

# Response

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How does one respond to such kind and generous comments? I am overwhelmed by them, and it is hard to know what to say in response, especially since each of the disciplines represented---history, law, and political theory---see the same past so differently.

But before saying anything I must thank all the participants for taking the time and effort to attend the conference and prepare their remarks. Of course, I am especially grateful to Akhil Amar and Steven Calabrese for creating and organizing the conference, inviting and corresponding with all the participants, and ensuring that everything went smoothly. All of us who were there are indebted to the Law School of Yale University for hosting our gathering.

I realize I was fortunate to have completed the bulk of my career as an historian before DEI and the search for social justice came to dominate much of academic life. Nowadays the oppressors in the Revolution are no longer the British; instead, the tyrants have become white patriarchal males who care for no one but themselves. And the oppressed are not the Patriots, but women, blacks, and the native peoples. Today the academic culture is so morally soaked with social justice that young scholars trying to write the kind of history I wrote would likely be intimidated and pressured into focusing on subjects having to do with women, race, slavery, or the indigenous peoples.

The traditional kind of twentieth-century scholarship on the Revolution produced by such scholars as Charles McLean Andrews, Arthur Schlesinger, Sr., Edmund S. Morgan, and Bernard Bailyn is gone, and today it is hard to imagine it ever being revived, at least not in the near future. Perhaps to have the kind of histories of the Revolution that we were once used to, histories that were mostly free from anachronism and the presentist need to indict the past for not sharing our present moral values, we will have to count on historians in law schools or public institutions such as Akhil Amar and Jeffrey Rosen or popular historians with no academic connection such as Ron Chernow and Rick Atkinson.

The arguments present in the comments of several participants lead me to try to offer a brief description of what I think the Revolution was all about. Since present problems often initiate investigations into the past for historical explanation and understanding, I think we in America and many

of those in our fellow democratic states around the world have a problem with democracy. We are coming to appreciate how powerful a force it is, and just how dangerous it can be. And because it is such a dangerous and powerful force, it demands careful handling by elites. None of the elites in the United States or in the democratic states of Europe has done a very good job in keeping unruly popular forces under control. The European elites have tried to keep these popular forces out of power by legally or otherwise ostracizing them, not a good solution in the long run if the popularity of the extremists grows. American elites have tried everything to control the popular forces that have been unleashed, including criminal prosecutions and convictions, without much success. The secret, of course, is for the elites to meet the needs of the people who are sustaining the dangerous aberrations, but our elite establishment hasn't been very successful at that.

Two and a half centuries ago the revolutionary leaders had their own unexpected problems with democracy, and their extraordinary solution was the federal Constitution of 1787.

Most of us, including many historians, tend to take the federal Constitution for granted as the natural fulfillment of the Revolution, but we shouldn't. No one in 1776, even in his wildest dreams, came close to conceiving of something like the powerful national government that was created a decade later in 1787. All experience, all theory, was against establishing such a large and formidable republican government. The Americans had just thrown off a distant powerful government and were not about to create another. And the theory of republicanism, made famous by Montesquieu, said that republics were fragile polities that had to be small in size and homogeneous in character. Otherwise, they would be torn apart by factional fighting. In other words, something awful had to occur in the decade following 1776 to get some leaders to change their minds so dramatically.

That awful experience that changed minds so radically was the unexpected reality of democracy. In 1775-1776 the confidence of the revolutionaries in their popular representative bodies was unbounded, as they revealed in their initial state constitution-making. When disgruntled Tory-Loyalists warned them that their newly elected congresses and conventions would abuse their great power and become tyrannical, good Patriots like John Adams dismissed these warnings out of hand. The idea that the people would tyrannize themselves, said Adams in 1775, was illogical: "a democratic despotism is a contradiction in terms."

Ten years later, by the mid-1780s, Adams and most of the other Patriot-gentry (we would call them elites) had changed their tune. The enlarged and greatly empowered state legislatures were indeed abusing their immense authority and were becoming as tyrannical as the Tory-Loyalists had predicted. This was the great crisis of the Revolution: the "excesses of

democracy” produced by the popularly elected state legislatures were threatening the success of the entire endeavor.

We have never fully appreciated the extent of elite fear and even hysteria produced by the unanticipated and tyrannical behavior of the state legislatures. The American Revolution turned out to be much more revolutionary, much more socially disruptive than most of the elite leaders had expected. It released the aspirations and interests of tens upon tens of thousands of middling people---commercial farmers, petty merchants, small-time traders, and artisans of various sorts---all eager to engage in buying and selling and getting rich in the pursuit of happiness.

