



Univerzita
Pardubice

University of Pardubice

Faculty of Arts and Philosophy

The Sources of the Constitution of the United States of America

A Summary of Ph.D. Thesis

Author: Mgr. Petr Andjelkovski

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The creation of the American Federal Constitution must be understood in a complex manner. Its authorship can therefore be attributed not only to the Federalists, who initiated it, but also to the opposing Anti-Federalists, whose criticism also contributed to its development. The entire process can be divided into four basic periods.

The first period falls into the phase of colonization of individual colonies, starting with the presence of the English colonial administration, which ended up becoming the main administrator of the entire area (gradually from the early seventeenth century). Its jurisdiction primarily covered the territory from the fortieth to the forty-eighth degrees of northern latitude, spanning from present-day Philadelphia to the northern border of Maine. This territory was called New England, which was the core of the future thirteen founding colonies.

The second period begins in 1776, when on July 4th, independence from the English crown was declared, leading to the American Revolutionary War, which ended on September 3, 1783, with the victory of the American colonists.

The third period spans from 1783 to the beginning of creating the Federal Constitution, during which the original plan was to revise the Articles of Confederation and Perpetual Union, which were ratified on March 1, 1781.

The fourth period is the process of drafting and subsequently ratifying the American Federal Constitution. This can be dated from May 1787, when the Constitutional Convention was convened in Philadelphia, to the period when the Constitution was ratified by the ninth state of the Union, at which point it came into effect. This occurred on June 21, 1788.¹ The original document, the Articles of Confederation and Perpetual Union, became obsolete as it had proved to be entirely inadequate due to the existing issues among the states of the Union.

¹ The completed constitution was for the first time presented on September 28, 1787.

First Period

The American continent in the area of today's United States was being first systematically and massively settled under King James I after 1620. The reasons were mainly religious and existential. It is generally claimed that firstly, the king long advocated the primacy of the Anglican Church, which allowed for the maintenance of absolutism, and thus reaffirmed the majesty of the royal court. However, this primacy opposed the Presbyterian Church —especially in Scotland—, and therefore led to tension not only in England, but also between England and Scotland. Secondly, the Anglican (Arminian) Church refused to respect different religious factions and doctrines, which over time proved to be a significant destabilizing element in society, resulting in people leaving for America.

However, the process of colonization was not limited to people of English origin. Nevertheless, from the second decade of the 1600s to the mid-17th century, English settlers significantly prevailed. Later, colonists from the Netherlands (New Netherland — area of present-day New York, New Jersey, Delaware, and Connecticut) also arrived, extending into Pennsylvania and Rhode Island. The settlers from Sweden and Finland came as well, creating the so-called New Sweden in the area of present-day Delaware. There was a marked population increase from 1630 onwards from other European countries, especially due to anti-reformation or re-catholicization policies, which had an impact on the significant migration westward. In the early stages of forming the Thirteen Colonies, the region of present-day Massachusetts with its centre in Boston played an important role, the same as during the revolution in the 1770s. In May 1643, New England was formed, a confederated union whose main goal was to strengthen military defense against external enemies. The process of colonization continued with an increasing population and settled territory.

The beginning of the rift between England and the American colonies is most often associated with the Stamp Act of 1765. This law broadly demonstrated what Americans had long suspected — that the colonies were primarily used by the English for profit and resources. Colonists were not considered equal partners. It was the Stamp Act that reminded all Americans of this fact, leading to widespread dissatisfaction. Disputes gradually increased, and on December 16, 1773, an event occurred that had a decisive influence on the later revolution. This was the so-called “Boston Tea Party,” which was an open and planned revolt against the British rule. Between November 28 and December 15, 1773, a total of five ships with pre-ordered cargo arrived at the port. Due to previous disputes between the city’s citizens and English sailors, a conflict ensued, culminating in the throwing of tea crates into the sea and subsequent skirmishes between colonists and English soldiers. Similar excesses occurred in other cities as well. Armed conflicts continued, and on July 4, 1776, the American colonies declared independence, which gradually led to the intervention of English troops and the American Revolutionary War for Independence.

