

# Scholar Exchange: Principles of the American Constitution: 1776-1787



## Principles of the American Constitution: 1776-1787

We

THE  
People

E  
PLURIBUS  
UNUM



# FRAMING QUESTIONS

- Why did the Founding generation decide to write a new Constitution?
- What was the Articles of Confederation, and what sort of national government did it establish?
- What did the Founding generation learn from the state constitutions that the American people wrote before the U.S. Constitution?
- What was Shays' Rebellion, and how did it influence the Founding generation?
- What key principles underlie the U.S. Constitution, and what sort of system of government did the Founding generation establish?



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## BIG IDEA

The Founders were children of the Enlightenment. When crafting a new Constitution, they learned from history and from their own experiences. Between the Declaration of Independence and the U.S. Constitution, the American people were governed at the national level by the Articles of Confederation and at the state level by state constitutions. With the U.S. Constitution, the Founding generation established a new national government. This new government was more powerful than the national government established by the Articles of Confederation, but also one of limited powers.



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# ROAD TO THE CONSTITUTIONAL CONVENTION

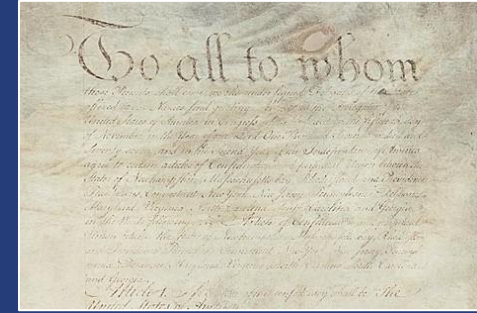


Pennsylvania State House

How did we get from the Declaration of Independence (and the American Revolution) to the U.S. Constitution?

What changed? What remained the same?

And how did this experience—and the debates of the period—shape the push to create a new national government in just a little over a decade?



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# THE ARTICLES OF CONFEDERATION



**“... league of friendship ...”**



**Principles of the American Constitution:  
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# THE ARTICLES OF CONFEDERATION

## About the Articles:

- The Articles created a national government centered on the legislative branch, which was comprised of a single house.
- There was no separate House and Senate.
- There was no separate executive branch or judicial branch.
- And the delegates voted by state—with each state receiving one vote, regardless of its size.



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# THE ARTICLES OF CONFEDERATION

The powers of the national government were limited:

- The national government didn't have the power to tax or to regulate commerce between the states. It couldn't force states to provide troops or send the government money.
- Any proposed amendment to the Articles required unanimous approval from all thirteen states.
- Congress couldn't exercise the powers that it did have without support from nine of the thirteen states.



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# THE ARTICLES OF CONFEDERATION

These limits created several problems:

- Without the power to tax, Congress struggled to fund that government and to pay its soldiers. It depended on *voluntary* contributions from state governments and many states refused to pay their share.
- The national government struggled to defend the frontier.
- Many states raised trade barriers against one another—imposing taxes on one another's goods, spurring unhealthy competition between the states, and harming the new nation's economy.



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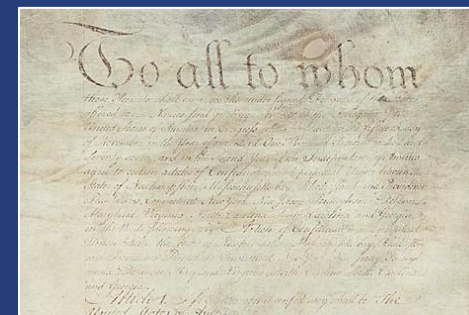


# 13 STATE GOVERNMENTS



In 1776 the American colonies set up **state constitutions**. This was a constitutional revolution in itself—a decisive turn towards *written* constitutions.

In the years between the Declaration of Independence in 1776 and the new Constitution in 1789, the United States was governed primarily by thirteen separate governments.



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# THEORY OF MIXED GOVERNMENT

This is the traditional idea that constitutions should model themselves after the British Constitution and include traces of three key sources of political power:

- The One (Monarchy)
- The Few (Aristocracy)
- The Many (Democracy)



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# MIXED GOVERNMENT IN STATE CONSTITUTIONS

The one was traditionally embodied by an executive:

- Usually called a “**Governor.**”

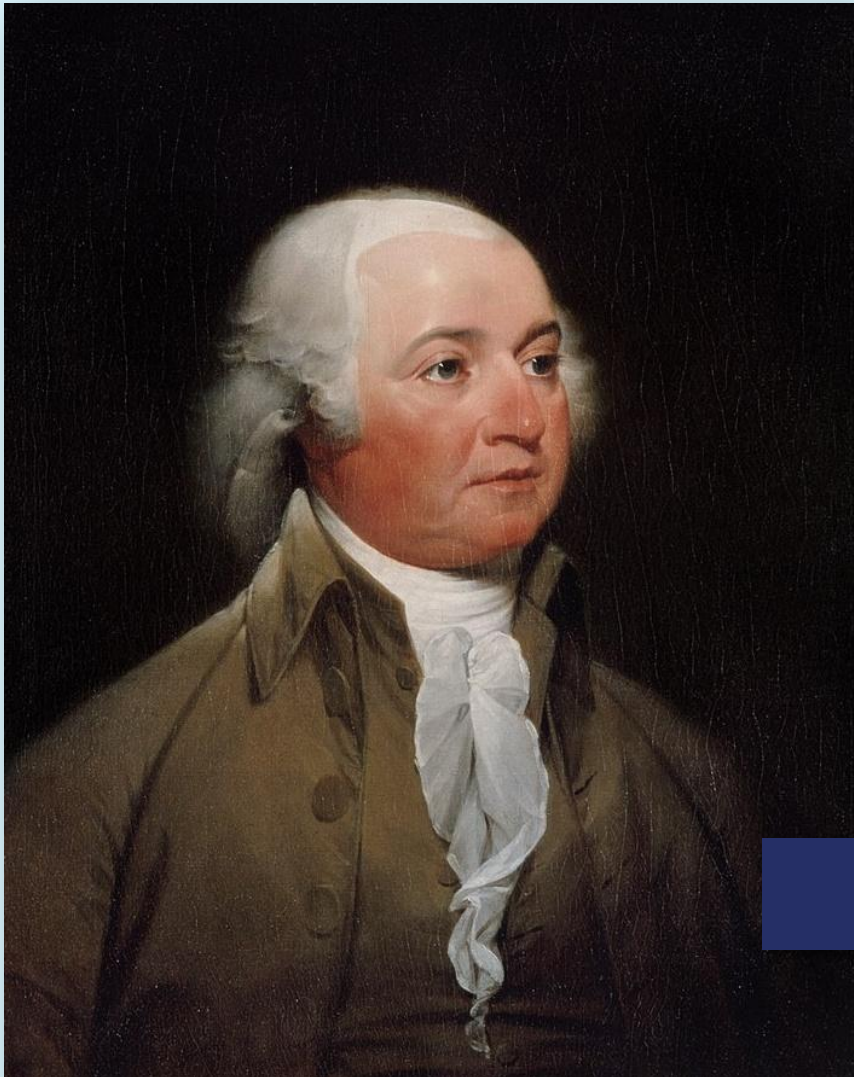
And the few and the many were usually represented in the two houses of the state legislature:

- The few in the upper house—often called a **senate.**
- The many in a lower house—often called an **assembly**



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# THOUGHTS ON GOVERNMENT



**John Adams**

How might constitution-makers write a constitution that strikes the right balance between the one, the few, and the many?



**PRINCIPLES OF THE  
AMERICAN  
REVOLUTION**

## THOUGHTS ON GOVERNMENT

Adams argued that a constitution must create a mediating institution—one that might negotiate conflicts between the two most extreme branches: the lower house and the executive.

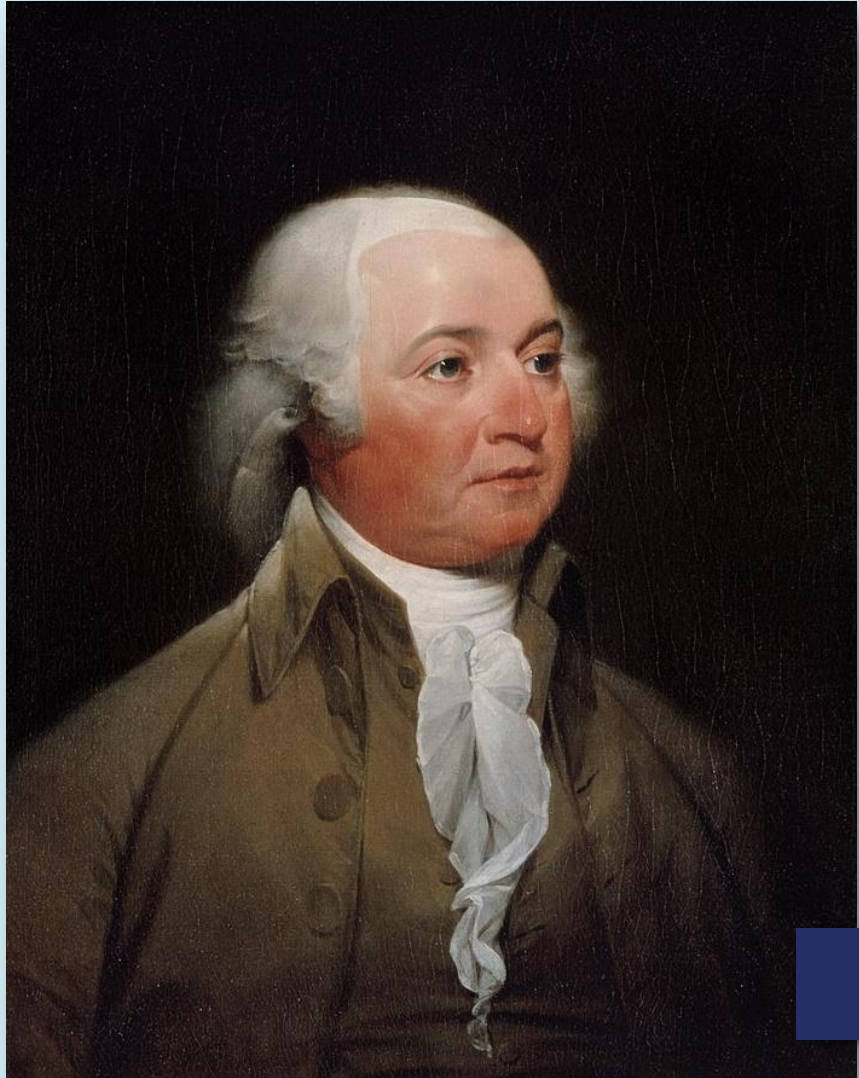
The key mediating institution should be the upper house—embodying the aristocratic element.

