

THE POLITICAL ECONOMY OF THE CONSTITUTION

Robert A. McGuire
University of Akron

Central to the process of creating a nation and government is the creation of the fundamental rules for the legal-political order, the rules for governance, within the nation. When a government is formed, rules are chosen that specify how collective decisions within the nation will be made in the future. What decision (or “voting”) rules will be used for making future “governmental” or collective decisions? How will collective decision-making and political power be allocated within the nation? Who will have the authority to make collective decisions? What rights will citizens have? What types of behavior will the fundamental rules concern? What types of behavior will be allowed? What types will be prohibited? What constraints will be placed upon government, including different levels of government? How might individual citizens be constrained?

Because the fundamental rules for the legal-political order (what defines a nation’s government) determine the incentive structure within a nation, the fundamental rules for governance are crucial to a nation’s future development. This is now well understood. Less well understood is how a nation’s fundamental rules themselves are decided upon. That is, how is a nation’s “constitution” created? Whether written or not, a “constitution” is the key legal political institution of a nation containing the collective decision-making rules and specifying the allocation of political power within the nation. A constitution, which is intended to be more or less permanent, or at least more difficult to change than ordinary laws, contains the fundamental legal-political rules that specify the constraints placed upon government and citizens, creating the incentive structure for future behavior within the nation. This leads to an important question:

Is a nation's constitution consensual? In other words, do the "people" or their "representatives" consent to the nation's constitution? Or, is it determined through a non-consensual or authoritarian process?

The United States Constitution was designed and adopted more than two hundred years ago by the political representatives of the American people. Thus, our nation has a consensual constitutional order. But because the decision-making costs of governing a nation with a direct democracy in which every citizen has an input (a vote) on every issue increase as the number of citizens increases, it is in a citizen's interest to choose other citizens to represent him in the governing process. This representative form of government reduces the decision-making costs of governance compared to a direct democracy. Thus, individual citizens with a comparative cost advantage in providing representation services to other citizens tend to choose to specialize in representing citizens. These specialists then become the "representatives" or "politicians" who offer their expertise to citizens and compete amongst each other for the citizens' approval or votes to be their political representatives.

This representative form of government had emerged in what became the United States well before the Constitution was drafted in the summer of 1787. In fact, as shown in the first chapter, the roots of American representative government go back to our nation's colonial beginnings and parliamentary (representative) government in Britain. As a result, political representatives in America, our nation's Founding Fathers, designed the Constitution as well as voted on ratifying it in the conventions of the thirteen states; the nation's citizens did not directly design or vote on adopting the Constitution.

This leads to another important question: What factors explain the constitutional choices of George Washington, James Madison, Benjamin Franklin, and the other Founding Fathers who

drafted the U.S. Constitution? What factors explain the manner in which they apportioned representation and thus allocated political power within the nation? Why did they design the Constitution with a vastly strengthened central or national government? Why did they include a prohibition on state paper-money issues in the Constitution? Why did they decide to allow for duties on imports but not on exports? Why did they fail to adopt a clause requiring a two-thirds majority in the national legislature to establish laws concerning trade or a clause giving the national government an absolute veto over state laws? What factors account for the choices in the thirteen states to ratify the Constitution? Were commercial activities, or slaveholdings, primary motivating factors in the state ratification process? In the pages that follow, this chapter attempts to provide answers to these and many other questions concerning the design and adoption of the Constitution.

THE HISTORICAL BACKGROUND

Just prior to the beginning of the Revolutionary War and the American colonies' decision to break from Britain, the thirteen colonies had formed their own central or "continental" government made up of representatives from the thirteen American colonies; they had formed the Continental Congress. The First Continental Congress met from September 5 to October 26, 1774. The Second Continental Congress ran from May 10, 1775, to March 2, 1789, until the new national government under the U.S. Constitution went into effect on March 4, 1789. The American colonies' call for a "general" or "continental" congress in 1774 was the culmination of earlier steps toward common measures of response taken in the early 1770s by various colonial "committees of correspondence" and colonial assemblies to British policy toward the colonies. The initial Congress of 1774 was limited to declarations of colonial grievances and petitions for relief. When the Congress assembled again in 1775, though, the time for action had arrived.

The thirteen colonies appointed delegates to a “continental congress” because, in the words of the Massachusetts colonial assembly

having duly considered, and being deeply affected with the unhappy differences which have long subsisted and are encreasing between Great Britain and the American Colonies, do resolve, that a meeting of Committees from the several Colonies on this Continent is highly expedient and necessary, to consult upon the present state of the Colonies, and the miseries to which they are and must be reduced by the operation of certain acts of Parliament respecting America, and to deliberate and determine upon wise and proper measures, to be by them recommended to all the Colonies, for the recovery and establishment of their just rights & liberties, civil & religions, and the restoration of union & harmony between Great Britain and the Colonies, most ardently desired by all good men. (Journals of the Continental Congress, Monday, September 5, 1774, pp. 15-16)

And, as the Rhode Island colonial assembly declared, “to obtain a repeal of the several acts of the British parliament, for levying taxes upon his Majesty's subjects in America, without their consent, and particularly an act lately passed for blocking up the port of Boston . . .” (Journals of the Continental Congress, Monday, September 5, 1774, pp. 16-17).

While armed conflict between colonial militiamen and British troops broke out at Lexington and Concord on April 19, 1775, it was not until July 2, 1776, that a formal and unanimous declaration of the independence of the thirteen “united” states was approved in the Continental Congress. Congressional actions thereafter were decisions of the “United States in Congress.” Although the form of the new central government of the thirteen “united” states, a loose “confederation” of mainly independent states, was decided early on when the Continental Congress agreed to the Articles of Confederation and Perpetual Union on November 15, 1777, more than three years passed before the Articles were formally approved. The Articles of Confederation became the law of the land when they were finally ratified by all thirteen states after Maryland ratified and the Articles were declared in force on March 1, 1781. The Articles were our nation’s first formal document that specified the fundamental legal-political rules for

governance for the newly declared independent but “united” states.

