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## A Constitution for the Few: Looking Back to the Beginning

By **Michael Parenti**

To understand the U.S. political system, it would help to investigate its origins and fundamental structure, beginning with the Constitution. The men who gathered in Philadelphia in 1787 strove to erect a strong central government. They agreed with Adam Smith that government was "instituted for the defense of the rich against the poor" and "grows up with the acquisition of valuable property."

### Class Power in Early America

Early American society has been described as egalitarian, free from the extremes of want and wealth that characterized Europe. In fact, from colonial times onward, men of influence received vast land grants from the crown and presided over estates that bespoke an impressive munificence. By 1700, three-fourths of the acreage in New York belonged to fewer than a dozen persons. In the interior of Virginia, seven individuals owned over 1.7 million acres. By 1760, fewer than five hundred men in five colonial cities controlled most of the commerce, shipping, banking, mining, and manufacturing on the eastern seaboard. In the period from the American Revolution to the Constitutional Convention (1776-1787), the big landowners, merchants, and bankers exercised a strong influence over politico-economic life, often dominating "the local newspapers which voiced the ideas and interests of commerce."<sup>1</sup>

In twelve of the thirteen states (Pennsylvania excepted), only property-owning White males could vote, probably not more than 10 percent of the total adult population. Excluded were all indigenous First Nation people ("Indians"), persons of African descent, women, indentured servants, and White males lacking sufficient property. Property qualifications for holding office were so steep as to exclude even most of the White males who could vote. A member of the New Jersey legislature had to be worth at least 1,000 pounds. South Carolina state senators

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had to possess estates worth at least 7,000 pounds clear of debt (equivalent to more than a million dollars today). In Maryland, a candidate for governor had to own at least 5,000 pounds of property. In addition, the absence of a secret ballot and of a real choice among candidates and programs led to widespread apathy.<sup>2</sup>

Not long before the Constitutional Convention, the French chargé d'affaires wrote to his government:

Although there are no nobles in America, there is a class of men denominated "gentlemen." . . . Almost all of them dread the efforts of the people to despoil them of their possessions, and, moreover, they are creditors, and therefore interested in strengthening the government and watching over the execution of the law. . . . The majority of them being merchants, it is for their interest to establish the credit of the United States in Europe on a solid foundation by the exact payment of debts, and to grant to Congress powers extensive enough to compel the people to contribute for this purpose.<sup>3</sup>

In 1787, just such wealthy and powerful "gentlemen," our "founding fathers," many linked by kinship and business dealings, congregated in Philadelphia for the professed purpose of revising the Articles of Confederation and strengthening the central government.<sup>4</sup> Under the Articles, "the United States in Congress" wielded a broad range of exclusive and binding powers over treaties, trade, appropriations, currency, disputes among the various states, war, and national defense. But these actions required the assent of at least nine states.<sup>5</sup> The Congress also had no power to tax, which left it dependent upon levies agreed to by the states. It was unable to compel the people to contribute to the full payment of the public debt, most of which was owed to wealthy private creditors.

The delegates to Philadelphia wanted a stronger central power that would (a) resolve problems among the thirteen states regarding trade and duties, (b) protect overseas commercial and diplomatic interests, (c) effectively propagate the financial and commercial interests of the affluent class, and (d) defend the wealthy from the competing claims of other classes within the society. It is (c) and (d) that are usually ignored or denied by most historians.<sup>6</sup>

Most troublesome to the framers of the Constitution was the

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insurgent spirit evidenced among the people. In 1787, George Washington wrote to a former comrade-in-arms, "There are combustibles in every State, to which a spark might set fire." Even plutocrats like Gouverneur Morris, who shortly before the Constitutional Convention had opposed strong federation, now realized that an alliance with conservatives from other states would be a safeguard if radicals should capture the state government. So Morris gave up 'state rights' for 'nationalism' without hesitation.<sup>7</sup> The delegates' newly found devotion to nation-building did not possess them as a sudden inspiration. As their private communications show, it was a practical response to immediate material conditions, born of a common class interest.