These enterprising and commercially-minded middling people began electing to the greatly enlarged state legislatures ordinary middling men like themselves in ever increasing numbers, men like William Findley, a Scotch-Irish immigrant and ex-weaver from western Pennsylvania, and Abraham Yates, a former shoemaker from Albany, These middling legislators were shrewd and smart, but they had not gone to college and were not considered gentlemen by the standards of the time. And they were using the electoral process and the revolutionary emphasis on equality to vault into power in the state legislatures and there promote the special interests of their middling constituents.

The reaction of many of the Patriot elites to the social turmoil brought about by the emergence of new ambitious middling people was not all that different from the reaction of many elites today to the emergence of Trump and his MAGA followers. “When the pot boils, the scum will rise,” observed James Otis of Massachusetts. The state legislatures, complained the aristocratic Robert R. Livingston of New York, have become full of men “unimproved by education and unreformed by honor.” Many elites could hardly believe what was happening. “When a man, who is only fit ‘to patch a shoe,’” said one critic, “fancies himself a Solon or Lycurgus, [and] attempts ‘to patch the State,’ . . . he cannot fail to meet with contempt.” But contempt was no longer enough to keep such middling men in their place.

James Madison in his “Vices of the Political System of the United States,” composed in the spring of 1787 as a working paper for the upcoming convention, emphasized three abuses by the state legislatures---the multiplicity, the mutability, and the injustice of the state laws. The unjust legislation was the most serious, because it involved majority factions harming minorities.

This, of course, was Madison’s measured intellectual response to the state legislative abuses. But his “Vices” essay, despite its great influence on historians, doesn’t begin to convey the fears and panic over the state legislative abuses expressed by other elites. Recall Henry Knox’s passionate advice to Rufus King in 1787 on the eve of King’s attendance at the Convention in Philadelphia. Above all, Knox told King, thrash “the vile

State governments.” They were “the source of pollution, which will contaminate the American name for ages. . . . Smite them,” he urged, “Smite them in the name of God and the people.”

Such exaggerated emotion! What could be behind it? What were these unjust laws that the state legislatures were passing that could arouse such passion? When all was said and done, these laws turned out to be nothing more than the emissions of paper money by the state legislatures.

Why would elites believe that paper money emissions by state legislatures were creating social turmoil? Why would they fear such emissions so much, even to the point where many of them were willing to do away with the states entirely?

The paper money emissions were not just an irritant to creditors who were getting back depreciated paper currency instead of the species (gold and silver) they had lent, though that was what the creditors complained about most loudly. The paper money emissions created a more serious social problem than that: they actually threatened the aristocratic status of many of the revolutionary elites.

Adam Smith said that members of the English landed aristocracy were the perfect political leaders because their income came without exertion. Like Lord Grantham in *Downton Abbey*, they lived off the rents paid by long-term tenants. But in America the gentry-elites could not maintain tenantry as the English aristocracy did. As John Witherspoon, sixth president of the College of New Jersey (later Princeton), pointed out in the Continental Congress, because land in the New World was so much more plentiful and cheaper than in the Old World, gentlemen seeking a steady income “would prefer money at interest to purchasing and holding real estate.”

Consequently, the American gentry, including Washington and many other wealthy slaveholding planters, tended to rely on interest earned from money out on loan. Charles Carroll of Maryland had twenty-four thousand pounds on loan to his neighbors. John Hancock had more than twelve thousand pounds owed him in bonds and notes. When merchants and wealthy artisans wanted to establish their status unequivocally as leisured gentlemen, they withdrew from their businesses and, apart from investing in property, lent their wealth out at interest. Benjamin Franklin did it, and so did Roger Sherman and Henry Laurens. This was how great men built up networks of clients and dependents. It was the way “Men of fortune” subsisted without working, said John Adams. They “live upon their income” from money out on loan. In other words, most elites were acting as bankers in a society that had no banks, and ordinary middling people who wanted a mortgage or money for buying land or livestock or goods came to them hat in hand to request a loan on which they paid interest.

Paper money emissions by the state legislatures changed everything. No

longer would middling people seeking capital have to kowtow to local bigwigs for loans. Borrowing paper money from an impersonal state office severed the patronage ties and client networks that had sustained the traditional hierarchical society. Suddenly tens of thousands of entrepreneurial-minded middle-class people were cut free to pursue their dreams of happiness, which usually involved the making of money. The states' issuing of paper money was much more effective in democratizing American society than any expansion of the franchise.