If we perceive the overall development from the beginning of English settlement on the eastern coast of America, through the 17th century and beyond, it is evident that key changes occurred only during the revolutionary period, which aimed at gaining independence from Great Britain. All the Thirteen Colonies gradually transformed into democratic republics and then into member states of the confederation — and subsequently into the federal union. A comparative analysis with Great Britain shows one indisputable fact, namely that the dynamics of the modernization process were evident on the American continent with unprecedented force, even though the constitutional system of the United Kingdom was previously recognized as an authority – its influence, combined with that of the ancient Rome, appeared to be fundamentally significant.

The issue of slavery, which historically disrupts the overall picture of political legitimacy of the American tradition, appears to be associated with the process of original colonization rather than the formation of the federation. Certainly, the presence of slavery (especially in the southern states) in the newly formed union cannot be denied, but it can be pointed out that with the gain of independence and the gradual formation of the federation, the rise and development of abolitionism are associated, too. American historian William Freehling believes that this process developed from 1776 and culminated in 1860. The American Revolution changed Americans overall, not just in their relationship to slaves.² The Constitution became the guarantor of the later realization of the American Founding Fathers' promise to abolish slavery. The United States had to fight for it in a long and bloody conflict on its own soil.

Second Period

If we look at the previous development, it is particularly evident that Americans initiated the fight for independence in order to gain sovereignty for themselves. Sovereignty is legitimate only under the condition that a certain community has established its own laws and adheres to the principle of contractual agreement. This means that these laws and social agreements are voluntarily adopted with the aim of creating the most suitable conditions for the existence of the community. In this case, it concerned the Thirteen Colonies, which, although they originated from the English system and received significant support from it — whether in terms of power, culture, or constitution —, gradually became more of a means for profit for the United Kingdom. The basic form of self-government was primarily defined by the individual state constitutions, which served as the highest laws of the colonies.

² Cf. Freehling William. W., *The Founding Fathers and Slavery*, in: *The American Historical Review*, Vol. 77., No. 1, 1972, p. 82.

The oldest document fulfilling the role of a constitution was the First Charter of Virginia of April 1606, issued by James I.³ It is a document that authorizes the governor to manage the territory on the eastern coast, specifically stating “where they shall think fit and convenient”⁴, up to one hundred miles from the coast, northward or westward, northwestward or southwestward. However, a groundbreaking document in this context was the Charter of New England of 1620, also issued under the reign of James I. The charter clearly states that the legitimacy of the occupied territory depends on whether the specific area is not already governed by other Christians. If it is not, the territory belongs to England, the English king decides on its governance, and English laws apply.

All the charters of the individual colonies adopted English legal principles, which changed depending on the societal development in England. However, they were not constitutions in the strict sense because these public documents or declarations did not have a developed definition of government and a description of its structure. They mostly contained a list of freedoms and rights of people in the territory for which they were created. Sometimes, it was only declared that a specific territory was under the rule of the British dominion, and therefore British laws applied (it worked similarly for other European states, such as Sweden or the Netherlands).

The actual constitutions of the individual colonies in the true sense began to emerge only from 1776 on to demonstrate their own sovereignty. These constitutions were updated, and the original documents lost their validity. However, this does not apply to the constitution of the state of Massachusetts, which remains in force in its original form to this day. It also became one of the main inspirations for the content of the federal constitution. It was completed on

³ There are older documents, such as the one addressed to Sir Walter Raleigh from 1584. However, this mission was unsuccessful, and Raleigh returned to England.

⁴ Cf. *The First Charter of Virginia*; April 10, 1606, in: <https://avalon.law.yale.edu>. XI [2024-06-08].

October 30, 1779, and its author was one of the main Founding Fathers — John Adams.

Adams advocated for the importance of creating a third branch of power, the judicial power, because only then would there be a “government of laws and not of men” and “in the community of Massachusetts, the legislative power, the government, and the judicial power will be separated to ensure that the rule of law, not of men, prevails.”⁵ This document, consisting of thirty articles, includes many elements that later became part of the federal constitution. Notably, it emphasizes the natural rights of all people, who are born free and equal to each other. All, without exception, have the right to seek security; the guarantor is the government of the community in which they voluntarily associate. They also have the right to acquire, hold, and protect property. An important part of its content is the right to freely choose a religion and the prohibition of establishing a state church. This is a significant change compared to the European approach; however, the principle of complete religious freedom had been generally promoted in the American colonies from the beginning. Religious freedom became one of the main reasons for the arrival of colonists who faced religious intolerance in Europe. The constitution also includes the old English right to defend oneself by owning a weapon, which was also incorporated into the federal constitutional amendments. This Second Amendment has been subject to continuous and intense debate, especially in the last twenty years.