Under the Articles, the American political system consisted of a loose confederation of largely independent states with a weak central government. The central (or con-federal) government under the Articles had no legal power independent of the individual states to raise revenues or taxes and, as a result, had difficulty repaying its debts. The central government also lacked the legal power to enforce uniform commercial or trade regulations that might have been conducive to the development of a common economic trading area. Likewise, the Confederation government possessed uncertain authority to negotiate with foreign powers. Its problems raising revenues from the states and repaying existing debts created uncertainty about the financial viability of the Confederation government. Although state and local interference in trade was not a major problem at the time, some commercial interests apparently feared that local and state barriers to trade could develop in the future under the Articles. Western landowners also were often impatient with the Confederation government because of its inability to establish order on the frontiers.

The story of growing dissatisfaction among America’s political leaders with the Articles of Confederation and the movement towards constitutional reform during the early 1780s is well known. Following the conclusion of the Revolutionary War and the Treaty of Paris in 1783, some political leaders had already been calling for a strengthened central government. The dissatisfaction with how the Confederation government operated in terms of financing and manning the Revolutionary War was a major source of unhappiness among some of America’s leaders. While the economy by the mid 1780s was improving and approached pre-war levels of economic activity in most New England and Middle Atlantic states, overall the level of economic activity and trade, especially in the first years after the war and in southern states, was

still below pre-war levels. The disruption of commerce and trade during the war, and its immediate aftermath, took time to recover. The increasing dissatisfaction with the Confederation government and economic conditions in the 1780s eventually led to a meeting among the states in 1786 to discuss the possibility of implementing common commercial rules among the states. This meeting became known as the Annapolis Convention. Although all were invited, only five states attended and nothing of substance was accomplished. Except, those in attendance did urge Congress to call another meeting of the states to meet the next spring to discuss revising the Articles of Confederation and consider constitutional reform more generally.

At the same time, other events combined to make a second meeting of the states nearly inevitable. Shays's Rebellion, an armed uprising in western Massachusetts against the state government, occurred from summer 1786 through winter 1787; it was quite possibly the crystallizing event that occasioned the constitutional change in summer 1787. The rebellion involved the forced closings of state courts in five Massachusetts counties, an attempted takeover of the federal arsenal at Springfield, two other "major" battles between the insurgents and state forces, and dozens of minor skirmishes between the rebels and local forces.

The conventional wisdom about Daniel Shays and his fellow insurgents is that they were "poor," "debt-ridden" farmers from the backcountry of western Massachusetts who were trying to avoid payment of their debts. Recent research challenges this conventional wisdom, showing that the participants were neither much in debt nor mainly debtors; though it still suggests that economic factors were paramount in fomenting the rebellion, maintaining that state fiscal policies played a fundamental role (Leonard L. Richards, 2002).

Towns in western Massachusetts tried unsuccessfully during the 1780s to get state legislators in Boston to help with the depressed backcountry economy. The legislators ultimately

made matters worse when they decided to retire the entire state debt before the end of the decade with all interest and principal to be paid in specie (silver or gold). To raise the necessary revenues, the state government eventually enacted direct taxes on property and men (poll taxes). The taxes, which were payable in specie and enforced through the state court system, were especially burdensome on western Massachusetts's farm families who lacked specie but not sons. After several unsuccessful petitions to state leaders asking for relief, the backcountry farmers rebelled. The insurgents viewed their actions in the colonial tradition as opponents of a "tyrannical" government. They were opposing the moneymen, lawyers, and "elite," who had instituted a British-like tyrannical government in Boston that included repressive state courts similar to the British colonial courts that had often been attacked. The insurgents consequently disrupted the state courts, and attacked those local authorities who supported the state government.

The aftermath of the rebellion was much bigger than the rebellion itself because the Boston elite portrayed Daniel Shays and the rebellion as much more than either probably was. He was portrayed as an anarchist, the rebellion as a threat to the entire nation. The Boston elite labeled the participants as "rebels," "insurgents," and "Shaysites"; the participants referred to themselves as "regulators" (opponents of tyranny). In the end, the Shaysites lost the media campaign. As a consequence, a fear of "anarchy," "mob rule," and "democratic excesses" became the rallying cry of the nationalists and the movement for a stronger national government.

Playing on these fears within the nation, the call for a second meeting of the states to consider constitutional reform was successful. Twelve of the thirteen states eventually attended the Philadelphia Constitutional Convention that drafted the Constitution during summer 1787. Although there still is considerable debate concerning the actual condition of the nation's

economy and government in the 1780s, what is evident from the historical record is that neither the economy nor the Confederation government could be said to be performing well during the early 1780s.¹ It also is evident from the historical record that the Continental Congress felt it was politically necessary to call the Philadelphia convention to consider revising the Articles of Confederation.²

At the time, the prevailing argument for why revisions in the Articles were necessary was that economic and political “crises” existed in the nation; the central government and the economy were in a shambles. As proof, the nationalists only needed to call attention to Shays’s Rebellion. Whether there was a “real” crisis in the Confederation government, or in the economy, at the time is not transparent from the historical record. But whether a “real” crisis existed is not as important as the fact that enough individuals genuinely perceived a “crisis” and were willing to convince others of it, or even if they did not genuinely perceive one, enough were still willing to propagate the idea of a “crisis” to get the constitutional convention called. What is obvious from the historical record is that, whether real or imagined, the existence of economic and political “crises” was used to justify calling the Philadelphia convention to revise the Articles of Confederation.³ Consequently, in the aftermath of the unsuccessful Annapolis Convention and Shays’s Rebellion, those that called for another meeting of the states, the Philadelphia Convention, privately and publicly pleaded strongly for various economic and

¹ For studies of economic conditions during the 1780s, see Curtis P. Nettles (1962), Gordon Carl Bjork (1963, 1964), E. James Ferguson (1961), James F. Shepherd and Gary M. Walton (1976), Walton and Shepherd (1979), John J. McCusker and Russell R. Menard (1985), and Shepherd (1993).