The working populace of that day has been portrayed as parochial spendthrifts who never paid their debts and who advocated inflated paper money. Most historians say little about the plight of the common people in early America. Most of the population consisted of poor freeholders, tenants, and indentured hands (the latter trapped in servitude for many years). A study of Delaware farms at about the time of the Constitutional Convention found that the typical farm family might have a large plot of land but little else, surviving in a one-room house or log cabin, no barns, sheds, draft animals, or machinery. The farmer and his family pulled the plow.<sup>8</sup>

Small farmers were burdened by heavy rents, ruinous taxes, and low incomes. To survive, they frequently had to borrow money at high interest rates. To meet their debts, they mortgaged their future crops and went still deeper into debt, caught in that cycle of rural indebtedness which today is still the common fate of agrarian peoples in this and other countries.<sup>9</sup> Interest rates on debts ranged from 25 to 40 percent, and taxes fell most heavily on those of modest means. No property was exempt from seizure, save the clothes on a debtor's back.<sup>10</sup>

Throughout this period, newspapers complained of the increasing numbers of young beggars in the streets. Economic prisoners crowded the jails, incarcerated for debts or nonpayment of taxes.<sup>11</sup> Among the people there grew the feeling that the revolution against the English crown had been fought for naught. Angry armed crowds in several states began blocking foreclosures and forcibly freeing debtors from jail. In the winter of 1787, debtor farmers in western Massachusetts led by Daniel Shays took up arms. But their rebellion was forcibly put down by the state militia after several skirmishes that left eleven men dead and scores wounded.<sup>12</sup>

### Containing the Spread of Democracy

The specter of Shays's Rebellion hovered over the delegates who gathered in Philadelphia three months later, confirming their worst fears. They were determined that persons of birth and fortune should control the affairs of the nation and check the "leveling impulses" of the propertyless multitude who composed "the majority faction." "To secure the public good and private rights against the danger of such a faction," wrote James Madison in Federalist No. 10, "and at the same time preserve the spirit and form of popular government is then the great object to which our inquiries are directed." Here Madison touched the heart of the matter: how to keep the "form" and appearance of popular government with only a minimum of the substance; how to construct a government that would win some popular support but would not tamper with the existing class structure, a government strong enough to service the growing needs of an entrepreneurial class while withstanding the democratic egalitarian demands of the popular class.

The framers of the Constitution could agree with Madison when he wrote also in Federalist No. 10 that "the most common and durable source of faction has been the various and unequal distribution of property. Those who hold and those who are without property have ever formed distinct interests in society" and "the first object of government" is "the protection of different and unequal faculties of acquiring property" (that is, acquiring wealth).

The framers were of the opinion that democracy was "the worst of all political evils," as Elbridge Gerry put it. For Edmund Randolph, the country's problems were caused by "the turbulence and follies of democracy." Roger Sherman concurred, "The people should have as little to do as may be about the Government." According to Alexander Hamilton, "All communities divide themselves into the few and the many. The first are the rich and the wellborn, the other the mass of the people. . . . The people are turbulent and changing; they seldom judge or determine right." He recommended a strong centralized state power to "check the imprudence of democracy." And George Washington, the presiding officer at the Philadelphia Convention, urged the delegates not to produce a document merely to "please the people."<sup>13</sup>

There was not much danger of that. The delegates spent many weeks debating and defending their interests, but these were the differences of merchants, slaveholders, and

manufacturers, a debate of haves versus have-nots in which each group sought safeguards in the new Constitution for its particular concerns. Added to this were disagreements about constitutional structure. How might the legislature be organized? How much representation should the large and small states have? How should the executive be selected? What length of tenure should exist for the different officeholders?

The founders decided on a bicameral legislature, consisting of a House of Representatives elected every two years in its entirety, and a Senate with six-year staggered terms (a third of the Senate to be elected every two years). It was decided that seats in the House would be allocated among the states according to population; while each state, regardless of population, would have two seats in the Senate.

Major questions, relating to the new government's ability to protect the interests of property, were agreed upon with surprisingly little debate. On these issues, there were no poor farmers, artisans, indentured servants, or slaves attending the convention to proffer an opposing viewpoint. Ordinary working people could not take off four months to go to Philadelphia and write a constitution. The debate between haves and have-nots never occurred.