⁵ Cf. McCullough, D. *Státník a prezident John Adams*, Praha 2005, p. 145.

Third Period

Another important milestone was the drafting of a confederation constitution called the Articles of Confederation and Perpetual Union in 1781. The creation of the original confederation constitution is discussed much less because it faced considerable criticism and had a relatively short validity (eight years). Nevertheless, this document underwent a fairly complex process of creation, which later significantly simplified the process of approving a new federal constitution. Its proposal was initiated even before the Declaration of Independence, specifically in June 1776, when the Second Continental Congress (the government at that time) first openly considered the possibility of drafting a common constitution for all the thirteen states. The main topic of the Congress was the question of the sovereignty of the American colonies, which was prominently highlighted by Thomas Paine in his pamphlet *Common Sense*, although he was neither the first nor the only one to do so. Detailed objections to the Articles of Confederation and the Union were outlined by Madison in his essay *Vices of the Political System of the United States* from April 1787.⁶

The fundamental shortcomings of the Articles of Confederation and Perpetual Union were that they failed to ensure unanimity across the union. This led to problems with tax redistribution, issues of common defense, the existence of a uniform currency, and problematic cooperation between individual states. A crucial shortcoming was that the union was not in a position of sovereignty towards other states in the world. Given the risks of further military conflict with Great Britain, its integrity was in danger.

⁶ Madison, *Writings, Vices of the Political System of the United States of America*, New York 1999, pp. 69–79.

Fourth Period

Madison's criticism became the starting point for the creation of a new constitution. It was drafted after extensive negotiations at the Constitutional Convention in Philadelphia, which began on May 14, 1787. Its main content consisted of four proposals for the constitution, presented by James Madison (or rather Edmund Randolph), Charles Pinckney, William Paterson, and Alexander Hamilton. During the debate, it became apparent that the basic plan of the antifederalists, i.e., the opponents of the proposed federation, was the so-called New Jersey Plan of Paterson, while Madison's proposal, known as the Virginia Plan, was presented by Edmund Randolph. The remaining two proposals were rejected, although many of their points were reflected in the federal document. Some points were proposed similarly by all the four authors of the documents.

At its core, the entire process can be summarized by the following main objections:

Non-compliance with constitutional laws by individual states. According to Madison, this issue is primarily caused by the independent sovereignty of many individual states. These problems manifested both during the war with Great Britain, when some states refused to bear common costs, and in times of peace.

Repeated questioning of federal authority by individual states. Madison claims that there are “countless” examples. Specifically, he mentions trade treaties and armed conflicts between Georgia and the Indians, agreements between Virginia and Maryland, or cooperation between Pennsylvania and New Jersey.

Violation of international treaties: This concerned, for example, France or the Netherlands.⁷ Such errors in the Confederation often need not be intentional, as they arise from legislative confusion among the legislative bodies of the member

⁷ For instance, the state of New York had a complicated relationship with the Netherlands, as it was a former Dutch colony.

states. For instance, one state imposes an embargo on France for violating an agreement, while another state continues to trade with France.

Overlapping different state legislations. This is a fundamental problem for mutual cooperation and cohesion within the Confederation. Madison cites the example of Virginia, which favored its own ships in its ports at the expense of ships from other states. In another case, problems arose from differing currencies in the individual republics. Creditors often settled trade agreements with currencies that were not adequately backed by the respective state. Some merchants, therefore, did not want to accept paper money from some republics of the Confederation.

Favoring one's own state at the expense of others. This problem was most evident in trade. The impact lies primarily in financial revenues and the social reputation of the affected merchants.

The Confederation does not guarantee the adherence to state constitutions, nor does it intervene in potential internal disturbances that could lead to civil wars. According to Madison, there are three fundamental problems: first, if military officers join wealthy landowners, it could result in one-third dominating the remaining two-thirds of those who have the right to vote; Second, this one-third, with the support of those who do not have the right to vote (the poor), could then take control of the state and establish tyranny; third, where there is slavery, the republican principle is false and hypocritical, this referring to the defenders of the Confederation, the majority of whom are from the South, i.e., from the states that profited the most from slavery.

