



The Declaration of Independence and the Constitution

Third Edition

Edited and with an introduction by
Earl Latham

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Amherst College

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PROBLEMS IN AMERICAN CIVILIZATION

INTRODUCTION

With the American Revolution the thirteen colonies became, as the Declaration of Independence says, "Free and Independent States." Each was jealous of its own sovereignty and each adopted its own constitution and set up its own administrative machinery. Necessity alone had forced the states to band together in order to win the war with England. It is not surprising, therefore, that their first political cooperation as independent states took the form of a confederation, which provided that each state was to retain its "sovereignty, freedom and independence and every power, jurisdiction and right" not expressly delegated to the Confederation government.

The years under the Articles of Confederation from the Peace of Paris in 1783 to the Constitutional Convention of 1787 brought critical developments both for the new state governments and for the Confederation. Postwar readjustments—business depression, the funding of state and national debts, the writing of new state constitutions, the functioning of the new confederation, the defining of its relation both to individual states and to foreign governments—all these posed difficult problems of economics and politics. And their solution was complicated by the tension between two needs: the need to maintain and fulfill the egalitarian and democratic promises implied in the Declaration of Independence, and the need to establish and maintain responsible state governments and a strong and stable national government, able and willing to fund its debts and open the channels of domestic and international trade.

Those who valued the first of these needs higher than the second kept the state legislatures close to the electorate and responsive to its wishes. Universally among the states, the legislature tended to become the most powerful governmental body, controlling governor

and judiciary alike. If the states adopted acts of sequestration to despoil loyalists of their property; if there was debasement of the currency by the too-free flotation of unbacked paper money; if interstate rivalry took the form of customs barriers to commerce—these acts were the acts of free peoples in the full possession of political power.

But to many of the leaders in government and business, things were moving too fast. Political anarchy and fiscal irresponsibility seemed to threaten the loss of those ideals for which the sacrifices of the war had been made. The Revolution had been fought not only for republican independence but for nationhood, and to men who cherished both, the ideal of national unity seemed threatened by state particularism.

Accordingly, steps were taken to create a new political order with a stronger central authority replacing the loose association that had been the Confederation system. After an abortive meeting of representatives from five states at Annapolis in 1786, the Confederation Congress called into being the convention that met in Philadelphia to revise the Articles of Confederation, but remained, in the hot summer of 1787, to formulate an entirely new Constitution of the United States in order, as it was said in the Preamble of that historic document, to bring about a "more perfect union."

What was the nature of the work the Founding Fathers did at the Constitutional Convention? Was there continuity with the ideals of the Declaration of Independence or was there discontinuity, that is, a sharp departure from the egalitarian and democratic values that had made a new nation only a little more than a decade before? Was the creation of the Constitution the work of noble men of continental vision, patriotic and disinterested, or was it primarily (or, perhaps, also) a reconstruction of political authority for the better protection of the interests of the well-to-do, including the authors of the new fundamental law, with such concessions to the less-well-off as might be necessary to persuade them to accept a new government?

The last revision of this book, in 1956, was published at a time when this issue could be more clearly drawn than it can today, with traditionalist historians arguing that patriotic feeling and not economic motivation was the dynamic principle in the establishment of the new government, and two generations of historians, beginning with Charles A. Beard, asserting the opposite. Since the middle of the 1950s, however, there has been new research and writing into the

origins of the ideology of the American Revolution, and a major attack upon the economic interpretation associated with Charles Beard. This book takes into account the new research and the revisionist writing, and leaves it to the reader to determine where the merits of the controversy now lie.

The first four essays—by Ralph Barton Perry, Bernard Bailyn, Jack P. Greene, and John C. Miller—deal with the nature of the American Revolution and its philosophical origins. Perry sees continuity between 1776 and 1787 and argues that the Constitution was a correcting and perfective instrument of government that not only did not abandon the ideals of the Revolution but created new political institutions in a different mood and emphasis through which, historically, revolutionary ideals came to be fulfilled. He remarked that by the time of the Revolution itself, the psychological disposition of the colonials was such that they were prepared for the ultimate act of separation from the mother country.

The source of the psychological preparedness to break away is what Bernard Bailyn and Jack P. Greene disagree about, with Professor Bailyn stressing the importance in the colonies of the so-called "oppositionist" literature produced prodigiously in the political quarrels of early eighteenth-century England. Much of this polemical literature had a very specific target—the man history regards as the first prime minister of England, Sir Robert Walpole—and grew out of party struggles between Tories and Whigs (and within Whig ranks) and dynastic struggles bred by the attempt of the Stuarts to return to the throne of England. Walpole became First Lord of the Treasury and Chancellor of the Exchequer in 1721, after the English people had endured years of political and economic turmoil. He restored stability, but at a price. By corruption and bribery, he obtained a Whig House of Commons, and by similar means he fought against various rivals to maintain his authority for some twenty years, during which he also effected a transfer of power to the Commons from the Court and the House of Lords.

