History of Representation and Republican Government

American conceptions of a republic as the proper form of government can be traced back to classical antiquity, but the American Founders put forth a somewhat new understanding of republican government. In their definition, a republic is a state in which the people hold supreme power, and designate representatives to carry out their will. In his *Second Treatise Concerning Civil Government* (1690) John Locke maintained that government is legitimate only to the extent that it reflects the will of the people by their consent. However, Locke did not specify in great detail what consent required. Did it entail all of the people voting on laws in person, as in a direct democracy, or simply that some officials had to be elected by some citizens? The practical application of the principle of representation was worked out by early American thinkers and leaders.

Beginning with the first representative colonial assembly, the Virginia House of Burgesses in 1619, British North Americans enjoyed a high degree of autonomy as they governed themselves through their local republican assemblies. Most colonies’ executives were appointed by the Crown, which led colonists to favor the legislative branch as the institution which best represented the people as a whole. Parliament, in which the colonials had no representatives, could legislate for them, but could not tax them. Only their locally-elected representative assemblies could levy taxes to raise revenue.

Therefore, when Parliament imposed the Stamp Act, requiring that colonists pay a tax on every piece of printed paper, to raise revenue after the French and Indian War in 1765, it provoked a speedy reaction. The colonists argued widely that, in the words of James Otis, “no parts of His Majesty’s dominions can be taxed without their consent.” Though Parliament repealed the Stamp Act in 1766, succeeding laws were equally objectionable in the American provinces. After a decade of being taxed without being represented in Parliament, Americans officially declared their independence in 1776, proclaiming that governments “deriv[e] their just powers from the consent of the governed.” Included in the list of grievances against the king in the Declaration of Independence was “imposing Taxes on us without our Consent.”

Following the Revolutionary War, under the Articles of Confederation and Perpetual Union ratified in 1781, the states entered into a “firm league of friendship.” This plan for union left to the discretion of the state legislatures the manner in which each would appoint its delegates to the Confederation’s unicameral Congress, where each state’s delegation had one vote. Because the Confederation Congress was ineffective in meeting some of the country’s challenges, leading statesmen met in Philadelphia in May of 1787 to revise the Articles of Confederation. Delegates debated various representation questions from the end of May until mid-July.
Determining Representation at the Constitutional Convention

The Virginia delegation on May 29, 1787 introduced the Virginia Plan, also known as the Large States Plan, which recommended not just a revision of the existing confederation of sovereign states but the creation of a powerful national government that would be supreme over the states. This plan, largely written by James Madison, included a bicameral legislature in which the lower house was elected by the people of each state and the upper house was elected by the members of the lower house. In each chamber, the number of the state’s delegates would be based on state population.

William Paterson [New Jersey] introduced the Small State, or New Jersey Plan, which provided for equal representation of the states in a unicameral legislature—in essence just tweaking the Articles of Confederation to revise and strengthen the existing system.

Convention debates about representation addressed four main questions. The first, and least contentious, was whether the new government would have a unicameral legislature, as under the Articles of Confederation, or a bicameral legislature as in the Virginia Plan and in most of the states. On June 21 this question was settled in favor of a bicameral Congress, because dividing the legislative function would allow each house to act as a watchdog over the other, protecting against unjust or misguided laws.

A second question was whether the representatives in the new Congress would be selected by state legislatures, as under the Articles of Confederation, or would they be elected directly by the people? Roger Sherman [Connecticut] and Elbridge Gerry [Massachusetts] held that most people were not well enough informed to choose their representatives wisely. Virginia delegates James Madison and George Mason, with a bit more faith in the common man, countered that direct election by the people was essential if they were to have genuine representation of their interests. On June 25 the convention reached a compromise on this issue. The representatives in the lower house would be elected by direct popular vote; Senators would be named by the state legislatures.