No wonder many elites thought that paper money was undoing the social order. Credit was the principal sinew of the society and was absolutely essential for carrying on any form of commerce. The relationship between creditors and debtors was not based simply on an impersonal legal contract; more important, it was regarded as a personal bond of good faith and trust, even when it spanned continents and oceans. Debts were thus thought to be more than legal obligations; they were moral bonds tying people together. This why Madison believed that paper money was so socially harmful: it destroyed "confidence between man and man."

To preserve the social order Americans needed to prevent the states from printing paper money, and if republicanism were to be maintained, that could only be done by creating a new federal government that would overawe the states and prevent their abusive legislation.

Of course, there were other reasons accounting for the meeting in Philadelphia and the formation of a new national Constitution. The Confederation lacked the powers to tax and regulate trade. It was unable to secure its borders, and both Great Britain and Spain were taking advantage of its weakness. Yet these difficulties, serious as they may have been, were not the main reason for the writing of the Virginia Plan, which became the working model for the new Constitution.

The Virginia Plan, drawn up by Madison after consultation with many Virginia colleagues and others who thought like him, went way beyond what the weaknesses of the Articles required. By the mid-1780s nearly all of the political leaders agreed that the Articles needed to be amended. Like Thomas Jefferson, they thought that with the addition of a few amendments, especially amendments granting the powers to tax and regulate trade, the Confederation could be strong enough to fund its debts, pass navigation acts, and assert the country's position internationally.

But granting the Confederation Congress the authority to raise revenue, regulate trade, pay off its debts, and deal effectively in international affairs did not necessitate the total scrapping of the Articles and the creating in their place an extraordinarily powerful and distant national government, the likes of which were beyond anyone's imagination a decade earlier.

The national consensus that the Articles of Confederation needed to be reformed gave Madison and his colleagues the necessary cover for their

calling a convention that they hoped would solve a much more serious problem that the Confederation, however amended, however strengthened, could never handle. That problem was the democratic excesses of the state legislatures, with majorities oppressing minorities.

This was a much more serious problem than the weaknesses of the Confederation because it “brought into question,” said Madison, “the fundamental principle of republican Government, that the majority who rule in such Governments are the safest Guardians both of public Good and private rights.” Going back to monarchy was out of the question. What was needed, said Madison, was a republican remedy for republican ills. The stakes could not have been higher. The meeting in Philadelphia, said Madison, was to “decide forever the fate of republican government.”

Madison placed at the heart of his Virginia Plan the granting to the new national legislature the authority to veto “all laws passed by the several States contravening in the opinion of the National Legislature the articles of the Union.” Pressed to accept these rather ambiguous words, “contravening the articles of the Union,” Madison actually meant the national legislature to have the power to negative all the states’ emissions of paper money and debtor relief legislation. Madison clung desperately to his plan for a congressional veto and always regretted its loss.

His congressional veto was so cumbersome and so impractical that wiser heads in the Convention substituted for it Article I, Section 10 of the final Constitution, which forbade the states from doing certain things, including the levying of tariffs, impairing contracts, and, most important, emitting bills of credit, that is, paper money. For some Americans this provision by itself justified the Constitution. If the new Constitution “held forth on other advantage [than] that [of] a future exemption from paper money and tender laws,” said Benjamin Rush in 1788, “it would be eno’ to recommend it to honest men.”

If the prohibition against the states’ issuing of paper money in Article I, Section 10 of the Constitution had been strictly enforced, the economy of the early nineteenth-century republic would have been severely stifled. But the states got around this restriction by chartering banks, hundreds of them, which in turn issued the millions of dollars of paper money that the emerging and enterprising middle-class people wanted and needed to do business with one another.

Thus, a major goal of Madison’s Virginia plan was perverted by the states’ chartering of banks, and the democratic excesses of the 1780s were expanded and carried to extraordinary lengths that no one expected.

The banks’ paper money issues helped to fulfill and satisfy the rising aspirations and increasing entrepreneurial activities of a society that was fast being taken over by money-making and risk-taking business-minded people. It was a bourgeois society where farmers were never just farmers,

but were also traders, real estate operators, manufacturers, and something else besides. The middle-class opponents of the Constitution in 1788 may have lost the battle over its ratification, but with Jefferson's election in 1800 they were winning the war.

No place in the world had more paper money flying about than did America in the early Republic. And little Rhode Island, the only state singled out by Madison for its evil ways in his "Vices" essay had more banks and more paper money in proportion to population than any other state in the Union. By the time the federal government began regulating the money supply in the aftermath of the Civil War, there were more than ten thousand different kinds of notes circulating in the United States.