The Confederation is incapable of controlling state legislation (approving or rejecting laws). The government is meant to govern, i.e., decide what will and will not be implemented. This does not apply in the Confederation. The principles of a uniform currency, trade rules, taxes, laws, etc., can only be guaranteed by a federal government that is superior to the individual states. The current state is thus completely inadequate.

The Articles of Confederation (the provisional constitutions) are not ratified in all states. In some states, the constitution is respected and is the supreme law. However, many states do not recognize it, and the supreme law is the legislative authority of the state itself, i.e., the laws it enacts.

Disproportionate number of laws in all states. This factor harms not only within individual states but across the entire Confederation. Laws often go against the spirit of freedom and independence. Again, the absence of legal unity, which could only be ensured by a fully consolidated union, is to blame.

Frequent changes in state legal provisions and laws. This objection is similar to the problem mentioned in the first point. In this case, however, it involves ordinary laws, not constitutions. Madison writes that laws are often repealed daily without proper evaluation of whether they proved effective or not.

Frequent injustice of state laws. Unjust laws are a greater evil than no laws at all because they undermine republican ideals and principles.

If we look at the overall development from the beginning of English settlement of the eastern coast of America through the entire 17th century and beyond, it is evident that key changes occurred only during the revolutionary period, aimed at gaining independence from Great Britain. All the Thirteen Colonies gradually transformed into democratic republics and then into confederated states —and subsequently into federal states. A comparative analysis with Great Britain shows an undeniable fact: the dynamics of modernization emerged on the American continent with unprecedented force, even though the constitutional system of the United Kingdom was the previously recognized authority; its influence, combined with that of ancient Rome, seemed entirely fundamental. By creating a representative system of government, the first in the world in its complete and fully functional form, the United States achieved a new form of political legitimacy, with the free citizen as its fundamental cornerstone. The political systems of the Netherlands, Great Britain, or Sweden also made significant

progress by transitioning from absolutism to constitutional monarchy. The United States made a step that was only broadly realized in Europe after World War I. The timelessness of the American constitutional tradition is undeniable and cannot be limited only to the federal concept; the experiences of individual member states must also be considered.

Sources and Influences on the American Federal Constitution

The American constitutional system is a synthesis, particularly of ancient Rome and English constitutional tradition from the early thirteenth century. This system also exhibits elements from the history of Italian city-states and the confederations and leagues of Dutch provinces from the 16th to 18th centuries. To a lesser extent, the influences of ancient Greece are evident, although they were absorbed into the Roman Republic if they proved enduring over time. In terms of specific thinkers who were direct sources for the American Founding Fathers, the list can be reduced to the following figures:

- Polybius
- Cicero
- Charles Montesquieu
- David Hume
- William Blackstone

However, the founders of Western thought, Plato and Aristotle, as well as English political theorist and advocate of the republic, James Harrington, also played significant roles. Likewise, philosopher and major proponent of liberalism, John Locke, lawyer Edward Coke, and politician Algernon Sidney had their influence.⁸

⁸ The portraits of Edward Coke and Algernon Sidney were finally not implemented into the dissertation, as the four thinkers of the English tradition – Hume, Blackstone, Harrington, and Locke – provided enough examples to show the significance of English political thinking. It is to be noted that the same was described by French political philosopher Charles Montesquieu.

Polybius

Polybius analyzed the Roman constitutional system. The Roman Republic was not founded on the principle of checks and balances in the modern sense. This principle was somewhat represented by a mixed constitution composed of monarchical, democratic, and aristocratic elements, but it did not constitute a system of separation of powers by modern standards.⁹ Polybius also elaborated on the contents of other constitutions and became one of the pioneers of constitutional theory. He also addressed the distribution of power in various city-states.

According to Hansen, the principle of separated powers involves three distinct functions that are largely independent of each other, whereas a mixed constitution is a reciprocal cooperation of different types of government, functioning across the entire social structure and interconnected.¹⁰ Among historical constitutions, Polybius highly values the Lacedaemonian (Lycurgan) constitution, as it proved to be the most suitable in Greek tradition, and places the Cretan constitution as the lowest in significance. Surprisingly, he diminishes the importance of the constitutions of Athens and Thebes, whose success, in his opinion, was based more on favorable circumstances during their historical peak. He also rejects Plato's proposed constitution, taking it as influential, but impractical. The constitution of Carthage is criticized for benefiting from its advantageous strategic position, while its military system, based on a mercenary army, led to a lack of engagement in potential military failures, which ultimately doomed Carthage.

