

Captured rebels were put on trial in Northampton and six were sentenced to death. A note was left at the door of the high sheriff of Pitsfield: "I understand that there is a number of my countrymen condemned to die because they fought for justice.... Prepare for death with speed, for your life or mine is short."

Thirty-three more rebels were put on trial and six more condemned to death. General Lincoln urged mercy and a Commission of Clemency, but Samuel Adams said: "In monarchy the crime of treason may admit of being pardoned or lightly punished, but the man who dares rebel against the laws of a republic ought to suffer death." Several hangings followed; some of the condemned were pardoned. Shays, in Vermont, was pardoned in 1788 and returned to Massachusetts, where he died, poor and obscure, in 1825.

It was Thomas Jefferson, in France as ambassador at the time of Shays' Rebellion, who spoke of such uprisings as healthy for society. In a letter to a friend he wrote: "I hold it that a little rebellion now and then is a good thing.... It is a medicine necessary for the sound health of government.... God forbid that we should ever be twenty years without such a rebellion.... The tree of liberty must be refreshed from time to time with the blood of patriots and tyrants. It is its natural manure."

But Jefferson was far from the scene. The political and economic elite of the country were not so tolerant. They worried that the example might spread. A veteran of Washington's army, Gen. Henry Knox, founded an organization of army veterans, "The Order of the Cincinnati." Knox wrote to Washington in late 1786 about Shays' Rebellion, and in doing so expressed the thoughts of many of the wealthy and powerful leaders of the country: "The people who are the insurgents feel at once their own poverty, compared with the opulent.... Their creed is 'That the property of the United States has been protected from the confiscations of Britain by the joint exertions of all, and therefore ought to be the common property of all.'"

Alexander Hamilton, an aide to Washington during the war, was one of the most forceful and astute leaders of the new aristocracy. He voiced his political philosophy:

All communities divide themselves into the few and the many. The first are the rich and well-born, the other the mass of the people.... The people are turbulent and changing; they seldom judge or determine right. Give therefore to the first class a distinct permanent share in the government.... Nothing but a permanent body can check the imprudence of democracy....

At the Constitutional Convention, Hamilton suggested a president and Senate chosen for life. The Convention did not take his suggestion. But neither did it provide for popular elections, except in the case of the House of Representatives, where the qualifications were set by the state legislatures (which required property holding for voting in almost every state), and excluded women, Indians, and slaves. The Constitution provided for senators to be elected by the state legislators, for the president to be elected by electors chosen by the state legislators, and for the Supreme Court to be appointed by the president.

The problem of democracy in the post-Revolutionary society was not, however, the Constitutional limitations on voting. It lay deeper, beyond the Constitution, in the division of society into rich and poor. For if some people had great wealth and great influence; if they had the land, the money, the newspapers, the church, the educational system—how could voting, however broad, cut into such power? There was still another problem: wasn't it the nature of representative government, even when most broadly based, to be conservative, to prevent tumultuous change?

It came time to ratify the Constitution, to submit to a vote in state conventions, with approval of nine of the thirteen required to ratify it. In New York, where debate over ratification was intense, a series of newspaper articles appeared, anonymously, and they tell us much about the nature of the Constitution. These articles, favoring adoption of the Constitution, were written by James Madison, Alexander Hamilton, and John Jay, and came to be known as the *Federalist Papers* (opponents of the Constitution became known as anti-Federalists).

In *Federalist Paper #10*, James Madison argued that representative government was needed to maintain peace in a society ridden by factional disputes. These disputes came from "the various and unequal distribution of property. Those who hold and those who are without property have ever formed distinct interests in society." The problem, he said, was how to control the factional struggles that came from inequalities in wealth. Minority factions could be controlled, he said, by the principle that decisions would be by vote of the majority.

So the real problem, according to Madison, was a majority faction, and here the solution was offered by the Constitution, to have "an extensive republic," that is, a large nation ranging over thirteen states, for then "it will be more difficult for all who feel it to discover their own strength, and to act in unison with each other...."

ment of the United States—are not neutral, that they represent the dominant economic interests, and that their constitutions are intended to serve these interests.