Not surprisingly, Article I, Section 8, that most consequential portion of the Constitution, which gives the federal government the power to support and regulate commerce and protect the interests of property, was adopted within a few days with little debate. Congress was to regulate commerce among the states and with foreign nations and Indian tribes, lay and collect taxes and excises (the power that makes all other government functions possible), impose duties and tariffs on imports but not on commercial exports, "Pay the Debts and provide for the common Defence and general Welfare of the United States," establish a national currency and regulate its value, borrow money, fix the standard of weights and measures necessary for trade, protect the value of securities and currency against counterfeiting, and establish uniform bankruptcy laws throughout the country—all measures of primary concern to investors, merchants, and creditors.

Some of the delegates were land speculators who invested in western holdings. Accordingly, Congress was given the "Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States." Most of the delegates speculated in highly

inflated Confederation securities, nearly worthless paper script that the earlier Confederation had issued to pay soldiers and small suppliers. Wealthy speculators bought up huge amounts of this script for a trifling from the impoverished holders. Under Article VI, all debts incurred by the Confederation were valid against the new government, a provision that allowed the speculators to make enormous profits by cashing in their nearly worthless scrip at face value.<sup>14</sup>

By assuming this debt, the federal government—under the policies of the first Secretary of the Treasury, Alexander Hamilton—used the public treasury to create by government fiat a vast amount of private capital and credit for big investors, based on the government's newly established ability to tax the general population. The payment of the debt came out of the pockets of the general public and went into the pockets of a moneyed class. Financing this assumed debt consumed nearly 80 percent of the annual federal revenue during the 1790s.<sup>15</sup> This process of using the taxing power to gather money from the working populace in order to bolster private investment continues to this day, as we shall see in the chapters ahead.

In the interest of merchants and creditors, the states were prohibited from issuing paper money or imposing duties on imports and exports or interfering with the payment of debts by passing any "Law impairing the Obligation of Contracts." The Constitution guaranteed "Full Faith and Credit" in each state "to the Acts, Records, and judicial Proceedings" of other states, thus allowing creditors to pursue their debtors across state lines.

Slavery—a major form of property—was afforded special accommodation in the Constitution. Three-fifths of the slave population in each state were to be counted when calculating the state's representation in the lower house, giving the slave states disproportionately more seats in the House beyond their actual voting population. The Constitution never abolished the slave trade. Indeed, the importation of slaves was explicitly guaranteed for another twenty years until 1808, after which there was the option but no requirement that it be abolished. Many slaveholders assumed they would have enough political clout to keep the trade going beyond that year. Slaves who escaped from one state to another had to be delivered up to the original owner upon claim, a provision that was unanimously adopted at the Convention.<sup>16</sup>

The framers believed the states acted with insufficient force against popular uprisings, so Congress was given the task of

"organizing, arming, and disciplining the Militia" and calling it forth to "suppress Insurrections." The federal government was empowered to protect the states "against domestic Violence." Provision was made for "the Erection of Forts, Magazines, Arsenals, dock-Yards and other needful Buildings" and for the maintenance of an army and navy for both national defense and to establish an armed federal presence within the potentially insurrectionary states—a measure that was to prove a godsend to the industrial barons a century later when the U.S. army was used repeatedly to break strikes by miners and railroad and factory workers.

#### Fragmenting Majority Power

In keeping with their desire to contain the Propertyless majority, the founders inserted what Madison called "auxiliary precautions," designed to fragment power without democratizing it. They separated the executive, legislative, and judicial functions and then provided a system of checks and balances among the various branches, including staggered elections, executive veto, the possibility of overturning the veto with a two thirds majority vote in both houses, Senate confirmation of appointments and ratification of treaties, and a bicameral legislature, they hoped to dilute the impact of popular sentiments. They contrived an elaborate and difficult process for amending the Constitution, requiring proposal by two-thirds of both the Senate and the House, and ratification by three-fourths of the state legislatures.<sup>17</sup> To the extent that it existed at all, the majoritarian principle was tightly locked into a system of minority vetoes, making swift and sweeping popular action less likely.

The propertyless majority, as Madison pointed out in Federalist No. 10, must not be allowed to concert in common cause against the propertied class and its established social order. The larger the nation, the greater the "variety of parties and interests" and the more difficult it would be for a mass majority to act in unison. As Madison argued, "A rage for paper money, for an abolition of debts, for an equal division of property, or for any other wicked project will be less apt to pervade the whole body of the Union than a particular member of it." An uprising of impoverished farmers may threaten Massachusetts at one time and Rhode Island at another, but a national government will be large and varied enough to contain each of these and insulate the rest of the nation from the contamination of rebellion.