² For an excellent discussion of the movement for constitutional reform during the Confederation period, see Alfred H. Kelly and Winfred A. Harbison (1970, pp. 110-13). Also, see Merrill Jensen (1964) and Clinton Rossiter (1966).

³ One of the major contributions of Robert Higgs to our understanding of the historical evolution of government is his thesis and supporting evidence that “crises” are often the reason used to not only call for government action but also often lead to “bigger government.” See Higgs (1987).

political interests within the nation to support another meeting.⁴

THE DRAFTING AND ADOPTION OF THE UNITED STATES CONSTITUTION

The Constitutional Convention was originally to begin May 14, 1787, but less than a majority of the states were represented that day, so the delegates who were assembled in Philadelphia adjourned from day to day until delegates from a sufficient number of states arrived. As a result, the convention did not begin until May 25 when twenty-nine delegates from nine of the thirteen states were finally in attendance. The officially authorized purpose of the convention from the Congress of the Confederation was to consider the amendment and revision of the Articles of Confederation. The convention was to consider revising the Articles to strengthen the central government's power over taxation, its authority to regulate interstate and international commerce, its authority to negotiation with foreign nations; its ability to provide national defense, and its authority over a national judiciary. America's political leaders disagreed not so much over their desire for constitutional reform but over the magnitude of that reform.⁵

The convention generally operated as a committee of the whole although it did organize itself into various committees throughout the summer of 1787. How it operated essentially allowed individuals who were present the freedom to propose and discuss most any issue at the convention. Decisions at the convention were made through majority voting by state delegations

⁴ For an argument of one of the framers of the Constitution that there was a "crisis" in government and the economy, see Paper No. 10, by James Madison, in The Federalist (1788 [1937]).

⁵ But they disagreed enough about the importance and urgency of reform that nineteen of the seventy-four delegates appointed by their states to attend the Philadelphia meeting chose not to attend. Patrick Henry, for example, did not attend because, as he has been quoted to say, "I smelt a Rat," indicating that not all of America's political leaders were convinced there was a genuine crisis in the nation (H. B. Grigsby, History of the Virginia Federal Constitution of 1788, I, p. 32, as cited in Max Farrand, 1911, V. 3, p. 558, note 2).

with the votes of each state decided by majority voting among that state's delegates. A scrutiny of the nearly four months of debates suggests many of the important votes at the convention were votes either in favor of a strong, national form of government or in favor of a confederation (or con-federal) form of government.⁶ In fact, the major question at Philadelphia was whether there would be a strengthened, more powerful central government but still with essentially independent sovereign states or a strong, nationally oriented central government with much less, if not little or no, state sovereignty. Would there be a national system or a continued confederation? The answer came on September 17, 1787, with the scrapping of the Articles of Confederation and the presentation of the strong, nationally oriented United States Constitution.⁷

During the summer of 1787, a total of fifty-five men attended the convention in Philadelphia that drafted the Constitution. In less than a year after the convention was over, New Hampshire became the ninth state to ratify the Constitution, as drafted, on June 21, 1788.⁸ As a result, the Confederation Congress declared the Constitution to be in force beginning March 4, 1789, because ratification by only nine of the thirteen states was required for it to be considered

⁶ For a record of the debates, see Farrand (1911). Farrand contains reputedly the best single source of information concerning what took place in Philadelphia. His three volumes contain among other sources of information a copy of the official journal of the convention, James Madison's highly respected notes of the entire proceedings, the diaries, notes, and memoranda of seven other framers (Alexander Hamilton, Rufus King, George Mason, James McHenry, William Pierce, William Paterson, and Robert Yates), the Virginia and the New Jersey plans of government presented to the convention, several documents recording the work of the Committee of Detail that presented the first draft of the Constitution to the convention on August 6, 1787, as well as numerous letters and correspondence of many of the founders and their contemporaries.

⁷ The interested reader should compare the Articles of Confederation to the United States Constitution, both of which are widely available in many sources.

⁸ For a record of the debates at the state ratifying conventions, see Jonathan Elliot (1836 [1888]), which contains the ratification debates for most of the state conventions. For a thorough record of the views of the opponents of ratification, see Herbert J. Storing (1981), which contains memoranda, letters, correspondences, and various writings of the Anti-federalists, the opponents of the Constitution.

adopted by the so ratifying states as declared in Article VII of the Constitution. The Constitution consequently replaced the Articles of Confederation and its political system of a loose confederation of largely independent states. Under the Constitution, the Articles, which had been in effect only since March 1, 1781, were replaced with a political system that greatly strengthened the national (central) government at the expense of the states and their former sovereignty. This change in the nation's fundamental legal-political institution was to have a profound influence on the history of our nation.

