

Voting and Dissent in the Early Republic

Government in the United States is based on the doctrine of popular consent, meaning a legitimate government derives its just powers from the consent of its citizens through their vote in elections. In the early days of the United States, however, only about 120,000 people in a total population of over 4 million could vote. The U.S. Constitution did not originally contain any explicit guarantee of a right to vote. Instead, each state determined voter qualifications, and those qualifications differed widely from state to state. Voting was generally limited to free white men who owned property and met certain religious qualifications. Eventually, the right to vote became more widespread. By 1860 almost every state allowed all white men over twenty-one to vote. African Americans became eligible to vote, by constitutional amendment, following the American Civil War. Women, however, still had another half century to wait for their turn.

In this section we look at an early statement, *Federalist Paper* No. 52, written by either James Madison or Alexander Hamilton, about the “right to suffrage.” The author says that voting “is very justly regarded as a fundamental article of republican government.” Of course, the meaning of republican government at the time was essentially patrician government, or rule by proper “gentlemen.” The use of electors in what would come to be known as the Electoral College was one reflection of the gentlemanly atmosphere that was obtained. This body, whose members were selected by the states, initially voted more or less at will for their preferred presidential and vice-presidential candidates, resulting in two troublesome elections in 1796 and 1800. (In both cases, the president and vice

president were at odds with each other.) The Twelfth Amendment to the Constitution, ratified in 1804, rectified the situation while still retaining the Electoral College.

Efforts to *democratize* the vote began early on, as well. One such effort was an uprising in Rhode Island in 1841 called Dorr’s Rebellion. The rebels objected to the fact that the state government was run by a small clique of wealthy rural landowners. Supporters of widespread suffrage—a popular vote—went so far as to set up a separate, parallel government. The “Dorrites” attempted an attack on the arsenal in Providence but were put down. Despite the defeat, the protestors succeeded in advancing the cause of having a new state constitution written, one that extended the vote to all native-born adult men who could pay a poll tax of \$1.

Another way of protesting, one that was not very widespread then, was civil disobedience, or “resistance to civil government” as the noted writer and activist Henry David Thoreau phrased it. In his famous essay on the topic, from 1849, Thoreau notes that he was inspired to protest precisely because of a poll tax he was required to pay. In this case, he objected less to the poll tax as such and more to the uses to which the collected funds might be put. Slavery was still practiced in the United States, and Thoreau preferred not to contribute one dime toward supporting it. He also objected to U.S. aims in the Mexican-American War (1846–1848). He was briefly jailed for his refusal to pay the tax.

Poll taxes remained on the books in many states until the advent of the Twenty-Fourth Amendment to the U.S. Constitution in 1964.

■ *Federalist Paper No. 52*

Date: 1788

Authors: Alexander Hamilton or James Madison

Genre: essay

Summary Overview

Part of The Federalist Papers, Federalist Paper No. 52 discusses the House of Representatives and the election of its members. As the lower house of the proposed bicameral legislature in the U.S. Constitution, the House needed to have rules appropriate to its role. Written by either Alexander Hamilton or James Madison during the time of the ratification of the Constitution, as with all Federalist Papers, Federalist Paper No. 52 recommends two-year periods of service for representatives and focuses on the right to vote as laid out in the Constitution.

Defining Moment

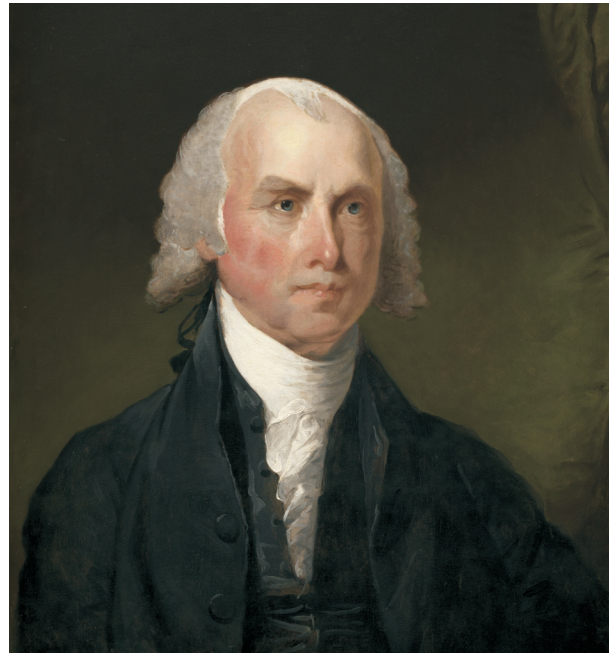
The Constitutional Convention was held in Philadelphia from May to September 1787 to correct errors of the Articles of Confederation and draft a new governing document for the country. The Articles of Confederation had organized a unicameral legislature with equal representation for each state, and delegates at the Convention were concerned with the legislature's shape in the new United States government. The central debates concerned state power in the legislature and whether the body would employ proportional or equal representation for its members. The main camps were generally divided between large and small states. Delegates supported either the Virginia Plan, in which the upper and lower houses of Congress would have proportional representation but differing means of election, or the New Jersey Plan, in which a single house would continue to have equal representation for the states.