This “Senatorial part” would bring with it wisdom, civic republican virtue, and devotion to the common good.



PRINCIPLES OF THE  
AMERICAN  
REVOLUTION

## THOUGHTS ON GOVERNMENT



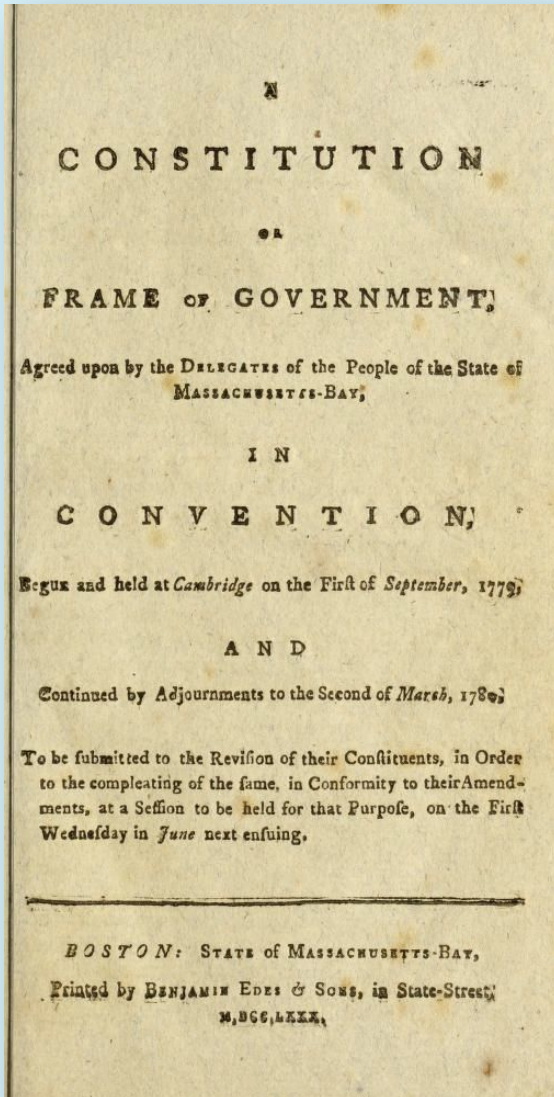
Body of people “no doubt possessed common sense, honesty, and virtue,” few of them “much read in the history, laws or politics . . . from whose rises, revolutions and declensions the great landmarks of legislation and government are taken.”

**John Adams**



**PRINCIPLES OF THE  
AMERICAN  
REVOLUTION**

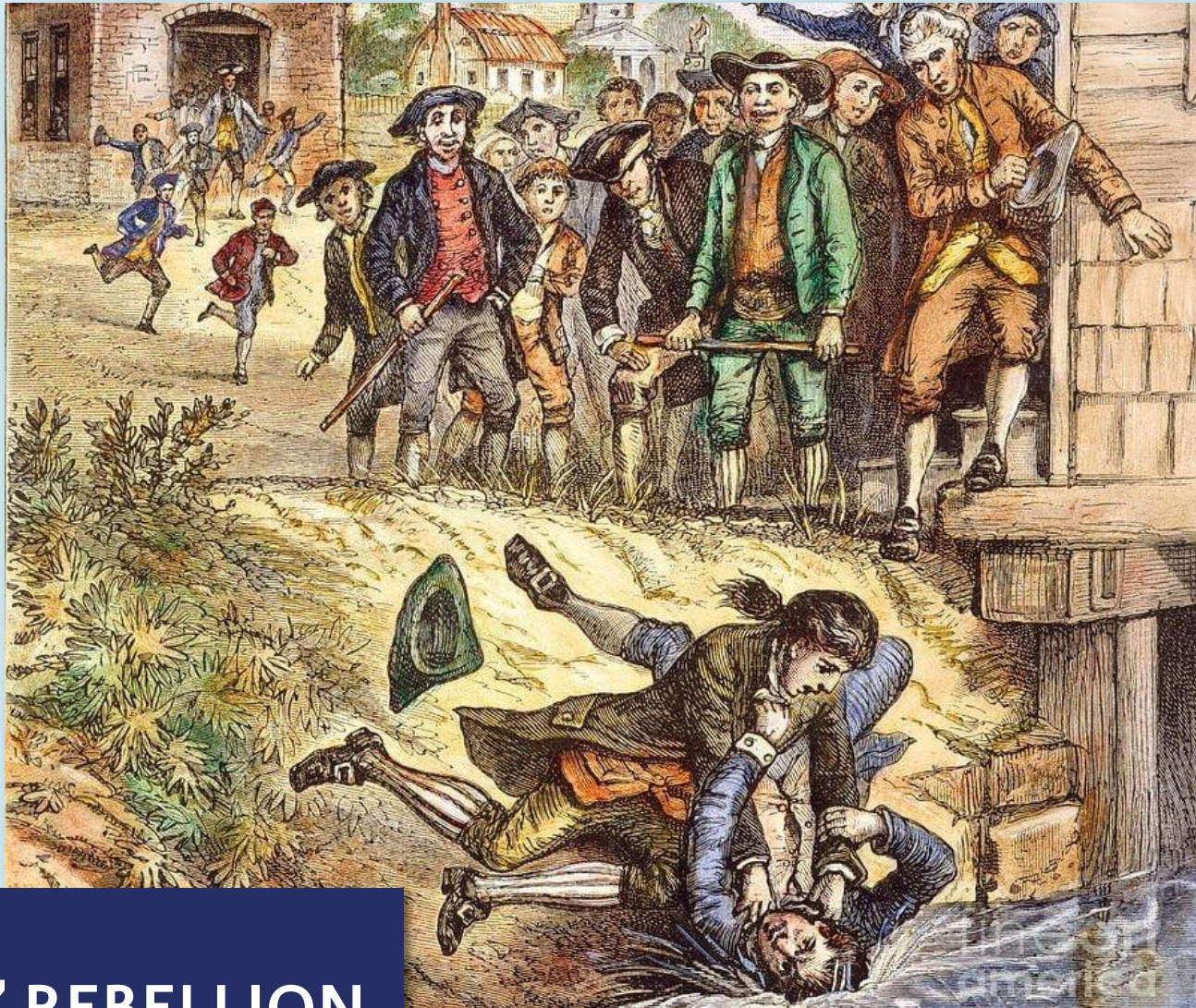
# MASSACHUSETTS CONSTITUTION



In the Massachusetts Constitution, we see important constitutional principles like separation of powers (dividing the powers of government between three co-equal branches of government) and checks and balance (providing each branch of government with the powers to check the other branches).



PRINCIPLES OF THE  
AMERICAN  
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## SHAYS' REBELLION

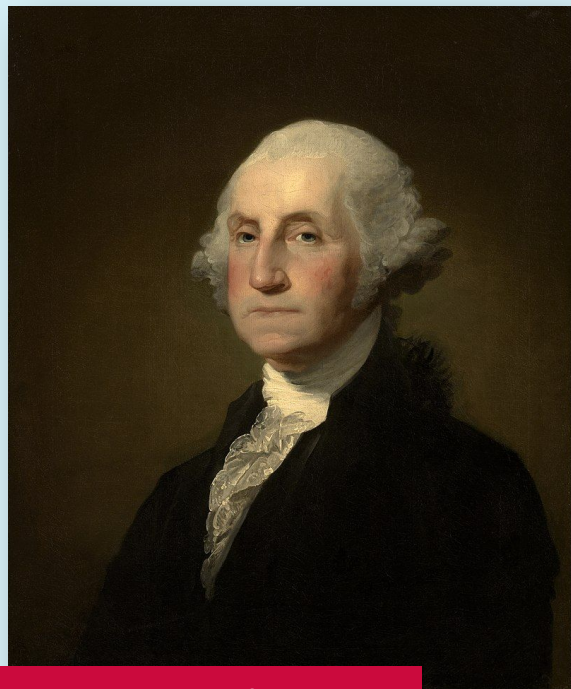


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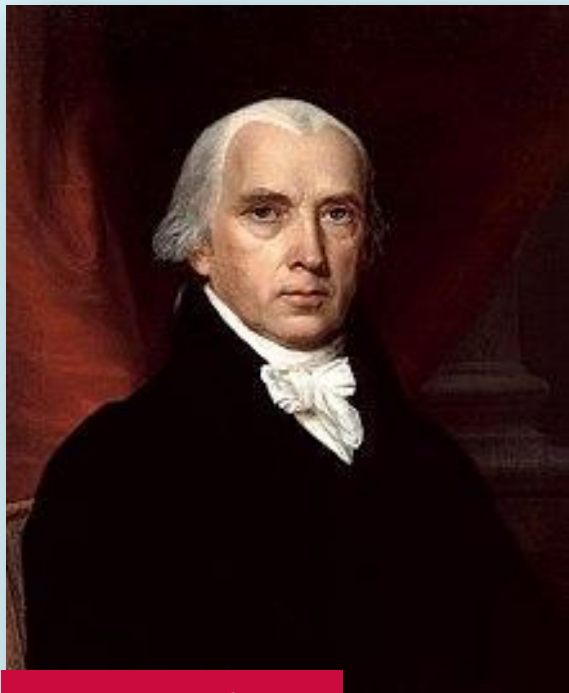