Fiscal and Economic Problems under the Articles of Confederation

As note above, under the Articles of Confederation, the central government had no legal power to raise revenues independently of the states and consequently had difficulty repaying its debt as well as experienced other fiscal problems. The fiscal problems under the Articles were threefold. First, the thirteen states did not fully contribute to the public finances of the central government because of the system of un-enforced requisitions. Under the Articles, the Continental Congress determined its fiscal and military requirements and then requested each state to contribute its share of money and/or men to the central government (Article VIII and Articles VII and IX, Section 5, Articles of Confederation, respectively). Each state's share was based on the size of its white population. A state was to assess its citizens an amount necessary to meet the requisitions, collect the taxes at the state-level, and forward the requisition to Congress, using the tax revenues for the money requested or to pay for the men. Yet, without an enforcement mechanism, Confederation revenues fell short of requests.⁹ Second, each state had

⁹ In a recent study of state requisitions under the Articles of Confederation, Keith L. Dougherty (2001), however, convincingly argues that rather than worry about the reported shortfall in revenues supplied to the Confederation government the more interesting issue is why the states collected from their citizens, and supplied to the Confederation government, nontrivial amounts of their requisitions as well as provided many men for the government's war effort without any enforcement

a single vote in the Confederation Congress (Article V, Section 4) and the unanimous consent of the thirteen states was required for the Congress to enact any Confederation taxes (Article XIII). A single state thus could block Confederation tax legislation. This de facto veto power on the part of each state created prohibitively high decision-making costs for Congress and prevented proposed Confederation imposts (import duties) from ever being enacted under the Articles of Confederation. Third, nine of the thirteen states (seventy percent) were required to approve most other con-federal fiscal policies, such as to coin money or regulate the value thereof; to ascertain the expenses and sums necessary for the defense and welfare of the United States or any state; to emit bills of credit; to borrow money on the credit of the United States; or even to appropriate money (Article IX, Section 6). This super-majority voting rule also created high decision-making costs for Congress.

There were other problems under the Articles of Confederation as well. The central government lacked the legal power to enforce uniform commercial or trade regulations—either at home or abroad—that might have been conducive to the development of a common economic trading area. Yet, state and local interference in either interstate or international trade was not a major problem at the time. Recently James F. Shepherd (1993) has shown there was a reasonably common trading area at the time, as few of the states imposed duties on goods imported from other American states and the tariff duties they did impose on foreign trade were overall quite low and non-protectionist. Many commercial interests, nonetheless, still feared that local and state barriers to trade “could” develop in the future under the Articles of Confederation. The Confederation government also possessed uncertain authority to deal with foreign powers.

mechanism. In other words, why did not a particular state (and thus any other state) merely free ride on the contributions of other states? In short, his argument is that the Confederation government provided goods and services that states also benefited from; thus, they were willing to voluntarily provide revenues (at least part of their requisitions) to produce the “joint public goods.”

Its problems raising revenues and repaying existing debts also created uncertainty about the financial viability of the Confederation government. Western landowners were often impatient with the Confederation government because of its inability to establish order on the frontiers. Also, under the Articles, there was no Confederation judiciary to settle national level issues or to settle disputes among the states.

How the Constitution Strengthened the Power of the Central Government

Under the Constitution, the power to tax (the “power of the purse”), along with the authority to settle past Confederation debts, was firmly delegated to the central (national) government, improving the central government's financial future as well as improving overall capital markets (the market for funds). The Constitution, unlike the Articles, required only a simple majority vote of the individual representatives in both chambers of the national Congress to enact tax legislation with the approval of the executive (the President). There were, and are, checks on simple majority voting though. The President can veto congressional legislation and it takes a two-thirds vote in Congress to override a presidential veto. But neither of these constraints on simple majority voting creates the magnitude of decision-making costs that unanimous voting under the Articles created for tax legislation, or the nine-state rule created for other fiscal acts of the central government. The power to regulate both interstate and international commerce, including the power to lay duties on trade, was delegated solely to the national government under the Constitution. This was expected to reduce the likelihood of state and local interference in the future. The assignment of the sole right "To coin money, [and] regulate the value thereof," to the national government and the prohibition on states from

emitting "bills of credit" (paper money) also were expected to improve capital markets.¹⁰ A national judiciary was created under the Constitution and the power to make treaties with foreign nations was firmly delegated to the central government.

How a Strong Central Government Affected the Economy

With respect to interstate trade, Gary M. Walton and James F. Shepherd (1979) suggest "the possibility of such barriers [to interstate commerce] loomed as a threat until the Constitution specifically granted the regulation of interstate commerce to the federal government" (pp. 187-88). Walton and Shepherd conclude that the most important changes associated with the Constitution, however, "were those changes that strengthened the framework for protection of private property and enforcement of contracts" (pp. 187-88). These changes were most important because they increased the benefits of exchange (the cornerstone of a market economy) and created incentives for individuals to specialize in economic activities in which they had a particular advantage and then engage in mutually advantageous exchange (trade) with individuals specializing in other economic activities. Specific provisions in the Constitution that helped to increase the benefits of exchange were those that prohibited the national and state governments from enacting ex-post-facto laws (retroactive laws) and a provision that prohibited the state governments from passing any "law impairing the obligation of contracts." These prohibitions were important to the development of a market economy because they constrained governments from interfering with economic agreements, making the returns to economic activity more secure.

Because the economies of the thirteen states were not as interconnected in the 1780s as

¹⁰ Recent research provides convincing evidence that the Founding Fathers included the prohibition on states emitting paper money in the Constitution not because they wanted to improve capital markets but because the nationalists at the Philadelphia convention wanted to increase national power at the expense of the states (Farley Grubb, 2004).

they are today, the immediate consequences for the nation of adopting the Constitution might not have been at all that large. But this change in our fundamental legal-political institution was ultimately to have a profound influence on our nation's history, because over time the Constitution became the foundation of the supremacy of the national government over the state governments in the United States.

The "Important Question": How Did Constitutional Change Come About?

How did this fundamental change come about? Why did our nation's Founding Fathers replace the Articles of Confederation with the Constitution? In defending the Constitution in late 1787, Alexander Hamilton observed

It has been frequently remarked that it seems to have been reserved to the people of this country . . . to decide the important question, whether societies of men are really capable or not of establishing good government from reflection and choice, or whether they are forever destined to depend for their political constitutions on accident and force" (The Federalist, 1788 [1937], Paper No. 1, p. 3).

To paraphrase Hamilton: How did this country decide the important question?