Second, not only must the majority be prevented from finding horizontal cohesion, but its vertical force, its upward thrust upon government, should be blunted by interjecting indirect forms of representation. Thus, the senators from each state were to be elected by their respective state legislatures rather than directly by the voters. The chief executive was to be selected by an electoral college elected by the people but, as anticipated by the framers, composed of political leaders and men of substance who months later would gather in their various states and choose a president of their own liking. It was believed that they would usually be unable to muster a majority for any one candidate, and that the final selection would be left to the House, with each state delegation therein having only one vote.

The electoral college is still in operation, though it has become something of a rubber stamp. Its main function has been to create artificial majorities out of slim pluralities. Thirteen times since 1838, a candidate with a plurality (the largest vote of all the various candidates but still short of a majority) was elected president with a substantial majority of the electoral college. This happens because a candidate might have, say, 47 percent of the vote in a particular state (with the other 53 percent divided among several other candidates), but wins 100 percent of the winner-take-all electoral college vote, thus greatly inflating the winning tally.

The undemocratic effects of the electoral college were felt more than two hundred years after the Constitutional Convention in the 2000 presidential election. Vice-President Al Gore won the popular vote by some 300,000 ballots, but Texas governor George W. Bush won a larger number of smaller states with their padded electoral votes, thereby gleaning a majority of the electoral college. A highly dubious count of votes in Florida tilted the electoral college to Bush, and when that count was challenged in the courts, the Republican-controlled Florida legislature declared its intent to brush aside all challenges and summarily accept the list of pro-Bush electors that the Florida secretary of state, an active member of the Bush campaign, had certified as the winning slate. The Florida lawmakers were within their legal (if not moral) rights, for Article II, section 1 of the Constitution states, the electors in each state shall be appointed "in such manner as the Legislature thereof may direct," demonstrating yet another undemocratic feature of the electoral college. <sup>18</sup>

The Supreme Court was to be elected by no one, its justices



being appointed to life tenure by the president, with confirmation by the Senate. Direct popular election of the Senate was achieved when the Seventeenth Amendment was adopted in 1913—126 years after the Philadelphia Convention—demonstrating that the Constitution is sometimes modifiable in a democratic direction, though it does seem to take awhile.

Originally, the only portion of government directly elected by the people was the House of Representatives. Many of the Philadelphia delegates would have preferred excluding the public entirely from direct representation. They were concerned that demagogues would ride into office on a populist tide only to pillage the treasury and wreak havoc on the wealthy class. John Mercer observed that he found nothing in the proposed Constitution more objectionable than "the mode of election by the people." And Gouverneur Morris warned, "The time is not distant, when this Country will abound with mechanics [artisans] and manufacturers [factory and mill workers] who will receive their bread from their employers. Will such men be the secure and faithful Guardians of liberty? . . . The ignorant and dependent [read, poor and propertyless] can be . . . little trusted with the public interest."<sup>19</sup>

When the delegates finally agreed to having "the people" elect the lower house, as noted earlier, they were referring to a select portion of the population that excluded all white males without property; all females, Native Americans, and indentured servants. Also excluded were slaves—who constituted almost one-fourth of the entire population. Even among those African Americans who had gained their freedom, in both the North and South, few were allowed to vote.

### **Plotters or Patriots?**

In a groundbreaking book published in 1913, Charles Beard argued that the framers were guided by the interests of their class. Disputing Beard are those who say that the framers were concerned with higher things than just lining their purses. True, they were moneyed men who profited directly from policies initiated under the new Constitution, but they were motivated by a concern for nation building that went beyond their particular class interests.

That is exactly the point: high-mindedness is a common attribute among people even when, or especially when, they are pursuing their personal and class interests. The fallacy is to presume that there is a dichotomy between the desire to build a

strong nation and the desire to protect wealth and that the framers could not have been motivated by both. In fact, like most other people, they believed that what was good for themselves was ultimately good for their country. Their nation-building values and class interests went hand in hand, and to discover the existence of the "higher" sentiment does not eliminate the self-interested one.