One of Walpole's great adversaries was Bolingbroke, a Tory leader, who associated himself with Jonathan Swift, Alexander Pope, John Gay and other satirists and men of letters. In a series of letters in *The Craftsman* he wrote strong attacks against Walpole and what he called the "Robinocracy," that is, government by a corrupt minister and his accomplices. He was not alone in his attacks but his voice could be heard above those of a varied and vociferous opposition.

The dissent struck not only at the machinations of a master minister of power but at the social texture of a whole society in pursuit of gain. Bailyn says that although these attacks had relatively little effect upon the course of events in England, they were enormously "influential and popular" in the American colonies, providing the colonials not only with a debater's manual and glossary of terms but with a "harmonizing force" for all the discordant and nonconformist elements in the thought of the revolutionary generation in America. All the tributaries of example from the classics, Enlightenment, common law, and religious dissent could be brought together by ideas generated in the English Civil War and the Walpolean controversy and made into a "comprehensive theory of politics" by the colonials to oppose the new regulations laid upon them by the British in 1763.

Professor Jack P. Greene took issue with Bailyn's thesis, saying that it failed to consider older intellectual and political traditions before the Walpolean controversy, and did not undertake to establish how and how far the older traditions were displaced by the newer ones. The older political tradition was the opposition to the Crown in seventeenth-century England, the conflicts between the Stuart kings and Parliament that produced a regicide, and eventually drove the Stuarts from the throne and out of England. The century that began with statements about the divine right of kings ended with the primacy of Parliament—truly a revolution—and all taking place, as Greene said, during "a formative period of colonial life." In Greene's view, the colonials in America reproduced in the eighteenth century a transatlantic version of the seventeenth-century constitutional crisis in England and over the very same issue, namely, the extent of the royal prerogative with the assemblies in the role of Parliament and the governors in the role of the monarch.

However the reader may judge the merits of the difference of view between Bailyn and Greene, it would be well to keep in mind the nature of the ultimate historic act achieved by the colonials, whatever the sources of their inspiration. They came to profess political principles of universal appeal, ethical in character and commanding to the conscience—life, liberty, the pursuit of happiness, and government by the consent of the governed. In the categories of Marxist writers, the American Revolution qualifies as a war of national liberation rather than a social revolution based on class struggle, but more traditional writers, like John C. Miller, whose view is stated in these readings, see the Revolution as a truly radical event.

The fifth and sixth essays—by Merrill Jensen and Andrew C. McLaughlin—express basically different views about the nature of the Confederation government, with a sympathetic view presented by Jensen and a more critical one stated by McLaughlin. The designation “the critical period” for the Confederation years was used in the title of a book on the era by the historian John Fiske, published in 1885, and has been generally accepted as descriptive by writers who believe that the Constitution was a necessary corrective to basic defects in the Articles of Confederation. This view is not accepted by others. Charles Beard in *An Economic Interpretation* gave the question only passing consideration. He noted that the gloomy view of economic conditions under the Confederation government was not shared by all “writers of eminence and authority,” and he cited Benjamin Franklin for his statement in January 1787 that although there were complaints, property on the whole was “widespread and obvious.” Beard said also that precise facts had not been presented to support the dictum of Fiske that under the Articles of Confederation “the bonds of the social order were dissolving.” At the same time he minimized the cruciality of social conditions under the Confederation, however, Beard was throwing away a good argument for his view that the Constitution was—in important part, at least—the product of upper-class economic interests. He rather disparagingly dismissed, or held in little account, the Shays Rebellion that certainly had alarmed men of property in the late 1780s, saying that the “inflamed declarations of the Shaysites are not to be taken as representing accurately the state of the people.” It was a tacit assumption of Beard that the Confederation was a successful mode of government, that the Articles were merely an extension of the revolutionary ethic, and that the Constitution was a departure from it.