Third, would each state have an equal vote in Congress, as under the Articles, or, would representation be proportional, based on population? Here, the convention reached an impasse that threatened a complete breakdown of the proceedings. Delegates from small states saw their interests threatened by proportional representation. After several weeks of vigorous debate, the delegates agreed on July 16 to implement a compromise proposed by Connecticut delegates Sherman and Ellsworth. This solution provided for proportional representation based on population in the lower House and equal representation in the Senate.

Finally, how, if at all, would enslaved persons be counted? Delegates from states with large numbers of enslaved individuals wanted them to be counted as part of the population for purposes of representation, but not for purposes of taxation, a plan opposed by delegates from smaller states. James Wilson [Pennsylvania] proposed a compromise: count three-fifths of the enslaved individuals in calculating representation. James Madison noted that the convention’s delegates were divided not only by large and small states, but also along sectional lines. Many delegates balked at the three-fifths ratio, but finally accepted it, though heated exchanges about slavery and the slave trade...
would continue. If the slave states had been able to count their entire slave populations towards representation, the result would have been much greater power in Congress for the South. If they had been able to count none of their slave populations, they had threatened to withdraw from the convention, ending the Perpetual Union.

The delegates addressed two final issues once the major issues were resolved. The first issue had to do with the size of the legislative assembly. A larger assembly would mean that each representative would be elected by a smaller number of constituents. This would ensure that the representatives would be closer to their constituents, but a large assembly might descend into a mob. A smaller assembly would appear more aristocratic, and each legislator would be more disconnected from constituents. The delegates initially resolved that there would be no more than one representative per 40,000 people. This would create very large districts and few representatives. (At the time, New York and Philadelphia, the two largest cities in the country, each had about 30,000 inhabitants.) In one of his very few motions at the Convention, Washington proposed reducing this ratio to one representative per 30,000 inhabitants, and the convention immediately approved Washington's proposal. By way of comparison, in 2015 the U.S. population had reached 320 million, and each of our 435 members of the House represented about 710,000 people.

The Bicameral Legislature and Representation

A separate question involved the role of the Senate. Enactment of laws required agreement of both houses of the U.S. Congress. However, their composition and roles were different. Yet many of the delegates were unsure of what the Senate’s role ought to be. Since there is equal representation in the Senate, should the Senate represent the states as units? Should it represent the wealthy elites, similar to the role played by the House of Lords in the British system?

The delegates rejected both of these alternatives. This is illustrated by the fact that senators vote as individuals rather than a delegation representing a state. One proposal at the Convention would have given each state three senators, but each state one vote. This would require the senators to vote as a bloc, and would have ensured that the Senate represents the states as distinct political units. Instead, the delegates voted to provide each state with two senators, who can actually vote against each other. Their goal was to have the senate represent the people, rather than the states.

The convention also rejected the idea that the Senate represents the rich. Some delegates proposed to require a certain level of property to be eligible for the Senate, and even that senators should not be paid a salary. Had these motions passed the only people who could run for senator would be those of great wealth, ensuring that property is represented in the Senate. But they were rejected. Instead, delegates envisioned the Senate as a place where the wisest and most prudent officials would serve as a check on the immediate passions of the lower chamber.

Under this arrangement the lower chamber of Congress, or the House of Representatives, was designed as the body closer to the people, reflecting proportional representation based on each state’s population. Elected by popular vote in small districts for a term of two years, this larger body had the sole power to originate revenue bills. The process of taxation could
start only where the people were most closely represented.

Each state would have two Senators, named by the state’s legislature (though this was changed by the Seventeenth Amendment to the Constitution, which provided for direct popular election of U.S. Senators.) Senators served a six-year term of office, which promoted stability and consistency in the laws, ensuring that they would not fluctuate with every changing whim of the people. This goal is reflected in the curious fact that (unlike the House) the entire Senate never goes up for re-election in a single election cycle. Also, only the Senate would have power to ratify presidential appointments and treaties.