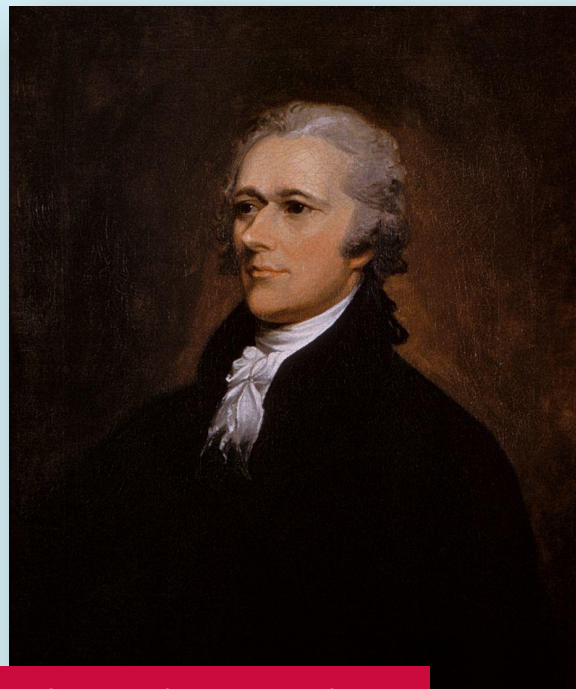
# LEADERS CALL FOR A CONVENTION



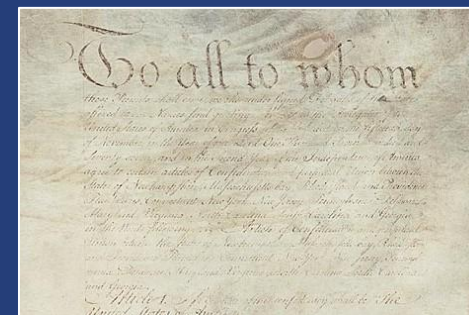
George Washington



James Madison



Alexander Hamilton



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# THE CONSTITUTIONAL CONVENTION

*“.. sole and express purpose of revising the Articles ...”*



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# KEY PRINCIPLES UNDERLYING THE U.S. CONSTITUTION

- **Popular Sovereignty**
- **Federalism**
- **Separation of Powers**
- **Checks and Balances**
- **Republicanism**



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# POPULAR SOVEREIGNTY

We the People of the  
insure domestic Tranquility, provide for the common defence,  
and our Posterity, do ordain and establish this Constitution

Article I

Section 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section 2. The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons. The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at least one Representative; and until such Enumeration shall be made, the State of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York one, New Jersey four, Pennsylvania eight, Delaware one, Maryland one, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

The House of Representatives shall choose their Speaker and other Officers, and shall have the sole Power of Impeachment.

Section 3. The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six Years; and each Senator shall have one Vote.

Go all to whom  
they shall send one or more Letters signed by the President of the United States, and bearing the Seal of the President, to the Governors of the States, to the Judges of the Supreme Court, to the Heads of the Departments, and to the Ministers and Consuls of the United States, and to all other Persons to whom they shall think proper to direct the same.

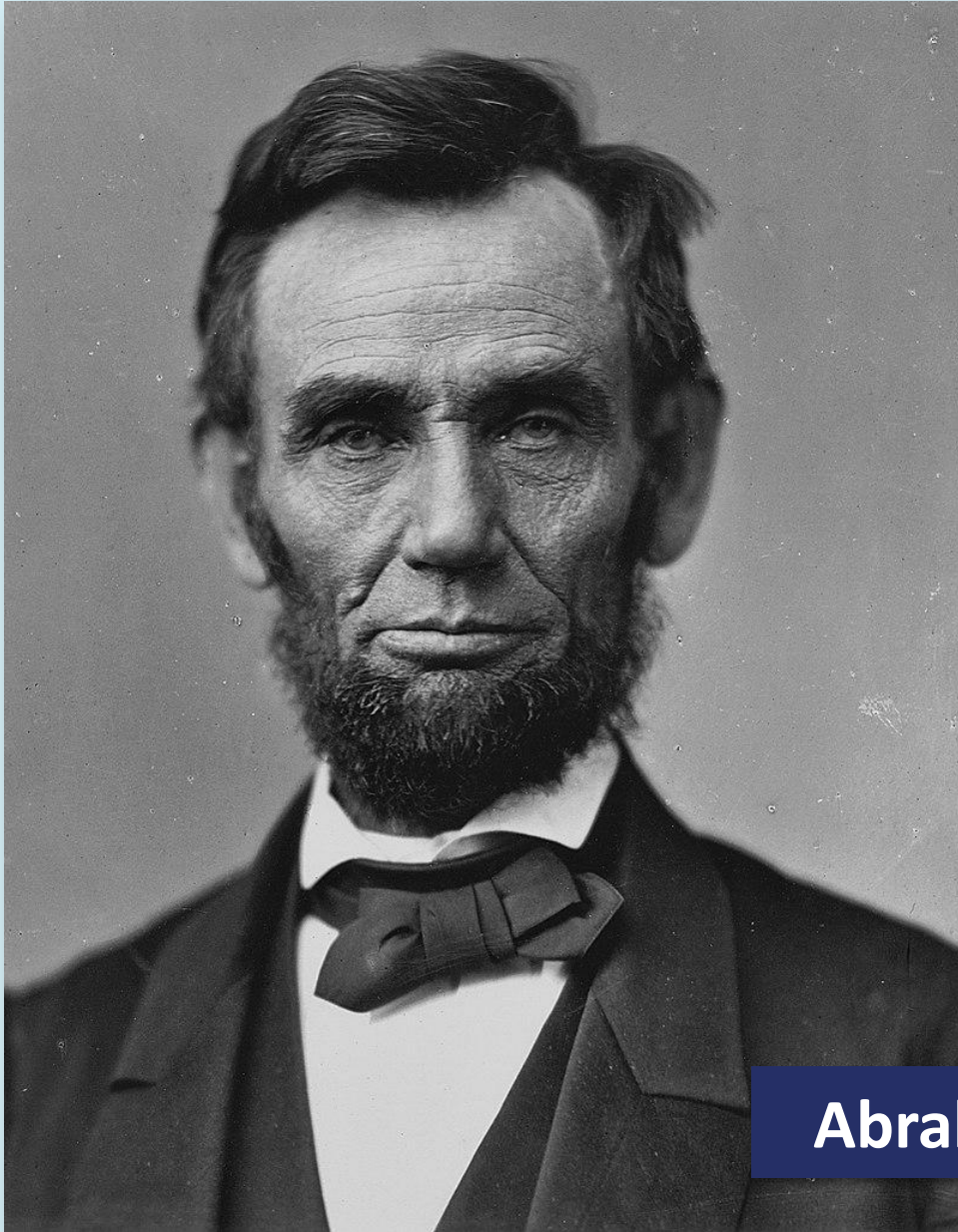
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## POPULAR SOVEREIGNTY

**This is a just a fancy way of saying that the U.S. Constitution establishes a government that's driven by us—not a monarch, not the elites, not an aristocracy—but by us, the American people.**

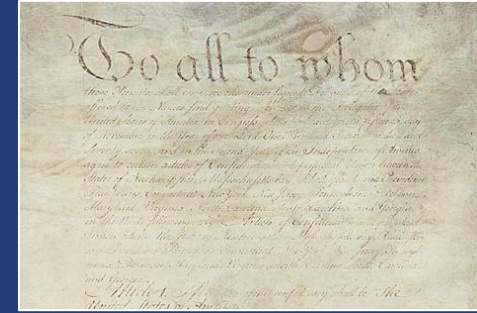


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Abraham Lincoln

“government  
of the people,  
by the  
people, for  
the people.”



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## SOCIAL CONTRACT THEORY

**All legitimate governments are based upon the consent of the people. Governments had the responsibility to protect individual natural rights in return for the obligations of responsible citizenship.**