Since the middle of the nineteenth century, hundreds of scholars have studied and debated the possible explanations for such an important change in the fundamental political institution of our nation. Many historians have concluded that the Constitution was drafted and adopted as a result of a consensus that the Articles of Confederation were fatally flawed. Other scholars have argued that the limitations of the Articles could have been eliminated without fundamentally altering the balance of power between the states and the central government. Others have suggested that the adoption of the Constitution was the product of conflict between various economic and financial interests within the nation, a conflict between those who, because of their economic interests, wanted a strengthened, more powerful national government and those who, because of their interests, did not.

Charles A. Beard's "Economic" Interpretation

In 1913, Charles A. Beard (1913 [1935]) consolidated various scholarly views of the Constitution and, in the process, offered what became identified as "the" economic interpretation of the Constitution. Beard (pp. 16-18) argued that the formation of the Constitution was a conflict based upon competing economic interests—interests of both the proponents and opponents. In his view, the Federalists, the founders who supported a strong, centralized government and favored the Constitution during its drafting and ratification, were individuals whose primary economic interests were tied to personal property. They were mainly merchants, shippers, bankers, speculators, and private and public securities holders, according to Beard (pp. 31-51). The Anti-federalists, the opponents of the Constitution and supporters of a more decentralized government, were individuals whose primary economic interests were tied to real property. Beard (pp. 26-30) contended these opponents consisted primarily of more isolated less-commercial farmers, who often were also debtors, and large manorial planters along the Hudson River. However, Beard (pp. 29-30) maintained that many southern slaveowning planters, who held much of their wealth in personal property, had much in common with northern merchants and financiers, and should be included as supporters of the Constitution.

Beard (pp. 31-51) claimed that support for his argument could be found in the economic conditions prevailing during the 1780s. As a result, he suggested that the primary beneficiaries under the Constitution would have been individuals with commercial and financial interests—particularly, those with public securities holdings who, according to Beard, had a clause included in the Constitution requiring the assumption of existing federal debt by the new national government. Commercial and financial interests also would benefit because of more certainty in the rules of commerce, trade, and credit markets under the Constitution. More isolated less-

commercial farmers, debtors, paper money advocates, and the northern planters along the Hudson River would be the primary beneficiaries under the status quo. They would have had greater ability at the state level with decentralized government to avoid heavy land taxation—levied to pay off the public debt incurred during the Revolutionary War—and to promote paper money and debt moratorium issues that advanced their interests. Consequently, they opposed the Constitution.

Criticisms of Beard's View: Robert E. Brown and Forrest McDonald

Beard's thesis emerged as the standard historical interpretation and remained so until the 1950s, when it began to face serious scholarly challenges. The most influential and lasting of the challenges were those by Robert E. Brown (1956) and Forrest McDonald (1958). Robert E. Brown's (1956) critique dismisses an economic interpretation as utterly without merit, attacking Beard's conclusions in their entirety. Brown maintains that Beard's views that (1) eighteenth-century America was not very democratic, (2) the wealthy were strong supporters of the Constitution, and (3) those without personal property generally opposed the Constitution are factually incorrect. Brown examines the support for the Constitution among various economic and social classes, the democratic nature of the nation, and the rules for voting within individual states in eighteenth-century America. He claims that Beard was plain wrong, eighteenth-century America was democratic, the right to vote was common, and there was widespread support for the Constitution.

In contrast, Forrest McDonald's (1958) study empirically examines the wealth, economic interests, and the votes of the delegates to the Philadelphia Constitutional Convention that drafted the Constitution in 1787 and of the delegates to the thirteen state ratifying conventions that considered its adoption afterward. McDonald's primary interest is in testing Charles A.

Beard's thesis. Based on the evidence collected from the Philadelphia convention, McDonald (1958, p. 110) concludes, "anyone wishing to rewrite the history of those proceedings largely or exclusively in terms of the economic interests represented there would find the facts to be insurmountable obstacles." With respect to the ratification of the Constitution, McDonald (1958, p. 357) likewise concludes, "On all counts, then, Beard's thesis is entirely incompatible with the facts."

Neither Brown nor McDonald, however, can stand up against the standards of modern scholarship. Neither offered any rigor (no formal or statistical analysis of any type) in testing the behavior of the Founding Fathers during the drafting or ratification of the Constitution. Yet, Brown and McDonald are still credited today by most scholars with delivering the fatal blows to Charles Beard's economic interpretation of the Constitution. Examples of scholars who still credit Brown or McDonald, or both, with having proved Beard wrong are numerous, including economics Nobel Laureate James Buchanan and Gordon Tullock (1962), acclaimed historian Gordon Wood (1969), former president of the American Political Science Association William Riker (1987), and renowned Yale constitutional scholar Bruce Ackerman (1991).

The New Quantitative Approach

In the mid-1980s, Robert A. McGuire and Robert L. Ohsfeldt (1984) began a reexamination of the behavior of our Founding Fathers concerning the creation and adoption of the Constitution. This reexamination, which employs formal economics and modern statistical techniques, involves the application of an economic model of voting behavior during the drafting and ratification processes and the collection and processing of large amounts of data on the economic and financial interests and other characteristics of the men who drafted and ratified the Constitution. The findings of this reexamination, which have now become the accepted view

among quantitative economic historians (see Robert Whaples, 1995), provide answers to many unresolved issues involving the design and adoption of the Constitution.

As asked at the beginning of this chapter: What factors explain the behavior of George Washington, James Madison, and the other Founding Fathers regarding the Constitution? Were the founders' economic, financial, and other interests important and significant factors in their support for the Constitution, or in their support for specific clauses in it, or in their support for ratification? Were, for example, the slaveholdings of the founders an important and significant factor in the design and adoption of the Constitution? Were the founders' commercial activities important and significant factors? Were the private or public financial securities holdings important and significant factors?