Despite numerous prior influences, Polybius considered the Roman constitution to be a wholly original product of a specific approach and environment, some aspects of which could be found in Greek Sparta. The key to Rome's success was its gradual transition from monarchy to elements of aristocracy and public

⁹ Cf. Fritz K., *The Theory of the Mixed Constitution in Antiquity*, New York 1954, p. 217.

¹⁰ Cf. Hansen, M. H., *The Mixed Constitution versus the Separation of Powers*, in: *History of Political Thought*, Vol. 31, No. 3, 2010, p. 523.

participation in governance through specific figures whose general interests outweighed personal interests.

Cicero

The influence of Cicero on the American Founders cannot be overstated. It permeates all three main branches of power and is evident in themes of the republic, natural law, and the role of the army in ensuring sovereignty. The Roman Empire became a model for the federal structure of the United States as a large-scale state entity based on the idea of sovereignty derived from legitimate principles validated over centuries, applicable to both Rome and the United States. The American Congress's seat is named after the Roman Capitol, as a direct inspiration from Roman governance of law. However, significant differences between the two republican concepts are also visible, and most notably, they include the principle of representation, which was unknown in Rome. Another major difference is the approach to the separation of powers, whose absence in the Roman Empire proved fatal for Cicero, as the informal institution of the Triumvirate led to the elimination of the Senate, the fall of the Republic, and the rise of the Empire. Thus, the original American concept was formed through the combination of Cicero's ideas with the English constitutional system, which, however, largely overlooked the significance of democratic elements of government and the principle of representation.

James Harrington

Some of Harrington's ideas, especially regarding religion, where he proposed that the clergy could live off a state-determined stipend, were unacceptable to the Founders. However, his views align with those of his ideological successors in many other ways. He also influenced other foundational sources in the works of

Hume and Montesquieu. His main contribution today is seen in his system of regular elections, which ensured the rotation of politicians, and his idea of a bicameral system, through which Harrington preserved the aristocratic element in the political practice of the republic. He also considered the rule of law and substantial political representation in the form of a representative assembly as principles of political stability. Overall, his proposals were often adapted from the past and significantly revised and improved by the American Founding Fathers on the grounds of additional sources. Nevertheless, it is through him that many insights reached the American Founders.

Charles Montesquieu

Montesquieu's legacy in shaping the federation of the United States is immense. Besides the previously mentioned letters, where the connection to his writings is explicitly stated, the spirit of his work is present throughout most of the Federalist Papers, not only in passages on the benefits of union or principles of separation of powers. Essentially, Montesquieu became a mediator between the British and American concepts of constitutional law and political practice. His contribution was crucial in systematically developing and articulating the advantages of the English political system, thereby enabling its subsequent refinement by bringing it closer to the American Founders. Like Tocqueville, he became an important figure in the Anglo-Saxon tradition, although his examination was primarily focused on improving the social environment in his native France.

Montesquieu, however, only produced theoretical outlines, which were first realized by the American Founding Fathers. The judicial power, which he added to and further developed within the system, was practically realized only on the American continent. This demonstrates the originality of this system, particularly because in France, where this principle was also applied, it initially proved to be unsustainable in the long term. In England, it was not a democracy, but a

constitutional monarchy, in which the king had the power to dissolve the government.

Another point where the Founding Fathers surpassed his legacy was their ability to create a system composed of more than thirteen confederated republics, but with common federal laws and a unified federal constitution. Montesquieu believed that each state had such specific conditions for its existence that no two could have identical constitutions. The American federation demonstrated that this was possible. It is generally agreed that it was the Americans with their federal constitution who first established the modern concept of separation of powers. Adams's model from the Massachusetts constitution was not truly a principle of checks and balances. Thus, the federal constitution was an original achievement even on the North American continent. According to M. H. Hansen, a sign of a modern democratic system is not only the limitation of individual branches of power, but also their mutual control.¹¹ This was only realized in the American federal constitution.