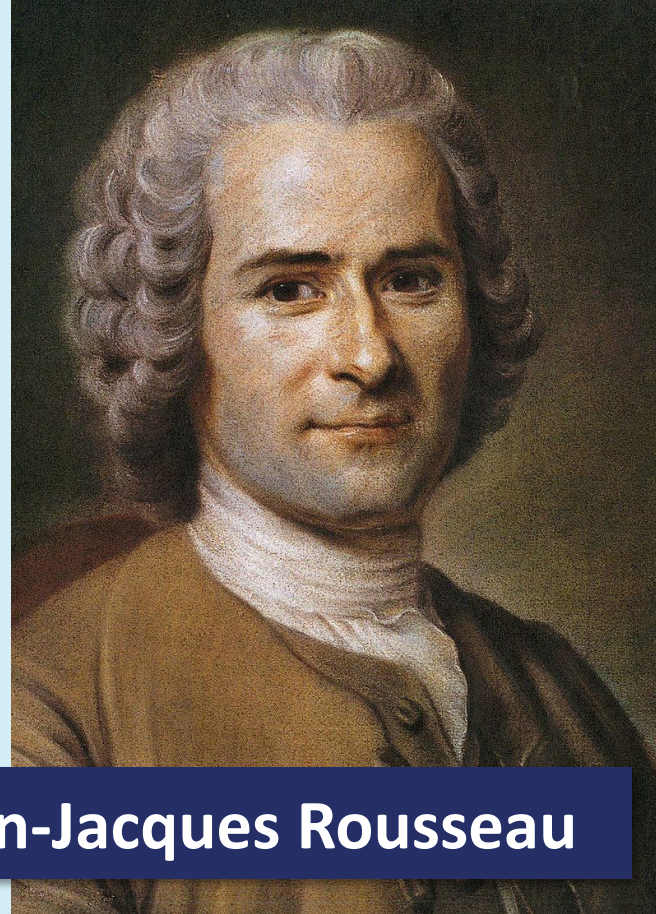


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# THE ENLIGHTENMENT



John Locke



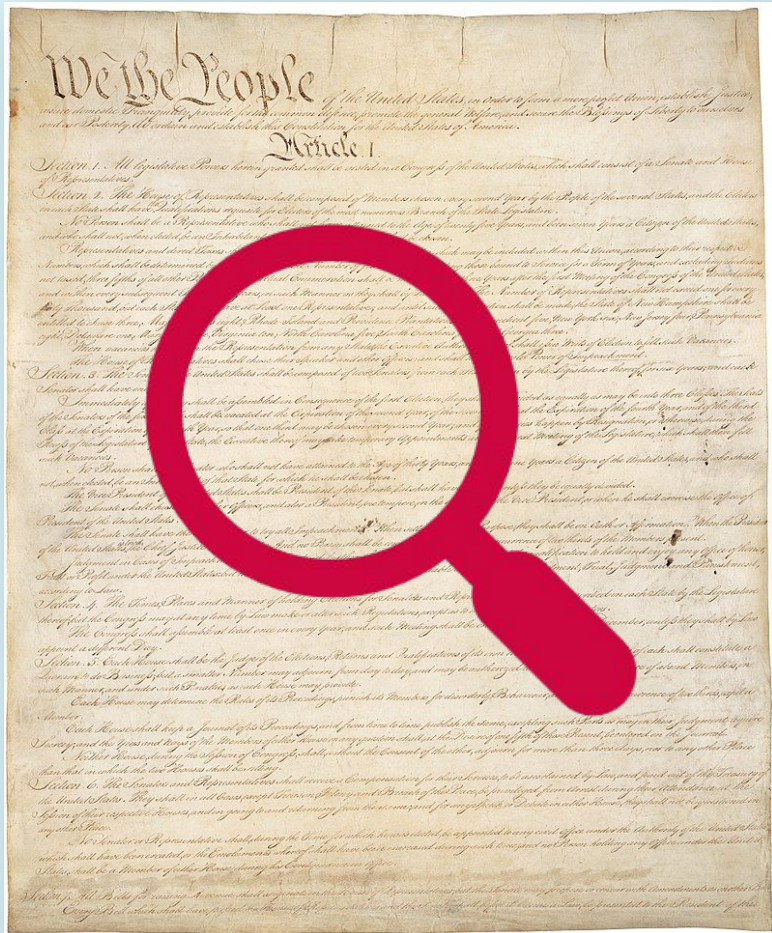
Jean-Jacques Rousseau



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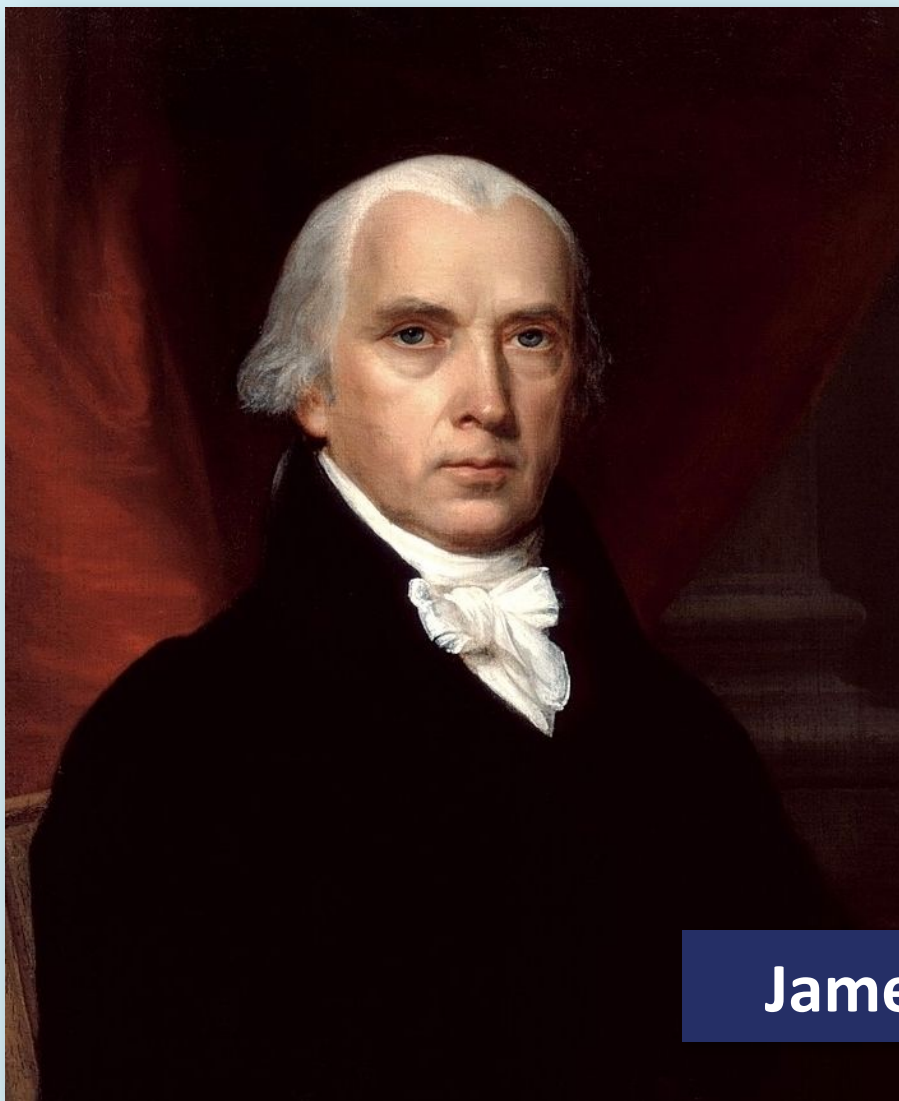
# WHERE IS POPULAR SOVEREIGNTY IN THE CONSTITUTION



- Preamble—“We the People”
- Article VII—Constitution’s ratification (or approval) process
- Article V—amendment process
- Elections

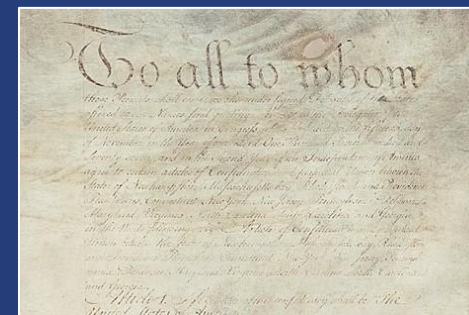


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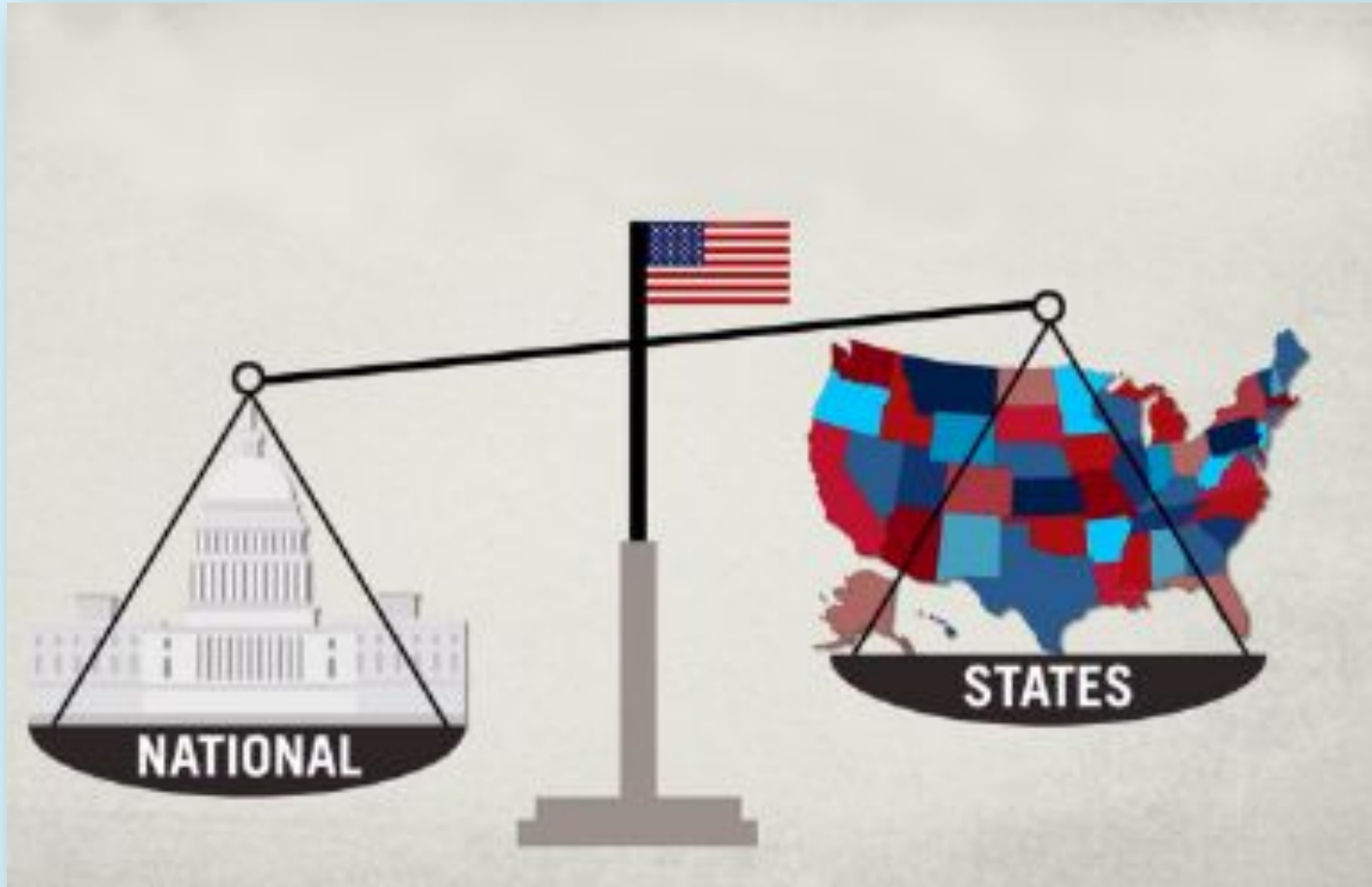
James Madison

Constitution was “of no more consequence than the paper on which it was written” unless ratified by the American people.