The seventh essay, by Robert L. Schuyler, is an admirable, short account of the framing and adoption of the Constitution, done with precise scholarship. Much of the historical discussion about the work of the Framers, however, has concerned itself less with what it was the Framers *did* (about which there is general agreement) than with *how* what they did should be *characterized*. A late-nineteenth-century scholar, John W. Burgess, held that the work of the Framers, had it been performed by a Julius or a Napoleon, would have been called a “coup d’etat,” which is generally thought to be a sudden (and often violent) political action in which existing government is subverted, overthrown, or displaced. Although it is true that the Framers were

sent to the Convention under instructions merely to amend the Articles of Confederation and that they violated these instructions without serious debate in order to create a whole new instrument of government, Burgess's characterization seems excessive to the point of falsity. On the other hand, the argument that the whole procedure was "democratic" (despite its technical illegality) because the proposed Constitution was submitted to the states for ratification by the people, instead of adoption by the Confederation Congress, would seem to go too far in the other direction.

Except for a few rousing fights in ratifying conventions and some hot exchanges in the press, there is not much evidence that the "people" were very much involved in the ratification of the new Constitution. We just do not know how many people voted for delegates to the various ratifying conventions, the nature of the instructions given them, the numbers of delegates who were given any instructions at all, or whether they deviated from their instructions. What is clear is that there was widespread apathy (or at least non-voting, which may not mean the same thing) for delegates to the ratifying conventions, although writers differ on the reasons for the low degree of voter participation. Charles Beard argues that disenfranchisement by property qualifications may have been a principal reason and his most pressing critic, Robert E. Brown, denying this, says that the governing factor was whether there was an issue and how important it was, most people seeing no issue in the new Constitution or at least none important enough to make a fuss about. There was indignation and class feeling in the Massachusetts ratifying convention, and yet the turnout that had elected the delegates was not large. Neither Beard nor Brown can explain the paradox.

There is also a difference in view about the inference to be drawn from the first four ratifications, which were almost immediate: Delaware, December 7, 1787; Pennsylvania, December 12, 1787; New Jersey, December 18, 1787; and Georgia, January 2, 1788. The oddity is that Delaware, New Jersey, and Georgia voted unanimously in favor of the new Constitution with a total of 95 votes for and none against. Robert Brown argued that since three of these four states were "agrarian," Beard's thesis about the salience of the ownership of personalty (by definition the principal form of property in an "agrarian" state is land, not commercial paper), should have led to the conclusion that they would have rejected the proposed Constitution. The late Clinton Rossiter characterized the delegations from all

three states to the Convention as "nationalists" of some sort or other (including Patterson of New Jersey, the author of the "small state plan"), and noted that Delaware had ratified after only "five days of friendly and desultory discussion"; that "hapless New Jersey" had given the Constitution the courtesy of a full week; and that what could have been a lively debate in "defenceless Georgia" was stifled because the Creek Indians were a threat to the state. It was his thought that the quick unanimous ratifications in three of the first four states were the product of smart Federalist tactics, with the proponents of the new Constitution "moving into action before the war was fairly begun," pressing for quick approval in states thought to favor the Constitution in order to build up momentum.

The next three selections of this book deal with various aspects of the ratification controversy. Vernon Parrington does not view the Framers with the filio-pietistic awe that characterized much nineteenth-century writing about the period, which tended to accept the Federalist interpretation argued by Hamilton, Madison, and Jay in *The Federalist Papers*. Although Parrington wrote his *Main Currents in American Thought* after Beard's *An Economic Interpretation of the Constitution of the United States*, Parrington is put before Beard because his work is broader, more conceptual, and more literary than that of his predecessor. Parrington's view of the making of the Constitution is basically like that of Beard's, and the perspective of both is balanced in the present collection by the essays of Robert E. Brown and Forrest McDonald. Parrington's view of Number Ten of *The Federalist Papers* is balanced by the inclusion of Madison's famous essay in its entirety, to which Parrington gave so much emphasis and such a selective interpretation. Readers may wish to consider with more than passing notice the interpretation of Number Ten given by Douglass Adair, which takes it out of the category of mere polemics in a New York political fight and makes of it a statement about the just society and the rights of minorities—all minorities—within it. Readers should judge for themselves whether Madison was a mere sectarian propagandist or a philosopher concerned with justice and stability, two values of political ethics of importance now as well as then. In what Parrington called "The Great Debate," contributions were made by modest men as well as the ones that historians tend to emphasize. The piece on *Philadelphensis* is an account of one such modest man.

The last five essays in this collection deal with the controversy

over the correct interpretation of the events that led to the framing and adoption of the Constitution. The first statement is that of Charles Beard, who wrote what he called "an economic interpretation" of the Constitution, and established thereby a canon of historical interpretation that was to predominate among historians for decades. The Beard excerpt is followed by a much later rebuttal written by a distinguished conservative scholar of American constitutional history, Charles Warren. The virtue of the Warren explanation is the emphasis given to constitutional and legal questions, although this emphasis may give less than proper weight to social and economic elements in political change. The tone of Warren's exposition, however, is in great contrast to that of some earlier critics of Beard, such as William Howard Taft—who thought that Beard had produced a muckraking book—or Nicholas Murray Butler, the president of Columbia University, who suggested that the Beard thesis was related to the "crude, immoral, and unhistorical teaching of Karl Marx."