David Hume

Hume's influence is often overlooked, with more attention typically given to Cicero or Montesquieu in discussions of foundational processes. In reality, his contributions to the theory of interest groups are among the most important modern insights on the topic of free societies and party systems. The theory of interest groups can be applied to any state based on the principle of Western freedom, which is grounded in strong legislative power. Hume foresaw the risks that a free society would face, as the issue of interest groups cannot be confined

¹¹ Cf. Hansen, M. H., The Mixed Constitution versus the Separation of Powers, in: History of Political Thought, Vol. 31, No. 3, 2010, p. 510.

to mere party disputes. Interest groups exist throughout society and are not limited to the realm of politics.

According to Hume, interest groups can be divided into private and real. Real interest groups are further categorized into three subgroups: first, factions of a specific interest; second, those based on principle or doctrine; and third, factions of affection or sympathy.

Interest groups cannot be eliminated from society. Their effects can be mitigated, but their presence is permanent. In the United States, the federal principle is the cornerstone of stability, and David Hume's theory of interest groups, which significantly influenced Alexander Hamilton and James Madison, played a crucial role in this.

William Blackstone

It is evident that the American Founding Fathers utilized Blackstone's key insights and subsequently, along with Montesquieu, adapted them into their own version of the federal constitution. The main difference is the stronger emphasis on the judiciary, which became an equal component in the Third Article of the Constitution alongside the legislative and executive powers. Blackstone's "Commentaries on the Laws of England" received unprecedented attention and later became a fundamental source of American law.¹² Blackstone proposed the separation of judicial power, but did not prescribe a unified method for its realization. Thus, he became an inspiration, though his influence was lower than that of Charles Montesquieu.

¹² Blackstone, W., *Commentaries on the Laws of England*, Oxford, 1765–1770.

John Locke

John Locke had an impact on a number of prominent figures in American Founding tradition, but in specific points of the topic treated in this dissertation, the American Founders primarily drew inspiration from other authors. Locke was therefore a key thinker in the context of the founding processes of the United States only for Thomas Jefferson, whom he directly inspired to draft the Declaration of Independence. In the subsequent development, his significance diminished.

Edward Coke

Another figure with notable influence on the American Founders was Edward Coke. He was probably the most important lawyer during the reigns of Elizabeth I and James I, whose significance lay in his major promotion of personal freedom within the English constitutional tradition. Coke influenced the American Founders particularly in the development of ideas about civil society and civil liberties.¹³ Jefferson was a major proponent of Coke's legacy on the American continent, being directly influenced by Coke when drafting the Declaration of Independence. Coke's legal battle with the king also bears numerous parallels with the dispute between the colonists and the British army. Jefferson cites him directly as a source in his work "Notes on the State of Virginia" from 1781–82, which is considered one of the most important American sources of political science before 1800 (along with the Federalist Papers, John Adams's "Defence of the Constitution," and Thomas Paine's "Common Sense").¹⁴

¹³ Powell, J., Edward Coke: Common Law Protection for Liberty, fee.org. [2024-06-08].

¹⁴ Jefferson, T., Notes on the State of Virginia 1781-1782; for the first time anonymously in Paris 1785; authorized edition in London 1787. Adams, J., Defence of the Constitution, London 1788; Paine, T., Common Sense, Philadelphia 1776.

Algernon Sidney

English lawyer Algernon Sidney had a rather marginal influence on the American Founding tradition, although he is mentioned repeatedly in some contexts. It can be fairly confidently asserted that among the selected authors mentioned in this work who influenced the formation of the United States, Sidney's legacy is the least prominent. He was most frequently cited by Adams and Jefferson, particularly for his defense of the republic and opposition to the divine right of kings, a fairly common position among Whigs of the time. His most famous work, "Discourses Concerning Government," cost him his life for its criticism of the king, but was later regarded as a textbook of the American Revolution.¹⁵

Plato and Aristotle

The significance of philosophers Plato and Aristotle in the American Founding period lies primarily in the fact that they were (and still are) considered the founders of Western thought. Concepts such as constitution and union originate from the ancient period, and their legacy thus becomes the starting point for the entire constitutional tradition, including the American one. Their influence is evident across the entire Western tradition, including those who directly influenced the authors of the American Constitution. John Adams and James Madison extensively analyzed Greek and Roman constitutions of various city-states, as outlined in the dissertation.

¹⁵ Sidney, A., *Discourses Concerning Government*, London, 1763.

Debate between Federalists and Anti-Federalists

The concept of creating a new federal arrangement gradually emerged from the debate between proponents of the Articles of Confederation and those advocating the benefits of a federal system. The fundamental difference lay in the principle of centralizing power, as federalists proposed creating a system with a federal government superior to all individual state governments.