A Rational Choice Model

The critical reexamination of the design and adoption of the Constitution offers an economic model of the founders' behavior that is based on rational choice and methodological individualism, and employs formal statistical techniques. Methodologically, such an approach analyzes the choices of the *individuals* involved in the drafting and ratification of the Constitution. The object of analysis is the behavior of an *individual* Founding Father not the behavior of some economic or social class or group. The economic model presumes that a founder was motivated by self-interest to maximize the satisfaction he received from the choices he made at the constitutional convention he attended. But neither self-interest nor economic rationality implies that a founder was concerned only with his financial or material well-being. The economic model indicates that a founder weighed the benefits (the satisfaction) and the costs (the sacrifice) to himself of his actions, making those choices that were in his self-interest, broadly defined to include any pecuniary and non-pecuniary benefits and costs that accrued to

him because of his choices. This is the presumption of rational choice.

Personal and Constituents' Interests

More precisely, the economic model states that a founder acted individually to maximize the net benefit he received from his votes. A founder would have voted in favor of a particular issue at Philadelphia, or in favor of ratification, if he expected the net benefit he would receive would have been greater if the issue, or the Constitution, was adopted. Because a founder was from a particular state or local area, the founder represented the citizens (the constituents) of the state or local area in which he resided as well as represented his own personal interests at Philadelphia or a ratifying convention. The benefit of a founder's vote was affected directly by the anticipated impact of his vote on his personal interests and indirectly by the anticipated impact of his vote on his constituents' interests. A founder's personal interests depended on his own economic interests and ideology and his constituent interests depended on the economic interests and ideologies of his constituents. The interests may have been purely economic (pecuniary interests, such as the ownership or value of specific economic assets) or ideological (non-pecuniary interests, such as beliefs about the moral correctness of a particular form of government). The potential effect of personal interests on a founder's vote is straightforward; the founder would have benefited or been harmed directly. The potential effect of constituents' interests on a founder's vote is through the impact of his vote on the potential for maintaining his decision-making authority, continuing to represent his constituents.

The Statistical Tests

To quantitatively test the economic model, the founders' observed votes on a particular issue at Philadelphia or on ratification are statistically related to measures of the economic interests and ideologies of the founders and their constituents. The statistical technique

employed is called multivariate logit regression. Estimation of a logit regression model is designed to determine the partial impact of each explanatory variable—the measures of the economic interests and ideologies—on the dependent variable—the "yes" or "no" votes on a particular issue at Philadelphia or on ratification. The estimated logit regression produces for each explanatory variable an estimated coefficient that captures the influence (its direction and magnitude) of that explanatory variable on the probability of a founder voting in favor of the issue being estimated, holding the influence of all other explanatory variables constant. The benefit of this approach is that each potential factor, each explanatory variable, affecting a vote is examined separately from the influence of the other factors, while at the same time, controlling for the influence of the other potentially confounding factors. This reduces to a minimum the incidence of spurious relationships between any particular factor and a vote. For example, if the relationship between the vote on an issue and the founders' slaveholdings is examined in isolation, a positive correlation may be indicated. But if other interests are taken into account (for example, the founders' public securities holdings), the correlation with slaveholdings could change and, in fact, be negative.

The modern economic history of the Constitution indicates that an economic interpretation of it has not been refuted. The issues, in fact, have not been heretofore tested. Earlier historical studies did not have the benefit of modern economic methodology and systematic statistical analysis. As such, their conclusions cannot pass modern scientific scrutiny. Major advances in both economic thinking about political behavior and statistical techniques have taken place in the last thirty or so years. These modern methods allow for a systematic quantitative analysis of the voting behavior of the founders employing, among other data and evidence, the types of non-quantitative data about the founders that historians collected decades

ago but never systematically analyzed. They failed to systematically analyze such data and evidence because the necessary techniques did not exist and because they generally were not trained in quantitative analysis.

Findings of the Quantitative Approach: A New Economic Interpretation of the Constitution

One unambiguous conclusion can be drawn from the recent quantitative studies: There *is* a valid economic interpretation of the Constitution. The idea of self-interest can explain the design and adoption of the Constitution. This does not mean that either the framers or the ratifiers of the Constitution were motivated by a greedy desire to "line their own pockets" or by some dialectic concept of "class" interests. Nor does it mean that some "conspiracy among the founders" or some fatalistic concept of "economic determinism" explains the Constitution. Nor does it mean that the founders were completely selfish in a purely financial or material sense. It does mean that the pursuit of one's "interests" both in a narrow, pecuniary (financial) sense and a broader, non-pecuniary sense can explain the drafting and ratification of the Constitution (see McGuire, 2003).

The recent quantitative studies contend that the Constitution was neither drafted nor ratified by a group of disinterested and nonpartisan demigods motivated only, or even primarily, by high-minded political principles to promote the nation's interest. The fifty-five delegates to the Philadelphia convention that drafted the Constitution during the summer of 1787 were motivated by self-interest, in a broad sense, in choosing its design. Quantitative research suggests that these framers of the Constitution can be seen as rational individuals who were making choices in designing the fundamental rules of governance for the nation. In doing so, they rationally weighed the expected costs and benefits of each clause they considered. They included a particular clause in the Constitution only if they expected the benefits from its

inclusion to exceed the costs they expected to result from inclusion. Likewise, the more than 1,600 delegates who participated in the thirteen state ratifying conventions, which took place between 1787 and 1790 to consider adopting the Constitution, can be viewed as rational individuals who were making the choice to adopt the set of rules embodied in the Constitution as drafted at the Philadelphia Constitutional Convention. In doing so, they rationally weighed the expected costs and benefits of their decision to ratify. They voted to ratify only if the benefits they expected from adoption of the set of rules embodied in the Constitution exceeded the costs they expected to result from that set of rules. If not, they voted against ratification.