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# FEDERALISM



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# FEDERALISM

**“Federalism” is the word used to describe the Constitution’s system of dividing political power between the national government and the states.**



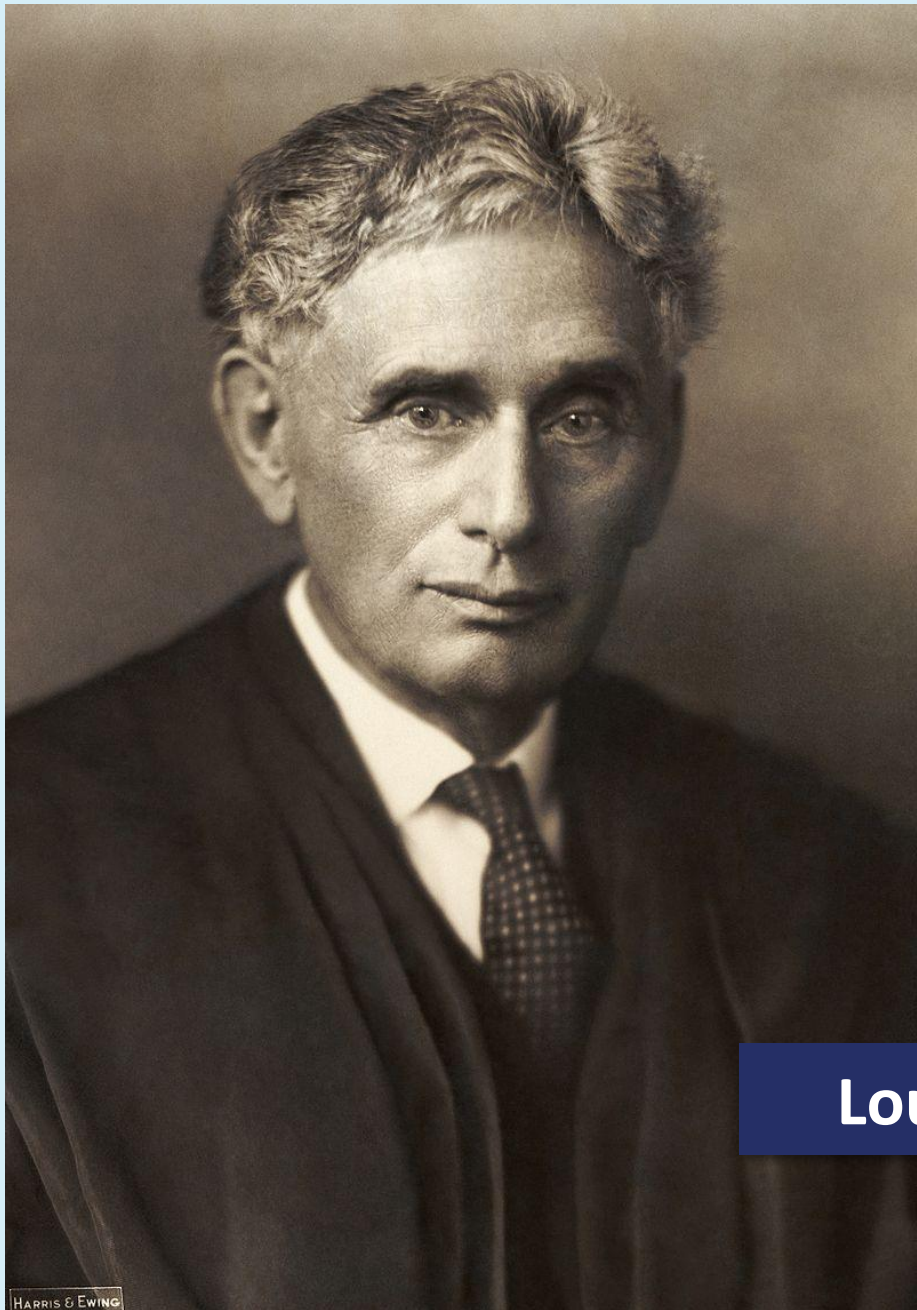
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# WHERE IS FEDERALISM IN THE CONSTITUTION

- **Article I, Section 3:** The original Senate
- **Article I, Section 8:** The powers of Congress—especially the Commerce Clause and the Necessary and Proper Clause
- **Article I, Section 10:** Limitations on the powers of the states
- **Article IV:** Privilege and Immunities Clause and Fugitive Slave/Rendition Clause
- **Article VI:** Supremacy Clause
- **10th Amendment**
- The Enforcement Clauses of the **Reconstruction Amendments**



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## “Laboratories of Democracy”

Louis Brandeis

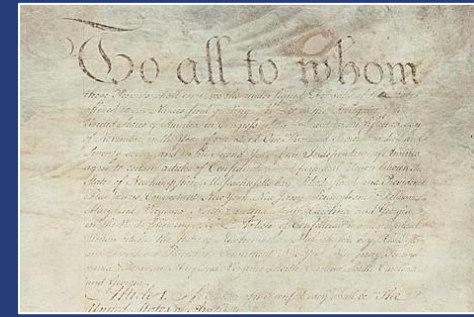


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# WOMEN'S SUFFRAGE MOVEMENT



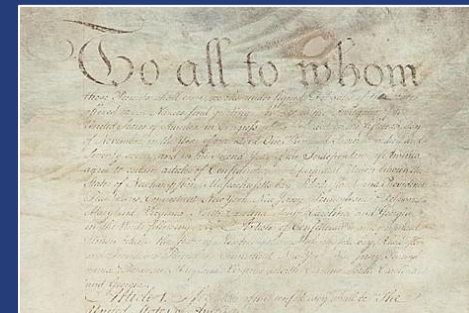
By HY MAYER



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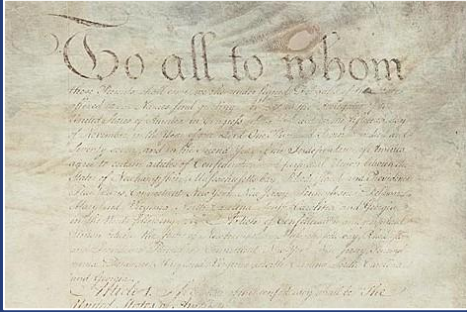
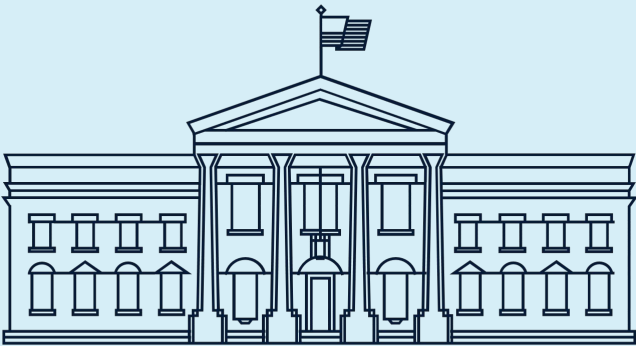
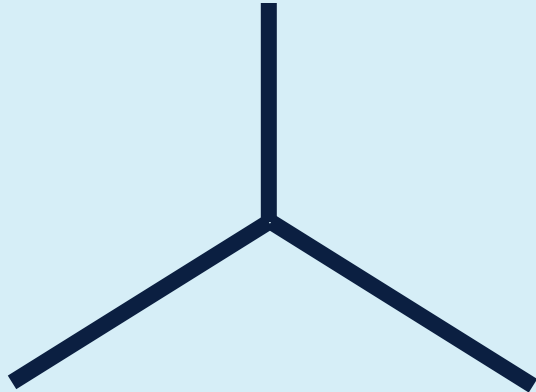
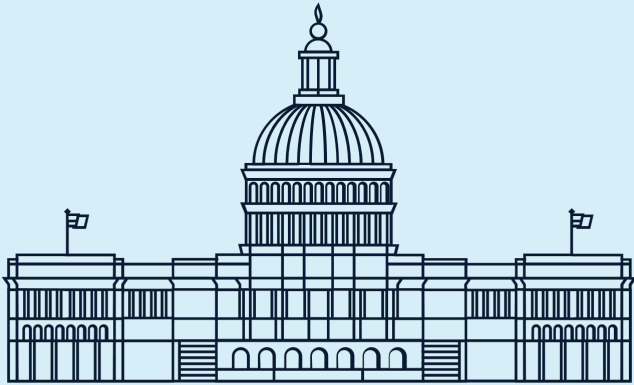
# CIVIL RIGHTS ERA LEGISLATION