On July 5, 1787, a committee of delegates from each state proposed a compromise to this ongoing issue of representation. The Great Compromise—or “Connecticut Compromise” for the agreement’s author, the delegate from Connecticut Roger Sherman—created a bicameral legislature, in which two bodies would represent the people. The Senate gave equal representation to the states (with two members each), while the House gave more power to larger states (with the number of its members based on a state’s population). With this organization of

Congress in place, the Constitution was signed by the delegates on September 17, 1787.

Authors’ Biographies

Alexander Hamilton (1757–1804) was a prominent statesman and considered a Founding Father of the United States. Born in Nevis, British West Indies, Hamilton rose to prominence in New York as a pam-



Portrait of James Madison, author of Federalist No. 52. Image via Wikimedia Commons. [Public domain.]

phleteer. He joined the revolutionary cause and served in the military, including as an aide to General George Washington. After playing a key part in the drafting of the Constitution as the delegate from New York, and as an author of *The Federalist Papers*, Hamilton served as the first secretary of the treasury of the United States (1789–1795). He died during a duel with his political rival Aaron Burr.

James Madison (1751–1836), also considered a Founding Father, was Hamilton's main collaborator in

The Federalist Papers. Born in Virginia, Madison served as that state's delegate at the Constitutional Convention where he favored a strong federal government and proposed the Virginia Plan. In the years after ratification, Madison served in numerous political offices. He came to be a leader in the House of Representatives and was secretary of state during Thomas Jefferson's presidency. Madison's political career culminated in his election as the fourth president of the United States (1809–1817).



Historical Document

The Federalist Papers: No. 52

(Suffrage and the House of Representatives)

From the *New York Packet*, Friday, February 8, 1788.

To the People of the State of New York:

FROM the more general inquiries pursued in the four last papers, I pass on to a more particular examination of the several parts of the government. I shall begin with the House of Representatives. The first view to be taken of this part of the government relates to the qualifications of the electors and the elected. Those of the former are to be the same with those of the electors of the most numerous branch of the State legislatures. The definition of the right of suffrage is very justly regarded as a fundamental article of republican government. It was incumbent on the convention, therefore, to define and establish this right in the Constitution. To have left it open for the occasional regulation of the Congress, would have been improper for the reason just mentioned. To have submitted it to the legislative discretion of the States, would have been improper for the same reason; and for the additional reason that it would have rendered too dependent on the State governments that branch of the federal government which ought to be dependent on the people alone. To have reduced the different qualifications in the different States to one uniform rule, would probably have been as dissatisfactory to some of the States as it would have been difficult to the convention. The provision made by the convention appears, therefore, to be the best that lay within their option.

It must be satisfactory to every State, because it is conformable to the standard already established, or which may be established, by the State itself. It will be safe to the United States, because, being fixed by the State constitutions, it is not alterable by the State governments, and it cannot be feared that the people of the States will alter this part of their constitutions in such a manner as to abridge the rights secured to them by the federal Constitution. The qualifications of the elected, being less carefully and properly defined by the State constitutions, and being at the same time more susceptible of uniformity, have been very properly considered and regulated by the convention. A representative of the United States must be of the age of twenty-five years; must have been seven years a citizen of the United States; must, at the time of his election, be an inhabitant of the State he is to represent; and, during the time of his service, must be in no office under the United States. Under these

reasonable limitations, the door of this part of the federal government is open to merit of every description, whether native or adoptive, whether young or old, and without regard to poverty or wealth, or to any particular profession of religious faith.