According to anti-federalists, although the existing constitution needed adjustments, there was no need to create a new document. Almost everyone in 1787 acknowledged the “weakness of the Confederation.” All “thinking men,” even the “most orthodox republicans,” said Madison, were troubled by the “existing embarrassments and fatal diseases of the Confederation.”¹⁶ However, this did not mean that the proposed changes were welcomed by all. On the contrary, the most significant changes were often rejected and had to be approved only through the ratification process. Conversely, Federalists argued that the existing state was untenable and threatened individual states. Correcting the Articles alone would not resolve the issues; the entire system needed to be rebuilt from the ground up with a new document. This demand eventually prevailed through the ratified Constitution, but it was a lengthy process that would not have succeeded without the substantial contribution of the Federalist Papers.

The two camps also differed in their strategy and approach to the entire issue. Federalists were unified and had an indisputable authority in the figure of George Washington. Other important members included John Adams, Alexander Hamilton, James Madison, and John Jay. The advantage of their approach was that they all shared the same concerns about the existing union. In contrast, the Anti-Federalists lacked unified leadership and did not have a cohesive concept. The only reason they cooperated was their opposition to the idea of creating a

¹⁶ Wood, Gordon, S., *The Creation of the American Republic, 1776–1787*; Virginia 1998, p. 471.

federal union, as they saw the idea of a government superior to all member states as a risk of power centralization and tyranny. Another issue was the idea of a federal governor (the term “president” became established only during the constitutional convention), whose powers, according to Anti-Federalists, were analogous to those of the hated king. This view was supported by Alexander Hamilton, who attributed an increasingly important role to the president. Alongside this, Hamilton also advocated proposals to strengthen the Senate, which he saw as a replacement for the aristocratic class.

Anti-Federalists were loosely divided into three main groups, differing in their degree of radicalism towards the idea of federation. The more extreme their opposition to constitutional reform, the fewer changes they proposed in the overall process of the existing constitutional arrangement. This led to disputes among them, as the existing union was generally criticized for its deficiencies. Among the most orthodox members were George Mason, Robert Yates, Patrick Henry, and John Lansing. At the opposite end of the Anti-Federalists were figures such as Roger Sherman and Oliver Ellsworth, who called for a significant revision of the Articles of Confederation, but openly criticized Federalist proposals, particularly Madison, who was forced to revise some of his contributions. Despite this, they also contributed to the creation of the United States. Perhaps their most significant contribution was the approval of the demand for a bill of rights at the federal level.

However, both camps clashed over numerous proposals, the most important and frequently repeated being: first, the advantages of federation, i.e., a large republic; second, the scope of the union, self-government control, tax issues; third, defining the role of the federal president; fourth, establishing an independent judiciary; fifth, equal representation of member states in the Senate; sixth, proportional representation of member states in the House of Representatives; seventh, the benefits of creating a single, federal army; and eighth, a bill of rights.

This was followed by constitutional proposals, whose differing contents best illustrate the contrast between the two main plans: the Anti-Federalists' New Jersey Plan, authored by William Paterson, and Madison's Virginia Plan, which was presented by Edmund Randolph at the convention and was the main proposal of the Federalists.

In the end, Madison's concept was chosen as the core of the Constitution. In its second version, it expanded from fifteen constitutional points to nineteen and finally settled at twenty-three between June 20 and July 26. Madison's third revised plan became the first definitive result of the convention. This was followed by the drafting of the Constitution, which adhered to this plan and to a series of notes from the discussions of other plans.

Ratification Debate

Following the drafting of the Constitution, the ratification debate became the decisive process in the entire discussion. Both camps held different views, particularly regarding whether a new federal government, legislative power, and a new judicial system, all of which would be superior to the thirteen states, should be established. Other issues included the existence of a single federal army and the powers of the president. To approve the Constitution, the consent of nine out of the thirteen states was required. This was achieved on June 21, 1788, when New Hampshire ratified it. It is noteworthy that New York, where Alexander Hamilton ran, ratified the Constitution only as the eleventh state, indicating that the ratification process was difficult and Anti-Federalists had significant support.

Contributions of the American Constitution

The American Federal Constitution became a ground-breaking document for several reasons, which are listed and commented on below.