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# SEPARATION OF POWERS AND CHECKS AND BALANCES



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# SEPARATION OF POWERS AND CHECKS AND BALANCES

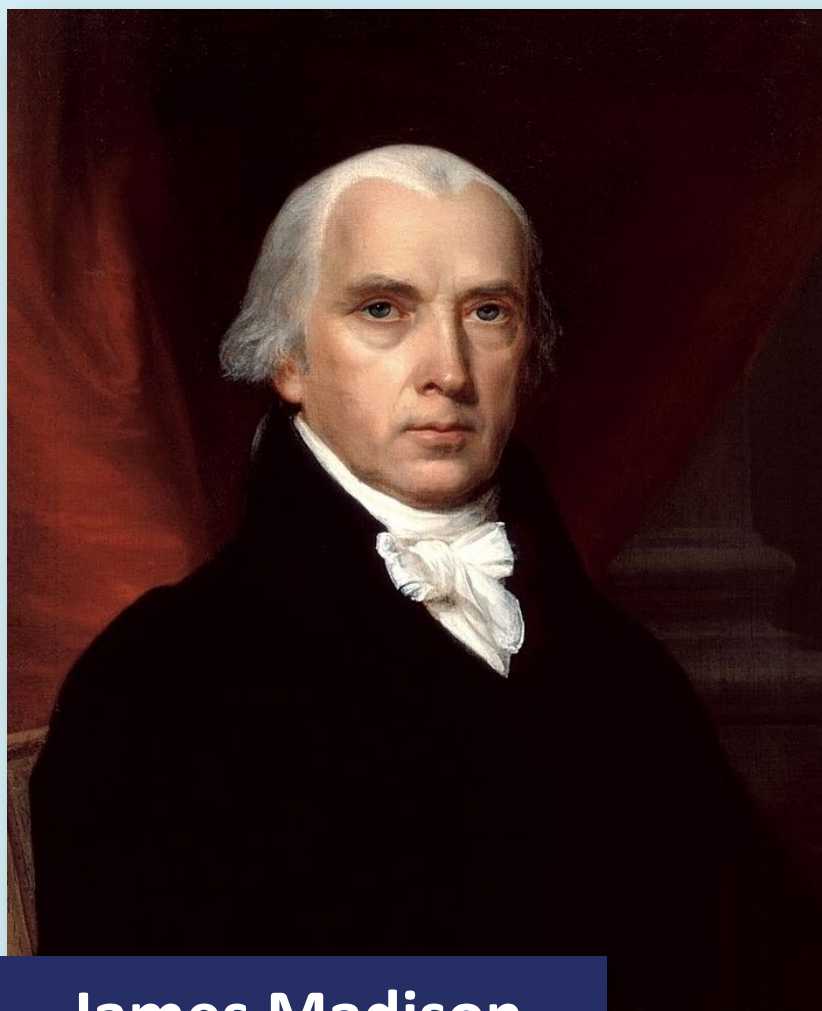
Through the separation of powers, the Constitution distributes political power between three branches of government.

- The legislative branch—Congress—makes the laws.
- The executive branch—led by the President—enforces the laws.
- And the judicial branch—headed by the Supreme Court—interprets the laws.

At the same time, through its system of checks and balances, the Constitution grants each branch of government the power to check abuses by the other branches.

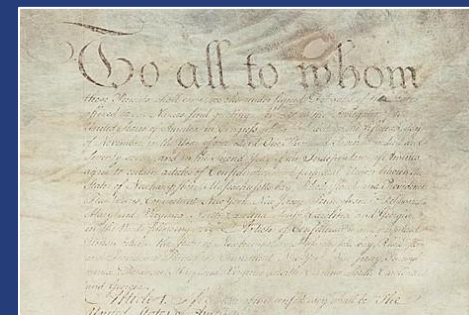


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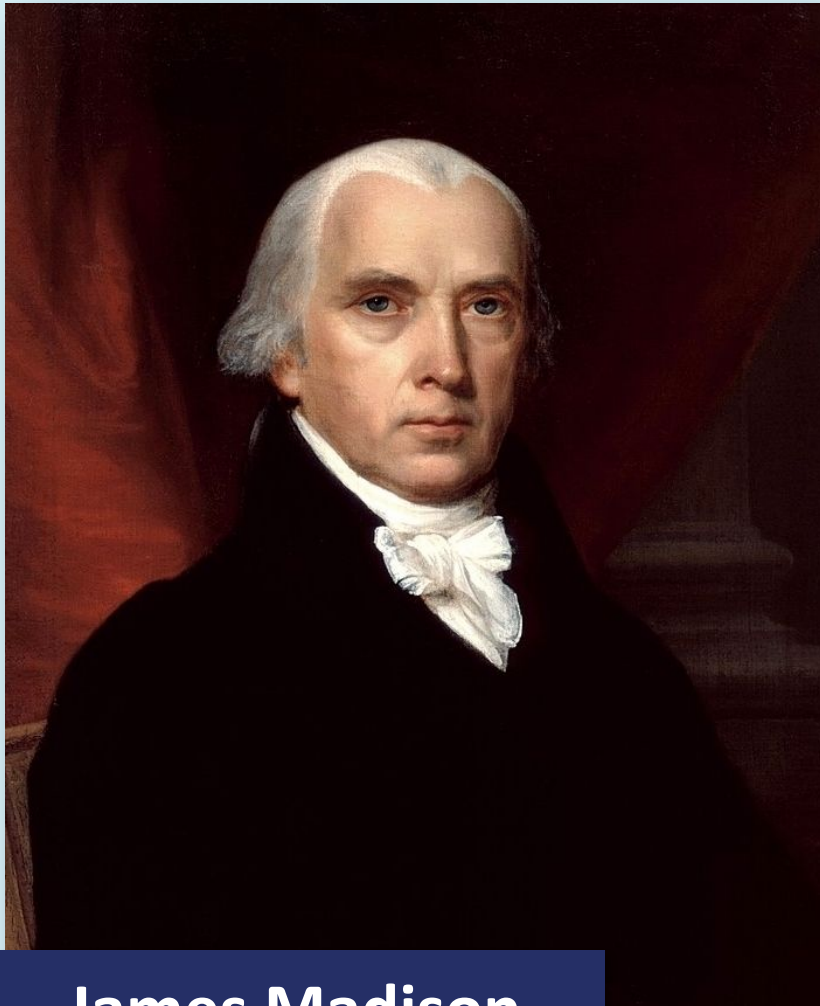


James Madison

**“Ambition must be made to counteract ambition. The interest of the man must be connected with the constitutional rights of the place. It may be a reflection on human nature, that such devices should be necessary to control the abuses of government. But what is government itself, but the greatest of all reflections on human nature?”**



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James Madison

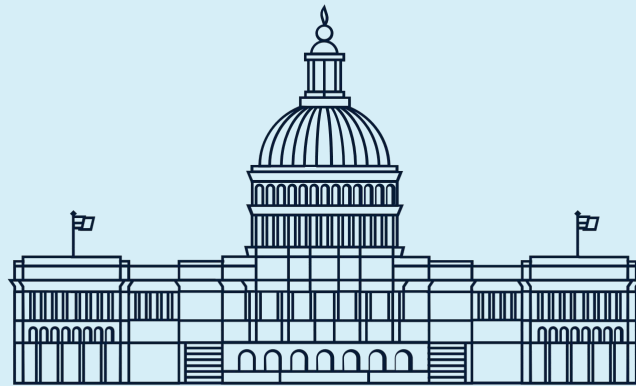
**“If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary.”**



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# CHECKS AND BALANCES IN ACTION

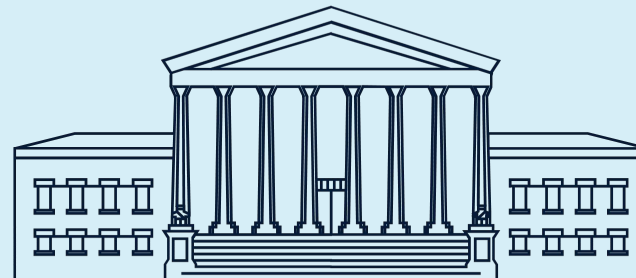
Congress has the power to make our nation's laws, BUT...



The President was given the power to veto any law passed by Congress.



Federal judges were given the power to declare any law unconstitutional.



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# REPUBLICANISM



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# FEDERALISM

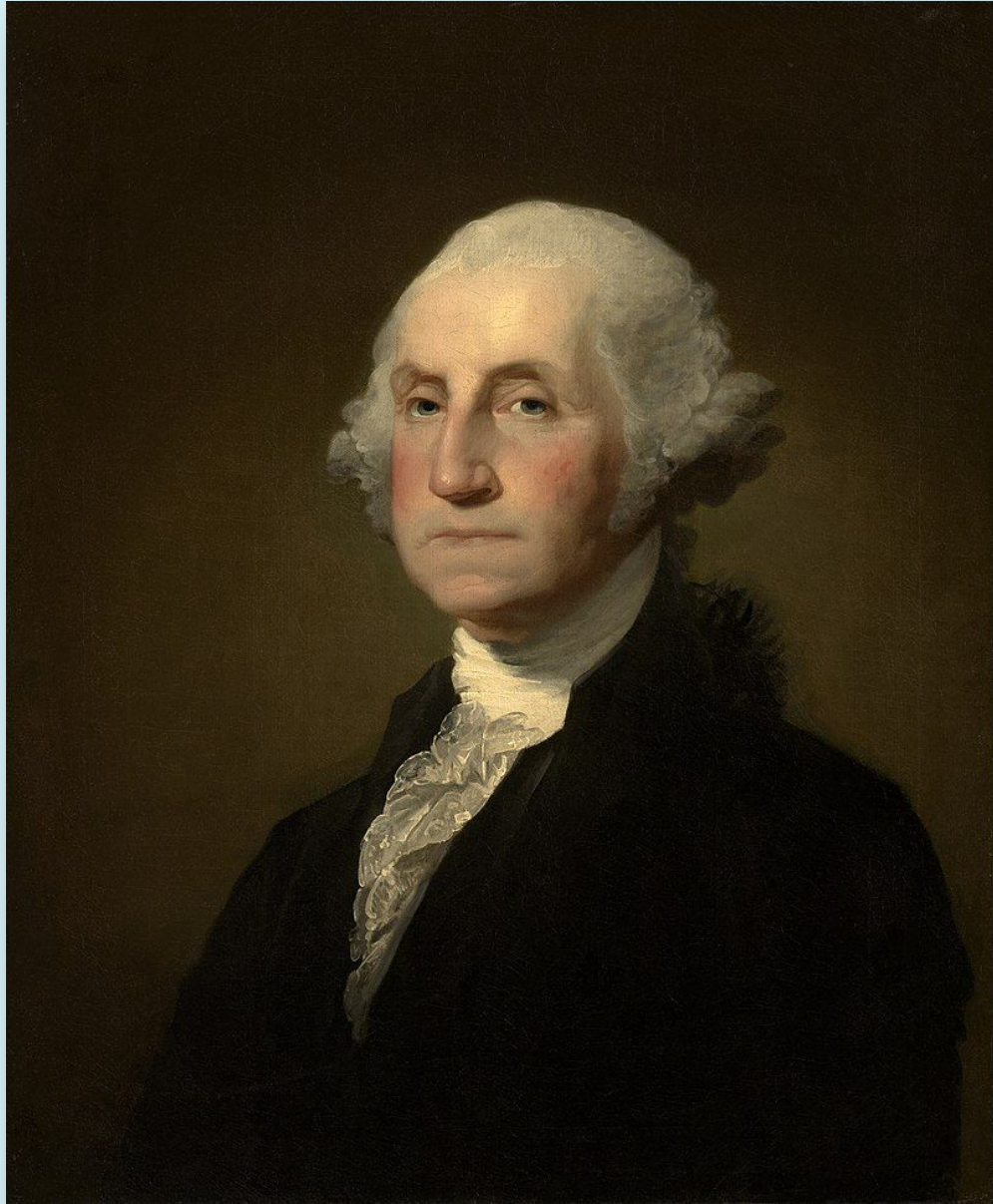
For the Founding generation, the American Revolution created a new republican world. This shift wasn't just about getting rid of a King and holding elections.