In the 1956 edition of the present work, the last line of the bibliography (added as the book was going to press) said, "For an all-out attack on the economic interpretation see: Robert E. Brown, *Charles Beard and the Constitution: A Critical Analysis of 'An Economic Interpretation of the Constitution'* (Princeton, 1956)." The book by Brown was the first by one of several writers for whom the Beard interpretation had come to be thought inadequate, for various reasons. In the rush to smash the Beard canon, however, some critics committed extravagances of their own, bumping into each other clumsily on both facts and interpretations. For Brown, there were virtually no class distinctions at the time of the Convention, but for Richard B. Morris there were important class distinctions, although no class war. The leaders of the Revolution and the Convention were the same kind of people for Benjamin Fletcher Wright; but not really, said Stanley Elkins and Eric McKittrick, who described different generational outlooks upon the value of firm central authority. Some thought that the Confederation period was indeed critical; others did not. Some thought that there was no conspiracy on the part of a Federalist elite to put the Constitution over; others admired the slickness with which a smooth Federalist elite managed to have its way.

Brown's attack on Beard's *Economic Interpretation* was a chapter-by-chapter refutation, and the reader will want to consult the work itself for the extended analysis. The excerpt reprinted in this

book is Brown's criticism of what is perhaps Beard's most famous chapter (Chapter 5), the one concerning the personality holdings of the Framers. The piece by Brown is followed by a summary of the criticism of Beard made by Forrest McDonald whose own work, *We the People*, argued that the Beard interpretation was wrong because his economic categories were too simplistic and unworkable and that Brown's central idea was right in that the Convention represented the country at large and did not serve special economic class interests. McDonald's position is criticized by Jackson T. Main in the next selection, and McDonald's rebuttal to Main follows.

The attacks on Beard during the last two decades have been made by writers who may fairly be said to be as much creatures of their own time as they have said Beard was of his—tending to lay stress on *consensus* in the Dwight Eisenhower–Lyndon Johnson mode whereas Beard laid stress on *conflict* in the Populist–Progressive mode. But as fashions in interpretation change with national moods, so it may happen that writers may come again to think less well of consensus that conceals corruption and continuity that perpetuates it, and rather more of conflict as the key term of politics, which is what Beard did.

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Ralph Barton Perry

THE DECLARATION OF INDEPENDENCE

Not all revolutions are alike. Some merely effect a transfer of power from one set of officials to another without touching the social life of the community in any serious way, leaving basic social and economic groups in approximately the same relation to each other as before, without significant changes in their material well-being or their relative political positions. Other revolutions, however, not only effect the transfer of power from one set of officials to another but radically reconstruct social and economic institutions, abolishing the privileges of those who ruled and elevating the interests of those over whom rule was enforced.

The American Revolution, was not a struggle of lower colonial classes against upper colonial classes, as were the classical social revolutions of France and Russia. It was a struggle of entire colonies against what was believed to be the usurpation of the power of self-government by outsiders. The "usurpers" were not foreigners, of course, as the British were in India or the French in Algeria, since the American colonials, most of whom came from the British Isles, felt close ties with England. The "usurpers" were the ministers of the Crown who had become tyrannical and oppressive.

Although parties as we know them did not exist at the time of the Revolution, there were two broad political formations in both the colonies and England—the Tories and the Whigs—with the Tories strongly against rebellion. The colonial Whigs, however, were divided on the issue of rebellion right up to the Declaration of Independence, with Conservative Whigs like John Dickinson of Delaware tending to oppose, and Liberal Whigs like Thomas Jefferson and John Adams tending to support separation from Britain. When the time for decision came, almost all of the colonial Whigs closed ranks in support of the struggle against England, although some who had been Patriot leaders before the Declaration became Loyalists when it was proclaimed.

Although the loose political alignment of Tories and Whigs did not represent a strict array of social groups pitted against each other, it would be a mistake to suppose that the colonials were a classless society without social orders and status levels. The speeches and other public expressions of the time contain many references to the "better sort," the "middle sort," and the "meaner sort," although it must also be said that the "middling classes" were expanding most rapidly.

Not all historians agree on the fundamental nature of the American Revolution, even after two hundred years, and some have argued, as did Carl Becker almost seventy years ago, that the struggle was not only about home rule but about who should rule at home, while some deny that there was any significant movement at home for a more democratic society. There

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