Ratifying the Constitution: Federalist and Anti-Federalist Debate

On September 17, 1787, the convention adjourned, sending the Constitution to the states; it would be put into effect only if conventions in nine of the states ratified it. In his first essay published in October 1787, the Anti-Federalist, Brutus, charged that it was impossible to provide fair and true representation in such a large republic. Like-minded writers under pseudonyms like Federal Farmer and Cato raised similar concerns: the legislature would not be able to respond to the needs of people from all walks of life and would end up representing the interests of only the wealthy and influential few. The Anti-Federalists feared that representatives would be too disconnected from their constituents, pointing to the lengthy terms and the small number of representatives relative to the number of constituents. They feared a large, consolidated government whose representatives would lose touch with the people they were supposed to represent.

An important philosophical question separated Federalists and Anti-Federalists: Should a representative only vote for what his constituency wants or should the representative be free to do what he believes is in their best interest? Some of the strongest Anti-Federalist arguments against the new central government were rooted in their belief in direct representation of constituents’ desires. The proposed central government, its opponents believed, would be unable to sustain itself because it would be too large and distant for a representative to faithfully convey so many constituents’ concerns.

Most fundamentally, the Anti-Federalists thought that the Congress would be an aristocratic body that would be out of touch with the people they were supposed to represent. In their view, representatives should not be drawn from the best citizens, the “natural aristocracy,” but should look and feel exactly like the average citizen. As the Federal Farmer argued, “a full and equal representation, is that which possesses the same interests, feelings, opinions, and views the people themselves would were they all assembled.” Consequently, “the representation must be considerably numerous” to encompass all of the feelings and opinions of the people. Anti-Federalists did not fear the people so much as they feared a betrayal of the popular will.

James Madison and Alexander Hamilton, writing as Publius in the Federalist essays, explained that all walks of society would be represented fairly because each of the divisions within the central government would protect the people’s rights in a different way. The House of Representatives, the “first branch of the national legislature,” would respond to the people’s more immediate local interests, and the Senate would represent the long-term interests of the states.
Just as important, as Madison argued in *Federalist* No. 51, the House and Senate would check each other, taming a legislative branch that might otherwise become tyrannical itself. Through the complex Electoral College process, the president would represent the people as a whole, faithfully executing national laws. The goal in each case was that the people would elect the wisest and most virtuous to be their representatives.

Finally, the Federalists disagreed that a legislature should mirror the people, being composed of the same interests, feelings, and opinions that the people have at large. They wanted a legislature where the wisest and most virtuous citizens could resist the will of the majority when it was in error. As James Madison famously proclaimed in *Federalist No. 10*, representation should “refine and enlarge the public views” by passing them through the medium of a chosen body of citizens, whose wisdom may best discern the true interest of their country, and whose patriotism and love of justice will be least likely to sacrifice it to temporary or partial considerations. Under such a regulation, it may well happen that the public voice, pronounced by the representatives of the people, will be more consonant to the public good than if pronounced by the people themselves, convened for the purpose.”

The new federal republic created a bicameral Congress in which the interests of the people and the states were balanced. It was, in an assessment attributed to Benjamin Franklin, a republic—if we can keep it.

CRITICAL THINKING QUESTIONS

1. Why did the North American British colonies respond so negatively to the Stamp Act and other laws aimed at collecting revenue?

2. What principles of government are reflected in the debates at the Constitutional Convention? In the ratification debates?

3. The Founders generally were cautious about democracy, or direct rule by the people, as Roger Sherman and Elbridge Gerry explained on May 31 at the Convention. How did the Framers expect the establishment of a republic to avoid the problems of an “excess of democracy”?

4. How did the Revolutionary experience and experience under the Articles of Confederation help shape the Convention debate?

5. Explain the compromises that settled each of the following central questions regarding representation:
   a. Would representatives be elected by state legislatures or by the people?
   b. Would Congress be based on equal or proportional representation for the states?
   c. How, if at all, would enslaved individuals be counted for representation?

6. Summarize the main arguments that the Anti-Federalists made against the method of representation provided under the Constitution. How did the Federalists answer those concerns? Which side do you favor, and why?