True, there were many property owners. But some people had much more than others. A few people had great amounts of property; many people (roughly, one-third) had small amounts; others had none.

Still, one-third was a considerable number of people who felt they had something at stake in the stability of a new government. This was a larger base of support for government than anywhere in the world at the end of the eighteenth century. In addition, the city mechanics had an important interest in a government that would protect their work from foreign competition.

This was especially true in New York. When the ninth and tenth states had ratified the Constitution, four thousand New York City mechanics marched with floats and banners to celebrate. Bakers, blacksmiths, brewers, ship joiners and shipwrights, coopers, cartmen, and tailors all marched. They required a government that would protect them against the British hats and shoes and other goods that were pouring into the colonies after the Revolution. As a result, the mechanics often supported wealthy conservatives at the ballot box.

The Constitution, then, illustrates the complexity of the American system: that it serves the interests of a wealthy elite, but also does enough for small property owners, for middle-income workers and farmers, to build a broad base of support. The slightly prosperous people who make up this base of support are buffers against the blacks, the Indians, and the very poor whites. They enable the elite to keep control with a minimum of coercion, a maximum of law—all made palatable by the fanfare of patriotism and unity.

The Constitution became even more acceptable to the public at large after the first Congress, responding to criticism, passed a series of amendments known as the Bill of Rights. These amendments seemed to make the new government a guardian of people's liberties: to speak, to publish, to worship, to petition, to assemble, to be tried fairly, to be secure at home against official intrusion. It was, therefore, perfectly designed to build popular backing for the new government. What was not made clear—it was a time when the language of freedom was new and its reality untested—was the shakiness of anyone's liberty when entrusted to a government of the rich and powerful.

Indeed, the same problem existed for the other provisions of the Con-

As part of his argument for a large republic to keep the peace, James Madison tells quite clearly, in *Federalist #10*, whose peace he wants to keep: "A rage for paper money, for an abolition of debts, for an equal division of property, or for any other improper or wicked project, will be less apt to pervade the whole body of the Union than a particular member of it."

When economic interest is seen behind the political clauses of the Constitution, then the document becomes not simply the work of wise men trying to establish a decent and orderly society, but the work of certain groups trying to maintain their privileges, while giving just enough rights and liberties to enough of the people to ensure popular support.

In the new government, Madison would belong to one party (the Democrat-Republicans) along with Jefferson and Monroe. Hamilton would belong to the rival party (the Federalists) along with Washington and Adams. But both agreed—one a slaveholder from Virginia, the other a merchant from New York—on the aims of this new government they were establishing. In this they anticipated the tradition of fundamental agreement between the two "opposing" political parties in the American system. Hamilton wrote elsewhere in the *Federalist Papers* that the new Union would be able "to repress domestic faction and insurrection." He referred directly to Shays' Rebellion: "The tempestuous situation from which Massachusetts has scarcely emerged evinces that dangers of this kind are not merely speculative."

It was either Madison or Hamilton (the authorship of the individual papers is not always known) who in *Federalist Paper # 63* argued the necessity of a "well-constructed Senate" as "sometimes necessary as a defence to the people against their own temporary errors and delusions." And: "In these critical moments, how salutary will be the interference of some temperate and respectable body of citizens in order to check the misguided career, and to suspend the blow meditated by the people against themselves, until reason, justice, and truth can regain their authority over the public mind?"

The Constitution was a compromise between slaveholding interests of the South and moneyed interests of the North. For the purpose of uniting the thirteen states into one great market for commerce, the northern delegates wanted laws regulating interstate commerce and urged that such laws require only a majority of Congress to pass. The South agreed to this, in return for allowing the trade in slaves to continue for twenty years before being outlawed.

Charles Beard warned us that governments—including the govern-

stitution, such as the clause forbidding states to “impair the obligation of contract,” or that giving Congress the power to tax the people and to appropriate money. They all sound benign and neutral until one asks: Tax whom, for what? Appropriate what, for whom?