There was a moral dimension to the American Revolution—one that got at the character of American society. The new government had to commit to (what the Founders referred to as) **civic republican virtue**.

Americans had to choose virtue over vice, reason over passion, and the public good over private self-interest.



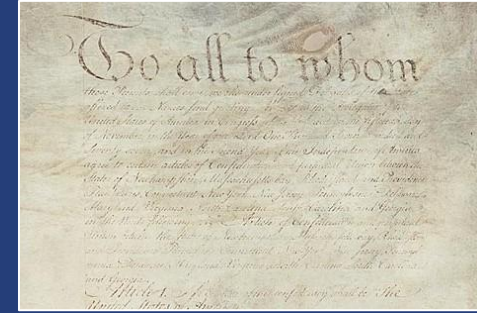
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Key traits of the good,  
republican citizen in  
America:

- Restraint
- Temperance
- Fortitude
- Dignity
- Independence

**Think:  
George Washington!**



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ROMAN REPUBLIC



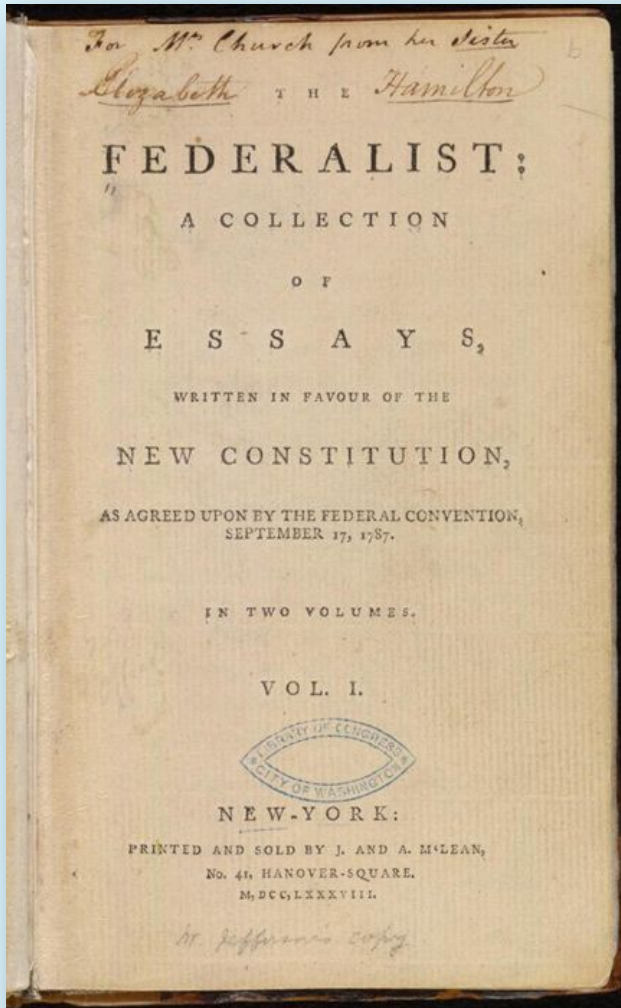
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History taught republics were fragile—and they all seemed destined to fall. They rise or fall based on the character and spirit of their people.

**For republics to survive, citizens must sacrifice individual self-interest and commit to the public good.**



# THE FEDERALIST PAPERS



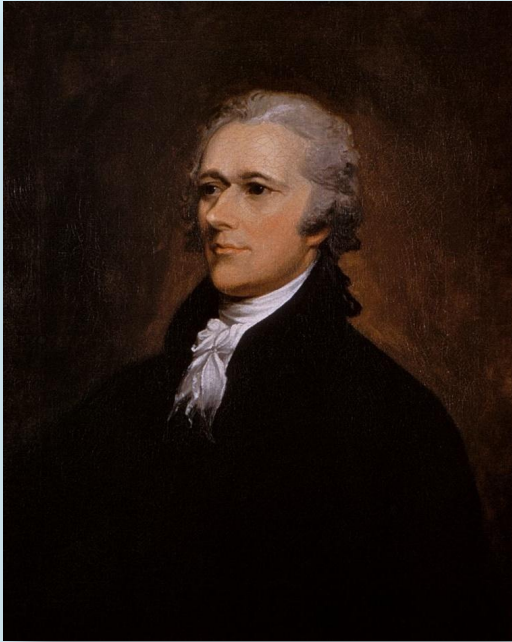
By drafting and ratifying our Constitution, the Founding generation sought to create a national government more powerful than one created by the Articles of Confederation, but also one of limited powers.

In The Federalist Papers, James Madison, Alexander Hamilton, and John Jay envisioned a constitutional system driven by reasoned debate and principled compromise.

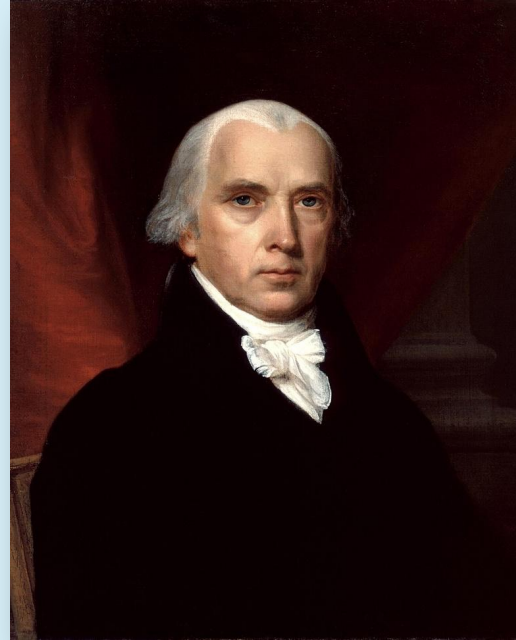


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# THE FEDERALIST PAPERS



Alexander Hamilton



James Madison



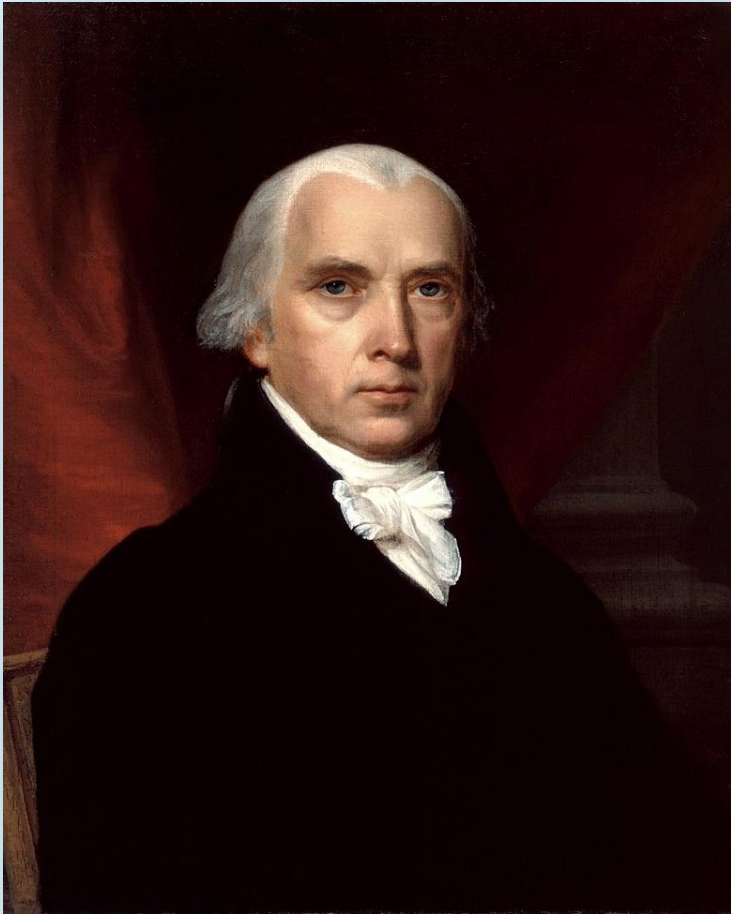
John Jay

All three authors wrote under the same famous pen name—“**Publius.**”