The term for which the representatives are to be elected falls under a second view which may be taken of this branch. In order to decide on the propriety of this article, two questions must be considered: first, whether biennial elections will, in this case, be safe; secondly, whether they be necessary or useful. First. As it is essential to liberty that the government in general should have a common interest with the people, so it is particularly essential that the branch of it under consideration should have an immediate dependence on, and an intimate sympathy with, the people. Frequent elections are unquestionably the only policy by which this dependence and sympathy can be effectually secured. But what particular degree of frequency may be absolutely necessary for the purpose, does not appear to be susceptible of any precise calculation, and must depend on a variety of circumstances with which it may be connected.

Let us consult experience, the guide that ought always to be followed whenever it can be found. The scheme of representation, as a substitute for a meeting of the citizens in person, being at most but very imperfectly known to ancient polity, it is in more modern times only that we are to expect instructive examples. And even here, in order to avoid a research too vague and diffusive, it will be proper to confine ourselves to the few examples which are best known, and which bear the greatest analogy to our particular case. The first to which this character ought to be applied, is the House of Commons in Great Britain. The history of this branch of the English Constitution, anterior to the date of Magna Charta, is too obscure to yield instruction. The very existence of it has been made a question among political antiquaries. The earliest records of subsequent date prove that parliaments were to SIT only every year; not that they were to be ELECTED every year. And even these annual sessions were left so much at the discretion of the monarch, that, under various pretexts, very long and dangerous intermissions were often contrived by royal ambition. To remedy this grievance, it was provided by a statute in the reign of Charles II. , that the intermissions should not be protracted beyond a period of three years. On the accession of William III. , when a revolution took place in the government, the subject was still more seriously resumed, and it was declared to be among the fundamental rights of the people that parliaments ought to be held FREQUENTLY. By another statute, which passed a few years later in the same reign, the term “frequently,” which had alluded to the triennial period settled in the time of Charles II. , is reduced to a precise meaning, it being expressly enacted that a new parliament shall be called within three years after the termination of the former. The last change, from three to seven years, is well known to have been introduced pretty early in the present century, under an alarm for the Hanoverian succession.

From these facts it appears that the greatest frequency of elections which has been deemed necessary in that kingdom, for binding the representatives to their constituents, does not exceed a triennial return of them. And if we may argue from the degree of liberty retained even under septennial elections, and all the other vicious ingredients in the parliamentary constitution, we cannot doubt that a reduction of the period from seven to three years, with the other necessary reforms, would so far extend the influence of the people over their representatives as to satisfy us that biennial elections, under the federal system, cannot possibly be dangerous to the requisite dependence of the House of Representatives on their constituents. Elections in Ireland, till of late, were regulated entirely by the discretion of the crown, and were seldom repeated, except on the accession of a new prince, or some other contingent event. The parliament which commenced with George II. was continued throughout his whole reign, a period of about thirty-five years. The only dependence of the representatives on the people consisted in the right of the latter to supply occasional vacancies by the election of new members, and in the chance of some event which might produce a general new election. The ability also of the Irish parliament to maintain the rights of their constituents, so far as the disposition might exist, was extremely shackled by the control of the crown over the subjects of their deliberation. Of late these shackles, if I mistake not, have been broken; and octennial parliaments have besides been established. What effect may be produced by this partial reform, must be left to further experience. The example of Ireland, from this view of it, can throw but little light on the subject. As far as we can draw any conclusion from it, it must be that if the people of that country have been able under all these disadvantages to retain any liberty whatever, the advantage of biennial elections would secure to them every degree of liberty, which might depend on a due connection between their representatives and themselves. Let us bring our inquiries nearer home. The example of these States, when British colonies, claims particular attention, at the same time that it is so well known as to require little to be said on it. The principle of representation, in one branch of the legislature at least, was established in all of them. But the periods of election were different. They varied from one to seven years. Have we any reason to infer, from the spirit and conduct of the representatives of the people, prior to the Revolution, that biennial elections would have been dangerous to the public liberties? The spirit which everywhere displayed itself at the commencement of the struggle, and which vanquished the obstacles to independence, is the best of proofs that a sufficient portion of liberty had been everywhere enjoyed to inspire both a sense of its worth and a zeal for its proper enlargement. This remark holds good, as well with regard to the then colonies whose elections were least frequent, as to those whose elections were most frequent. Virginia was the colony which stood first in resisting the parliamentary usurpations of Great Britain; it was the first also in espousing, by public act, the resolution of independence.

