments, reluctantly threw his weight behind the document, and not until the members agreed to recommend nine fear-quieting amendments (the Bill of Rights). Not all farmers opposed ratification, as this earthy convention speech of Jonathan Smith attests. How convincingly did he make his points that mob rule is tyranny, that anarchy begets despotism, and that the moneyed class was not thinking solely of its narrowly selfish interests?

Mr. President, I am a plain man, and get my living by the plough. I am not used to speak in public, but I beg your leave to say a few words to my brother plough-joggers in this house.

I have lived in a part of the country where I have known the worth of good government by the want of it. There was a black cloud [Shays's Rebellion] that rose in the east last winter, and spread over the west. . . . It brought on a state of anarchy and that led to tyranny. I say, it brought anarchy. People that used to live peaceably, and were before good neighbors, got distracted, and took up arms against government. . . . People, I say, took up arms, and then, if you went to speak to them, you had the musket of death presented to your breast. They would rob you of your property, threaten to burn your houses; oblige you to be on your guard night and

³Jonathan Elliot, *The Debates . . . on the Adoption of the Federal Constitution* (1836), vol. 2, pp. 102–104.

day. Alarms spread from town to town; families were broken up; the tender mother would cry, O my son is among them! . . .

Our distress was so great that we should have been glad to snatch at anything that looked like a government. Had any person that was able to protect us come and set up his standard, we should all have flocked to it, even if it had been a monarch, and that monarch might have proved a tyrant. So that you see that anarchy leads to tyranny; and better have one tyrant than so many at once.

Now, Mr. President, when I saw this Constitution, I found that it was a cure for these disorders. It was just such a thing as we wanted. I got a copy of it and read it over and over. I had been a member of the convention to form our own state constitution, and had learnt something of the checks and balances of power; and I found them all here. I did not go to any lawyer, to ask his opinion—we have no lawyer in our town, and do well enough without. I formed my own opinion, and was pleased with this Constitution. . . .

But I don't think the worse of the Constitution because lawyers, and men of learning, and moneyed men are fond of it. I don't suspect that they want to get into Congress and abuse their power. I am not of such a jealous make. They that are honest men themselves are not apt to suspect other people. . . .

Brother farmers, let us suppose a case, now. Suppose you had a farm of 50 acres, and your title was disputed, and there was a farm of 5,000 acres joined to you that belonged to a man of learning, and his title was involved in the same difficulty. Would you not be glad to have him for your friend, rather than to stand alone in the dispute?

Well, the case is the same—these lawyers, these moneyed men, these men of learning, are all embarked in the same cause with us, and we must all swim or sink together. And shall we throw the Constitution overboard because it does not please us alike? Suppose two or three of you had been at the pains to break up a piece of rough land, and sow it with wheat—would you let it lie waste because you could not agree what sort of a fence to make? Would it not be better to put up a fence that did not please everyone's fancy, rather than not fence it at all, or keep disputing about it until the wild beasts came in and devoured it?

Some gentlemen say, don't be in a hurry; take time to consider; and don't take a leap in the dark. I say, take things in time—gather fruit when it is ripe. There is a time to sow, and a time to reap. We sowed our seed when we sent men to the federal convention. Now is the harvest; now is the time to reap the fruit of our labor. And if we won't do it now, I am afraid we never shall have another opportunity.

E. The Ratification Debate in New York

I. An Antifederalist Demands Deliberation (1787)

Last-ditch opposition to the Constitution formed in New York under the states' rights banner of George Clinton, the first governor and so-called Father of New York State. The strategic location of New York City, he saw clearly, promised commercial ascen-

¹New York *Journal and Weekly Register*, November 8, 1787.