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# THE FEDERALIST PAPERS



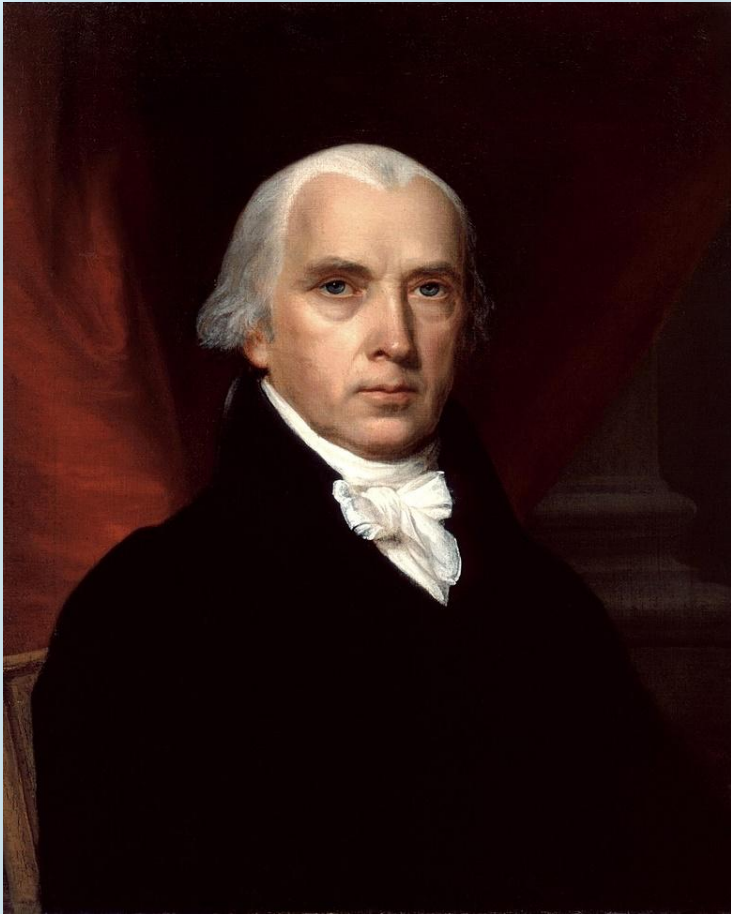
In part, they feared majority and minority factions as enemies of public reason, and, in part, they sought to build a system that guarded against majoritarian tyranny, making it hard for (as James Madison put it) “**stronger factions [to] readily unite to oppress the weaker.**”



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# THE FEDERALIST PAPERS



For Madison, “the aim of every political constitution was . . . , first, to obtain for rulers men who possess most wisdom to discern, and most virtue to pursue, the common good of society.”

(Fed. 57)



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# THE FEDERALIST PAPERS



While states often had a limited pool of quality candidates for their legislatures, the national government would have, in John Jay's words, **“the widest field of choice.”**

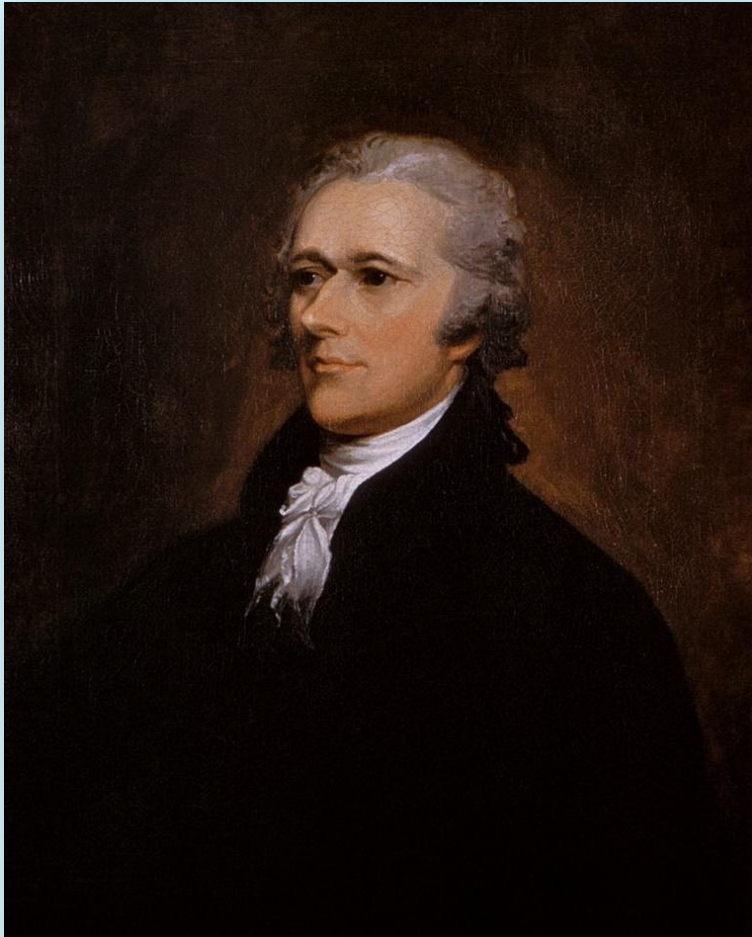
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# THE FEDERALIST PAPERS



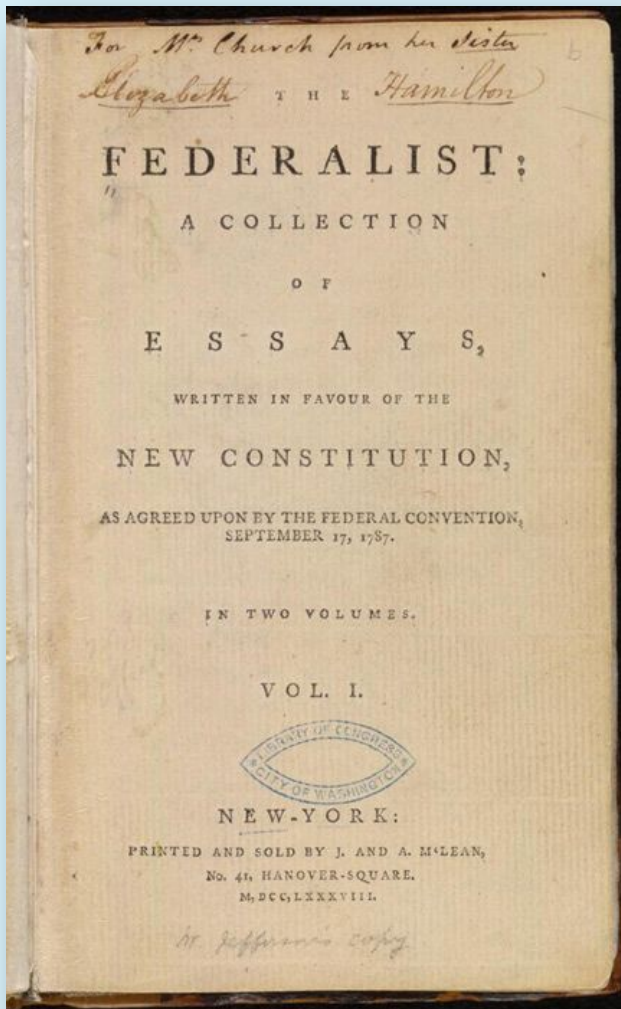
Since the Framers “**extended . . . the spheres of elections,**” a larger universe of potential candidates would be available for each position in the national government, and only those with well-established reputations would win.

(Fed. 27, Hamilton)



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# THE FEDERALIST PAPERS



This would result in elected officials who were **“temperate and cool,”** congressional deliberations filled with **“moderation and candor,”** (Fed 27, Ham)

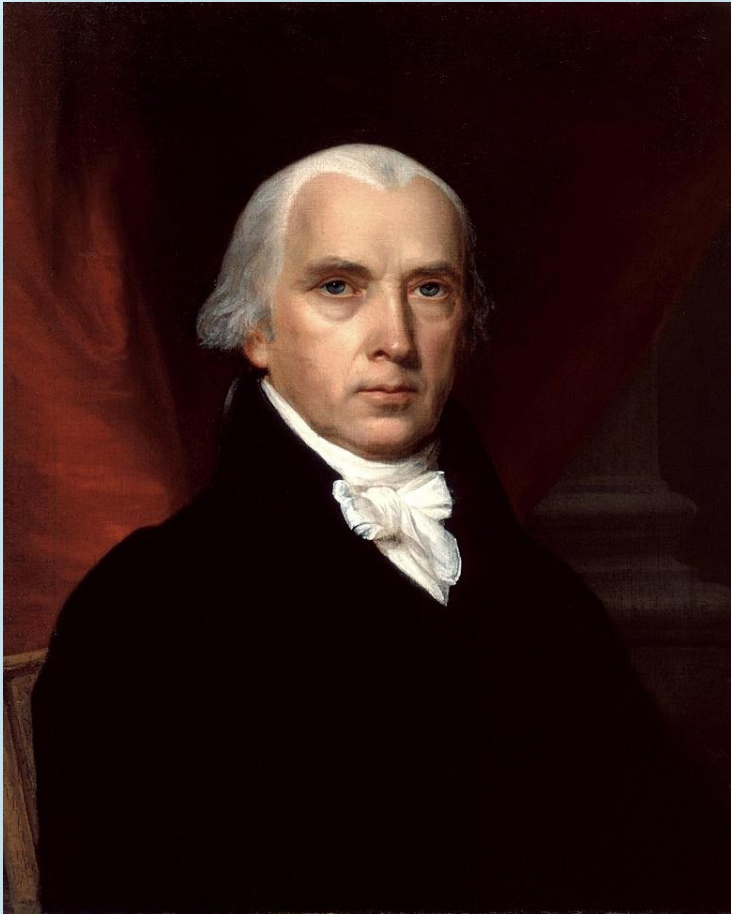
And decisions that were **“more wise, systematical, and judicious, than those of the individual states.”** (Fed. 3, Jay)



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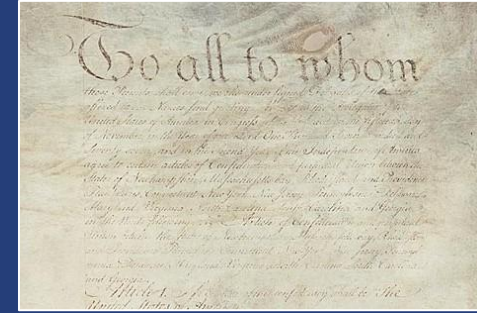


# THE FEDERALIST PAPERS



This form of representative government would “refine and enlarge the public’s views, by passing them through the medium of a chosen body of citizens, whose wisdom may best discern the interest of their country, and whose patriotism and love of justice, would be least likely to sacrifice it to temporary or partial considerations.”

(Fed. 10, Madison)



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