Paper money was contributing to the breaking apart of northern society and the setting free a multitude of middle-class individuals who were becoming more independent and more self-reliant than any of them could have thought possible. It was also making some of them rich. Paper money supplied much of the credit and capital that fueled the extraordinary expansion of the wild and unruly middle-class economy of the early Republic, an enterprising and chancy economy with many failures and bankruptcies, including the bankruptcy of some states, but an economy that was inventive, dynamic, and largely free and unregulated. Success brought great rewards, and ambitious risk-taking entrepreneurs were everywhere, especially in the northern parts of this heavy-drinking, rough-and-tumble world; and they needed readily available credit and capital to engage in business.

So desirous were people of money that the counterfeiting of bills flourished. And most people turned a blind eye to the counterfeit bills as long as everyone was willing to accept them. The more money, the more capital, the better.

The only thing these unruly people had in common was the pursuit of interest, which promised personal happiness. "The influence of money is wonderful," the great journalist Hezekiah Niles declared in 1812, "and the mind changes," he said, "as the means of acquiring it are presented." By 1820s it was clear that interest, and not classical virtue, was the adhesive holding this diverse, rootless, and restless people together.

And they were a rootless people, as Ralph Waldo Emerson among others told them. Emerson was such a successful lecturer because he explained to his audiences what was happening and soothed their anxieties. The agitation and chaos that people were experiencing, said Emerson, was the result of the Revolution. It had severed all the bonds of the old monarchical society and had set people free. We are living now in "the age of severance," he said, "of dissociation, of freedom, of analysis, of detachment. Every man for himself." The Revolution and the democracy that it had released, he concluded, had destroyed all "the ties and ligaments" of the older colonial

hierarchy and was creating a new and strange but exhilarating kind of individualistic society.

Jefferson and most of the other founders were bewildered and frightened by the boisterous helter-skelter economy developing in the country, with all of its wildcat banks and its preoccupation with money-making. Few of the founders even understood how a bank operated. Many elites shared John Adams's view that "every dollar of a bank bill that is issued beyond the quantity of gold and silver in the vaults, represents nothing and is therefore a cheat upon somebody."

Even Alexander Hamilton, who at least understood how a bank worked, misread the future and never grasped the way the American economy was developing. Hamilton was as confused as Jefferson and Adams by the rapid spread of hundreds of state-chartered banks, for he had expected his Bank of the United States would create several branches that would eventually absorb all the state banks and give the Bank of the United States a monopoly of the nation's banking.

Hamilton and other Federalists, which was what the supporters of the Washington administration called themselves, echoing the name used by the sponsors of the Constitution, tended to favor big merchants engaged in overseas commerce, which he and others mistakenly believed was the only way that society could increase its total wealth, that is, by having more exports than imports. Thus, they tended to ignore the middling artisans, small businessmen, and commercial farmers who were the actual driving force of the early American economy. Even the great Montesquieu defined commerce solely as international trade, which is why overseas merchants had great prestige in society and domestic traders did not.

Consequently, Hamilton and other elites tended to disregard or ignore the domestic economy---that is, small traders and retail sellers exchanging goods with one another within the United States. These elites tended to believe that trade, say, between Philadelphia and York, Pennsylvania, was not real commerce because it appeared to add no wealth to the society, as, they claimed, only international trade could do. By exchanging goods with one another within the country, the small traders seemed to be just moving the existing wealth around and not adding to it.

This was a blindness that took a few decades to overcome, and Hezekiah Niles, who loved middle-class money-making America, and whose Weekly Register was America's first national magazine, was instrumental in changing American opinion about the importance of domestic or internal trade.

Misunderstanding banks and the real nature of commerce were only two of the many illusions the founders had about the future. The Revolution had turned out to be more popular, more radical, and more socially unsettling than anyone in 1776 could have imagined. In America, said Tocqueville, all

the social distinctions common to Europe had been “melted into a middle class,” a middle class that was obsessed with freedom and the making of money. The revolutionaries had inadvertently created a society unlike any that had ever existed before.

Many Americans like Hamilton found this unusual and rambunctious society almost intolerable. As early as 1804 Hamilton thought America’s society was sick and on the verge of breaking apart. On the eve of his fatal duel with Aaron Burr, he told his fellow Federalist Theodore Sedgwick that the many threats of disunion were scarcely the main problem afflicting the country. “Our real Disease . . . ,” he said, “is DEMOCRACY,” a “poison,” which he emphasized by printing it out in capital letters. If democracy sometimes becomes poisonous, we will have to make of it what we will.