Most persons believe in their own virtue. The founders never doubted the nobility of their effort and its importance for the generations to come. Just as many of them could feel dedicated to the principle of "liberty for all" while owning slaves, so could they serve both their nation and their estates. The point is not that they were devoid of the grander sentiments of nation building but that there was nothing in their concept of nation that worked against their class interest and a great deal that worked for it.

The framers may not have been solely concerned with getting their own hands in the till, although enough of them did, but they were admittedly preoccupied with defending the interests of the wealthy few from the laboring many. "The Constitution," as Staughton Lynd noted, "was the settlement of a revolution. What was at stake for Hamilton, Livingston, and their opponents, was more than speculative windfalls in securities; it was the question, what kind of society would emerge from the revolution when the dust had settled, and on which class the political center of gravity would come to rest."<sup>20</sup>

The small farmers and debtors, who opposed a central government that would be even farther beyond their reach than the local and state governments, have been described as motivated by self-serving, parochial interests—unlike the supposedly high-minded statesmen who journeyed to Philadelphia.<sup>21</sup> How and why the wealthy became visionary nation-builders is never explained. Not too long before, many of them had been proponents of laissez-faire and had opposed a strong central government. In truth, it was not their minds that were so much broader but their economic interests. Their motives were no higher than those of any other social group struggling for place and power in the United States of 1787. But possessing more time, money, information, and organization, they enjoyed superior results.

Though supposedly dedicated to selfless and high-minded goals, the delegates nevertheless bound themselves to the strictest secrecy. Proceedings were conducted behind locked

doors and shuttered windows (despite the sweltering heat). Madison's notes, which recorded most of the actual deliberations, were published, at his insistence, only after all participants were dead, 53 years later, most likely to avoid political embarrassment to them.<sup>22</sup>

Those who argue that the founders were motivated primarily by high-minded objectives consistently overlook the fact that they themselves repeatedly stated their intention to erect a government strong enough to protect the haves from the have-nots. Deliberating in secrecy, they gave voice to the crassest class prejudices and most disparaging opinions about popular involvement. At no time did they deny the fact—as have their latter-day apologists—that their concern was to diminish popular control and resist all tendencies toward class equalization (or "leveling," as it was called). Their dedication to their class interests were so unabashedly avowed as to cause one delegate, James Wilson of Pennsylvania, to complain of hearing too much about how the sole or primary object of government was property. The cultivation and improvement of the human mind, he maintained, was the most noble object—a fine sentiment that evoked no opposition from his colleagues as they continued about their business.

If the founders sought to restrain power through a system of "checks and balances," they seemed chiefly concerned with restraining mass power, while assuring the perpetuation of their own class power. They supposedly had a "realistic" opinion of the rapacious nature of human beings—readily evidenced when they talked about the common people—yet they held a remarkably sanguine view of the self-interested impulses of their own class, which they saw as inhabited largely by virtuous men of "principle and property." According to Madison, wealthy men (the "minority faction") would be unable to sacrifice the rights of other citizens, nor jeopardize the institution of property and wealth and the untrammelled uses thereof, which in the eyes of the framers constituted the essence of "liberty."<sup>23</sup>

In sum, the Constitution was consciously designed as a conservative document, elaborately equipped with a system of minority locks and dams in order to resist the pressure of popular tides. It furnished special provisions for the slaveholding class. It provided ample power to build the state services and protections needed by a rising bourgeoisie. For the founders, liberty meant something different from democracy. It meant liberty to invest, speculate, trade, and accumulate wealth without encroachment by the common populace.



# A Constitution For the few ...

## Questions:

1. What conclusions does Parenti make about the motives of the authors of the US Constitution? What evidence does he offer to support these conclusions?
2. What was Charles Beard's thesis in *An Economic Interpretation of the Constitution*?
3. Parenti writes, "high-mindedness is a common attribute among people even when, or especially when, they are pursuing their personal and class interests. The fallacy is to presume that there is a dichotomy between the desire to build a strong nation and the desire to protect wealth and that the framers could not have been motivated by both. In fact, like most other people, they believed that what was good for themselves was ultimately good for the entire society. Their universal values and their class interests went hand in hand, and to discover the existence of the 'higher' sentiment does not eliminate the self-interested one." Explain what Parenti means. Do you agree with him? Explain.