Separation of Powers. The introduction of the judicial branch as the third and equal component of the state institution was a new phenomenon in practice. This principle of separation of powers, which in its modern sense originated in England during the interregnum and the English Revolution, was not fully realized in Britain due to the continuing veto power of the king.

Presidential System. The American president has powers similar to a king, but is elected by citizens every four years through an electoral college. It is not a direct election, as the president is elected by an electoral college, which is chosen by the people. In Great Britain, the role of the king is hereditary. However, the presidential system of the American federation was inspired by the original role of the king, but the American founders revised it to align with the democratic form of government. Alexander Hamilton was a strong proponent of the analogy between the king's role and the federal president, which, however, generated opposition among Anti-Federalists. Consequently, the president's role was later adjusted to minimize the analogy between the British king's powers and the American president.

Federalism. Although Federalism and unions had existed in the past, the United States was the first federation of its kind. Its specific focus on details allowed for long-term operation and harmonious cooperation, which previous leagues, unions, and confederations had struggled with. According to many political philosophers and historians, the contribution to federal organization is the most significant aspect of the American founding tradition.¹⁷ The main benefit of federalism is the creation of a higher degree of sovereignty against external threats

¹⁷ Different authors state that the most important contributions were separation of powers and introduction of the judiciary into the system.

and competition, due to the emphasis on a unified army, which commands greater respect among potential rivals.

Democratic Sovereignty. Unlike the British system, where sovereignty is divided between the people and the king, in the United States, sovereignty resides solely with the people. Although the electoral system is indirect, it is the citizens of the federation who decide the form of political representation from the president and his government, or the governor and his cabinet at the state level. The American constitutional system thus lacks exceptions to political representation, unlike the British system, where, under certain conditions, Britain can be ruled by the king (although this has not occurred in modern times). This was also a ground-breaking aspect of the American federal constitution.

Representative Democracy. The principle of representation overlaps somewhat with the French system, but was realized first and demonstrated significantly higher stability (functionality) compared to France. In France, the representation process faced significant problems throughout the 19th century due to constant changes in the French constitution, which altered the overall form of political representation. France was generally unable to create a system that guaranteed unchanging conditions for political functioning. In the United States, this was achieved, thanks to a well-developed constitution that left no room for contentious corrections. Americans had the advantage of reflecting on the shortcomings of the Articles of Confederation and creating a document that allowed for democratic governance and ensured the sovereignty of all member states as a whole. The main mechanism of this process is the principle of representative government.

However, these were not the only direct outcomes of the federal constitution. The document also contributed to addressing the issues of slavery and racism, which remained as relics of the previous British colonial administration. Slavery was defended by many Anti-Federalists from the southern states due to economic interests, as African slaves provided cheap labor. During the drafting of the

constitution, Anti-Federalists had a critical condition that slavery would not be abolished even if the new constitution was approved. This led to controversial provisions in the document aimed at completing the ratification process and thus the creation of the federation. However, on December 6, 1865, the 13th Amendment was adopted, which definitively banned all forms of slavery and involuntary servitude, except as a punishment for a proven crime. This process was a direct result of the ratified constitution of 1788.

The issue of slavery, which historically disrupts the overall image of political legitimacy in American tradition, is linked to the original colonization process rather than the creation of the federation. It is undeniable that slavery (especially in the southern states) existed in the new union, but it can be noted that with independence and the gradual formation of the federation came the emergence and development of abolitionism. American historian William Freehling believes this process developed from 1776 and culminated in 1860. The American Revolution changed Americans overall, not just in their relationship with slaves.¹⁸ The Constitution became a guarantor of the later realization of the promise made by the American Founding Fathers to abolish slavery. The United States had to achieve this through a long and bloody conflict on its own soil.

Another important contribution of the founding period was the demonstrable increase in the standard of livings, especially regarding social coexistence. This was the result of a well-developed theory about the role of interest groups in the federation. The danger of a narrow group of people dominating society by usurping power was minimized by establishing uniform laws at the federal level through the federal constitution, which ensured potential responses from politicians outside the usurping group. The American system served as a model for all democratic regimes practicing representative democracy and is wholly

¹⁸ Cf. Freehling William. W., *The Founding Fathers and Slavery*, in: *The American Historical Review*, Vol. 77., No. 1, 1972, p. 82.

unsuitable for the concept of direct democracy, which operates on different foundational principles.