Contrary to earlier views that the founders' specific economic or financial interests cannot be principally identified with one side or the other of an issue, the modern evidence indicates that their economic and financial interests can be so identified. When specific issues arose at the Philadelphia convention that had a direct impact on important economic interests of the founders, their economic interests, even narrowly defined, significantly influenced the specific design of the Constitution, and the magnitudes of the influences were often quite large. The types of economic interests that mattered for the choice of specific issues were those that were likely to have accounted for a substantial portion of the overall wealth or represent the primary livelihood of the founders.

Even when the founders were deciding on the general issue of the basic design of the Constitution to strengthen the national government, economic and other interests significantly influenced them. In terms used in constitutional political economics, even when the founders were making fundamental "constitutional" choices rather than more specific-interest "operational" choices, the modern evidence indicates their choices were still consistent with self-interested and partisan behavior. In terms used among legal scholars, even when the founders

were involved in the "higher lawmaking" of the "constitutional founding," they were still self-interested and partisan. Partisan behavior explains even this "constitutional moment." However, the modern evidence does indicate that fewer economic and financial interests mattered for the basic design of the Constitution than for specific-interest aspects of it.

The Specific Findings for the Constitutional and the Ratifying Conventions¹¹

Financial Securities. The financial securities holdings of the founders often had a significantly large influence on their behavior and founders with such financial assets were often aligned with each other on the same issue. These findings are in contrast to a strongly held view among many historical scholars that the founders' financial securities holdings had little or no influence on their behavior or that these founders were not aligned on common issues. For a small number of the important issues considered at the Philadelphia convention, the founders' financial securities holdings mattered. Moreover, during the ratification process, the financial securities holdings had a major influence. Specifically, delegates with private securities holdings (private creditors) or public securities holdings (public creditors), and especially delegates with large amounts of public securities holdings (generally, Revolutionary War debt), were significantly more likely to vote in favor of ratification.

This does not mean that all securities-holding delegates voted together at the various constitutional conventions. What it does mean is that the holdings of financial securities, controlling for other influences, significantly *increased* the likelihood of supporting some of the important issues at the Philadelphia convention, particularly those issues that strengthened the central government (or weakened the state governments). For example, one issue that the financial securities holders were more likely to have supported was a proposal to absolutely

¹¹ All of the specific findings discussed in the remainder of this chapter are taken from McGuire (2003).

prohibit state governments from issuing paper money. This means that the securities holders (creditors) at the convention desired to constrain the states' ability to inflate away the value of their financial holdings through expansion of the supply of state paper money. Not surprisingly, the twelve founders at Philadelphia with private financial securities holdings voted unanimously in favor of the prohibition. Likewise, those with public securities holdings were significantly more likely to have favored it. The evidence indicates that a founder at Philadelphia with any amount of public securities holdings, who at the same time possessed the average values of all other interests represented at the convention, was 26.5 percent more likely to vote yes than was an otherwise average delegate with zero public securities holdings. (For the former delegate, the estimated likelihood of voting yes is 92.2 percent; for the latter, the estimated likelihood of a yes vote is 72.9 percent.) With respect to the ratification process, a delegate's financial securities holdings, controlling for other influences, significantly *increased* his likelihood of voting in favor of ratification at his state convention. An implication that can be drawn from this evidence is that to the extent some delegates with financial securities holdings did *not* support strengthening the central government, or did *not* vote for ratification, it was the effects of their other interests that influenced them to vote "no."

Slaveowners. The view of many historical scholars is that delegates who were slaveowners and those who represented slave areas generally supported strengthening the central government and ratifying the Constitution. While this may be correct as far as it goes, the issue of the influence of slaveholdings on the behavior of the Founding Fathers, as is the influence of any factor, is actually more complex. The modern quantitative evidence indicates that, although a majority of the slaveowners and a majority of the delegates from slave areas, generally voted for issues strengthening the central government or generally voted for ratification, the actual

influence of slaveholdings or representing slave areas per se was to significantly *decrease* a delegate's likelihood of voting for strengthening the central government or voting for ratification.

As with the findings for financial securities holdings, this does not mean that all slaveholding delegates or all delegates from slave areas voted together at the various constitutional conventions. What it does mean for the Philadelphia Constitutional Convention is that slaveholdings, controlling for other influences, *decreased* the likelihood of voting at the convention for issues that would have strengthened the central government. For example, one issue that slaveholders at Philadelphia were less likely to have supported was a proposal that would have given the national legislature an absolute veto over state laws, which would have greatly strengthened the central government. This means that if the national veto had been put into the Constitution at Philadelphia, which it was not, the national Congress, especially if it had a majority of non-slaveholding representatives, could have vetoed state laws concerning slavery, for example. This would have given the national Congress the power to limit the economic viability of slavery, if it so chose. Not surprisingly, the modern evidence suggests that a delegate at Philadelphia who owned the most slaves at the convention, for example, and had average values of all other interests, was one-twelfth as likely to have voted yes on the national veto than an otherwise average delegate with zero slaveholdings. (For the former delegate, the estimated likelihood of voting yes is a mere 3.9 percent; for the latter, the estimated likelihood is 45.9 percent.) Likewise, during the ratification process, slaveholdings, controlling for other influences, significantly decreased the likelihood of voting in favor of ratification at the state ratifying conventions. An implication from this evidence is that in the case of the slaveholding delegates and the delegates from slave areas, who did vote to strengthen the central government or *did* vote for ratification, it was the effects of their other interests that influenced them to vote

"yes."

Commercial Interests. The modern evidence confirms that the framers of the Constitution and the delegates who attended the state ratifying conventions who were from the more-commercial areas of their states were likely to have voted differently from individuals from the less-commercial areas. The Founding Fathers who were from the more-commercial areas were significantly more likely to have voted for clauses in the Constitution that strengthened the central government and were significantly more likely to have voted for ratification in the ratifying conventions. The founders who were from the more isolated, less-commercial areas of their states were significantly less likely to support strengthening the central government and significantly less likely to vote for ratification.