In Virginia, nevertheless, if I have not been misinformed, elections under the former government were septennial. This particular example is brought into view, not as a proof of any peculiar merit, for the priority in those instances was probably accidental; and still less of any advantage in SEPTENNIAL elections, for when compared with a greater frequency they are inadmissible; but merely as a proof, and I conceive it to be a very substantial proof, that the liberties of the people can be in no danger from BIENNIAL elections. The conclusion resulting from these examples will be not a little strengthened by recollecting three circumstances. The first is, that the federal legislature will possess a part only of that supreme legislative authority which is vested completely in the British Parliament; and which, with a few exceptions, was exercised by the colonial assemblies and the Irish legislature. It is a received and well-founded maxim, that where no other circumstances affect the case, the greater the power is, the shorter ought to be its duration; and, conversely, the smaller the power, the more safely may its duration be protracted. In the second place, it has, on another occasion, been shown that the federal legislature will not only be restrained by its dependence on its people, as other legislative bodies are, but that it will be, moreover, watched and controlled by the several collateral legislatures, which other legislative bodies are not. And in the third place, no comparison can be made between the means that will be possessed by the more permanent branches of the federal government for seducing, if they should be disposed to seduce, the House of Representatives from their duty to the people, and the means of influence over the popular branch possessed by the other branches of the government above cited. With less power, therefore, to abuse, the federal representatives can be less tempted on one side, and will be doubly watched on the other.

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Document Analysis

During the ratification process, *The Federalist Papers* were published in major newspapers to make the case for endorsing the Constitution to the public. The *New York Packet* newspaper published *Federalist Paper* No. 52 on February 8, 1788. Written under the pseudonym Publius (used for all *The Federalist Papers*), the author—Hamilton or Madison—lays out the requirements for membership in the House of Representatives.

The author notes the hope to avoid the inconsistent rules set out by each state in their requirements for members of the House: “The qualifications of the elected, being less carefully and properly defined by the State constitutions, and being at the same time more susceptible of uniformity, have been very properly considered and regulated by the convention.” Furthermore, it should not be the role of Congress to make these rules; rather, they should be laid out in the Constitution itself. Representatives must be at least twenty-five years old and a citizen of the United States for seven years. The author mentions that aside from residency in the state the House member represents, there are few other barriers to running for office. Clearly at this time only white men were able to run for office, but the author’s emphasis on there being few other qualifications to serve in the House reflects the ideas of liberty and freedom that were cornerstones of the newly drafted Constitution. This theme of liberty serves as the justification for many of the author’s other points throughout the essay.

Elections would be held every two years for representatives, clearing up any irregularity among the states. Up to this point, state elections had been held every one to seven years, with little consistency. A normal cycle of elections and the right to vote is only fair to the citizens themselves, who will be represented in the new government (and not directly participating in it). The author argues that “biennial elections, under the federal system, cannot possibly be dangerous to the requisite dependence of the House of Representatives on their constituents.” In other words, representatives must seek the approval of their constituents because they face elections so regularly.

This form of representative government, however, differs from that of other nations. The author describes how for the English House of Commons, “[t]he earliest records of subsequent date prove that parliaments were to SIT only every year; not that they were to be ELECTED every year.” And these sessions would only occur by royal decree, with great intervals in between. That is, the British monarch’s interference only briefly brought about positive change, with an agreement that Parliament would meet at least every three years. In Ireland as well, meetings of Parliament were inconsistent and often only convened during seminal events. According to the author, the volatility of this system should not be emulated in the United States.

Three principles unique to the United States mentioned at the end of *Federalist Paper* No. 52 lay out how the House, and the federal legislature more broadly, will not have unlimited power. First, its power will not be as broad as other legislative bodies in foreign countries. Second, “several collateral legislatures”—namely the different state legislatures—will be able to check federal power. And finally, because House members will face election every two years, they cannot be unduly influenced or seduced by those that are not their constituents.

Essential Themes

The Anti-Federalist Papers refer to the numerous treatises written in response to *The Federalist Papers* and against the ratification of the Constitution. Apprehensive about the formation of a strong central government, the Anti-Federalists addressed specific aspects of the proposed Constitution. In response to the organization of the House of Representatives, the authors of *Anti-Federalist Paper* No. 52 (published as “On the Guarantee of Congressional Biennial Elections” on April 9, 1788) focused on the election of House members. The opponents were preoccupied with the possibility that House members might delay elections and not be held to the biennial schedule. That there was no direct provision against this in the U.S. Constitution meant that bad actors elected to the House had the potential to “burden and oppress the people.”

Despite these misgivings, the Constitution became the governing document of the United States on June

21, 1788, when nine of the thirteen states had officially ratified it. After elections later that year, the first session of the House of Representatives began on April 1, 1789.

—Chris Bingley, PhD

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