To protect everyone’s contracts seems like an act of fairness, of equal treatment, until one considers that contracts made between rich and poor, between employer and employee, landlord and tenant, creditor and debtor, generally favor the more powerful of the two parties. Thus, to protect these contracts is to put the great power of the government, its laws, courts, sheriffs, police, on the side of the privileged—and to do it not, as in premodern times, as an exercise of brute force against the weak but as a matter of law.

The First Amendment of the Bill of Rights shows that quality of interest hiding behind innocence. Passed in 1791 by Congress, it provided that “Congress shall make no law . . . abridging the freedom of speech, or of the press . . .” Yet, seven years after the First Amendment became part of the Constitution, Congress passed a law very clearly abridging the freedom of speech.

This was the Sedition Act of 1798, passed under John Adams’s administration, at a time when Irishmen and Frenchmen in the United States were looked on as dangerous revolutionaries because of the recent French Revolution and the Irish rebellions. The Sedition Act made it a crime to say or write anything “false, scandalous and malicious” against the government, Congress, or the President, with intent to defame them, bring them into disrepute, or excite popular hatreds against them.

This act seemed to violate the First Amendment directly. Yet, it was enforced. Ten Americans were put in prison for utterances against the government, and every member of the Supreme Court between 1798 and 1800, sitting as an appellate judge, held it constitutional.

Despite the First Amendment, the British common law of “seditious libel” still ruled in America. This meant that while the government could not exercise “prior restraint”—that is, prevent an utterance or publication in advance—it could legally punish the speaker or writer afterward. Thus, Congress has a convenient legal basis for the laws it has enacted since that time, making certain kinds of speech a crime. And, since punishment after the fact is a strong deterrent to the exercise of free expression, the claim of “no prior restraint” itself is destroyed. This leaves the First Amendment much less than the stone wall of protection it seems at first glance.

Are the economic provisions in the Constitution enforced just as

weakly? We have an instructive example almost immediately in Washington’s first administration, when Congress’s power to tax and appropriate money was immediately put to use by the secretary of the treasury, Alexander Hamilton.

Hamilton, believing that government must ally itself with the richest elements of society to make itself strong, proposed to Congress a series of laws, which it enacted, expressing this philosophy. The Bank of the United States was set up as a partnership between the government and certain banking interests. A tariff was passed to help the manufacturers. It was agreed to pay bondholders—most of the war bonds were now concentrated among a small group of wealthy people—the full value of their bonds. Tax laws were passed to raise money for this bond redemption.

One of these tax laws was the Whiskey Tax, which especially hurt small farmers who raised grain that they converted into whiskey and then sold. In 1794 the farmers of western Pennsylvania took up arms and rebelled against the collection of this tax. Secretary of the Treasury Hamilton led the troops to put them down. We see then, in the first years of the Constitution, that some of its provisions—even those paraded most flamboyantly (like the First Amendment)—might be treated lightly. Others (like the power to tax) would be powerfully enforced.

Still, the mythology around the Founding Fathers persists. Were they wise and just men trying to achieve a balance of power? In fact, they did not want a balance, except one which kept things as they were, a balance among the dominant forces at that time. They certainly did not want an equal balance between slaves and masters, propertyless and property holders, Indians and white.

As many as half the people were not even considered by the Founding Fathers. They were not mentioned in the Declaration of Independence, they were absent in the Constitution, they were invisible in the new political democracy. They were the women of early America.

Exercises

1. How much colonial opposition was there to British rule in 1776?
2. What motivated the colonial poor to fight the British?

Directions: Read and annotate the article then answer the following questions in two to three sentences providing specifics from the text when needed.

1. Who benefits most from a strong central government? How?

2. Explain the difference between Jefferson's and Hamilton's attitudes toward popular participation in the decision-making process.

3. Is a democratic government possible in an economically polarized society? Explain.

4. Many historians argue that the U.S. Constitution creates a neutral, level playing field on which contestants prove their worth (that any inequality in wealth is not due to unfair rules but to unequal abilities). For what reasons does Zinn disagree with this interpretation.