Local and State Office Holders. Surprisingly, the findings for the ratification of the Constitution strongly conflict with the nearly unanimous prevailing scholarly view that the localism and parochialism of local and state officeholders were major factors in the opposition to the Constitution's ratification. The modern quantitative evidence, in fact, indicates that there were no significant relationships whatsoever between any measure of local or state office holding and the ratification vote in any ratifying convention for which data on officeholders were collected.

The Specific Founding Fathers Mattered: How the Constitution Might Have Been Different

One of the more important findings of the modern approach to the creation of the Constitution is that it makes evident the importance to historical outcomes of the specific individuals involved in any historical process. The modern evidence attests to the paramount importance of the specific political actors involved in the American constitutional founding. The estimated magnitudes of the influences of many of the economic, financial, and other interests on

the founders' behavior are large enough that they suggest the product of our nation's constitutional founding most likely would have been dramatically different had men with dramatically different interests been involved.

For example, had all the founders at Philadelphia represented a state with a population the size of the most populous state, and possessed the average values of all other interests represented at Philadelphia, the Constitution most certainly would have contained a clause giving the national government an absolute veto over all state laws. If the national veto had been put into the Constitution, which it was not, and representation in the national Congress was based on a state's population, which it was, and is, in the House of Representatives, rather than each state possessing an equal vote as under the Articles of Confederation, representatives from the most populous states could have controlled legislative outcomes. This would have given "large" states potential control over the "small" states. As might be expected, the modern findings indicate that the estimated likelihood of voting yes on the national veto for a founder at Philadelphia who represented the most populous state and possessed the average values of all other interests is 83.7 percent. That is, the likelihood the founder would vote for the veto clause is estimated at 83.7 percent. But the estimated likelihood for an "average" delegate, one with the average values of *all* measured interests including state population, is only 37.9 percent.

Or, had all the founders at Philadelphia represented a state with the heaviest concentration of slaves of all states, and possessed the average values of all other interests, the Constitution likely would have contained a clause requiring a two-thirds majority of the national legislature to enact any commercial laws. If the two-thirds majority requirement had been put into the Constitution, which it was not, it would have been more difficult to enact commercial laws, laws that could have regulated the slave-based export economies of the southern states.

The two-thirds requirement would have made it much more difficult for a future northern majority to impact negatively on the southern economy through commercial regulation. Again, as might be expected, the modern findings indicate that the estimated likelihood of voting yes on the two-thirds issue for an otherwise "average" founder who represented a state with the heaviest concentration of slaves is 91.4 percent; but it is only 20.6 percent for an "average" founder. The founders also might have excluded the clause in the Constitution that prohibits the national legislature from enacting export duties (taxes) had there been no delegates with merchant interests at the Philadelphia convention. The estimated likelihood of voting to prohibit national-level export duties for an otherwise "average" delegate *without* merchant interests is 50.5 percent. Thus, without merchant interests present, it is estimated that on average there was only a fifty-fifty chance of prohibiting taxes on exports. But the likelihood of voting yes is estimated to be 79 percent for an otherwise "average" delegate *with* merchant interests, and nine of the Founding Fathers at the Philadelphia convention possessed merchant interests.

The Specific Ratifiers Mattered More: How the Constitution Might Not Have Been Ratified

With respect to ratification, the quantitative evidence indicates that the magnitudes of the influences of the economic and other interests on the ratification votes were even more considerable than for the Philadelphia convention. The outcome of ratification appears to have depended even more on the specific individuals involved. The estimated influences were considerable enough that they suggest the outcome of ratification almost certainly would have been different had men with different interests attended the ratifying conventions. Had there been, among the ratifiers, fewer merchants, more debtors, more slaveowners, more delegates from the less-commercial areas, or more delegates belonging to dissenting religions, there would have been *no* ratification of the Constitution, at least no ratification as the Constitution was

written. For example, at the Massachusetts ratifying convention, the estimated likelihood of a yes vote on ratification for an otherwise "average" delegate who *was* a debtor is only 17.5 percent but if the same delegate was *not* a debtor it is 62.4 percent, a fairly large difference. For an otherwise "average" Baptist, the estimated likelihood of voting yes is only 16.2 percent but if the Massachusetts delegate was *not* a Baptist, it is 65.7 percent, an even larger difference. At the North Carolina ratifying convention, the estimated likelihood of a yes vote for an otherwise "average" delegate who was *not* a merchant is 17.5 percent but if the same delegate *was* a merchant it is 92.4 percent, a very large difference. For an otherwise "average" North Carolina delegate from the least commercial areas in the state, the estimated likelihood of voting yes is essentially zero; it is two-tenths (0.2) of one percent, but if the delegate was from the most commercial areas in the state, it is 75.3 percent, an even more substantial difference. At the Virginia ratifying convention, the estimated likelihood of voting yes for an otherwise "average" slaveowner is 45.1 percent but if the otherwise "average" delegate was *not* a slaveowner, it is 83.7 percent. Differences of these magnitudes suggest that ratification of the Constitution strongly depended on the specific economic, financial, and other interests of the specific individuals who attended the state ratifying conventions and that the outcome most likely would have been different had there been different individuals involved.

Broader Implications of the Modern Approach for Constitution Making

Overall, the modern approach to explaining the design and adoption of the U.S. Constitution suggests that it is unlikely that *any* real world constitution would ever be drafted or ratified through a disinterested and nonpartisan process. Because actual constitutional settings will always involve political actors who possess partisan interests and who likely will be able to predict the consequences of their decisions; partisan interests will influence constitutional choice.

The economic history of the drafting and ratification of our nation's Constitution makes it hard to envision *any* actual constitutional setting, including *any* setting to reform existing constitutions, in which self-interested and partisan behavior would not dominate. The modern evidence suggests that constitutions *are* the products of the interests of those who design and adopt them.

The Modern Approach versus the Traditional Approach

Much of the differences between the modern evidence and the evidence found in the traditional historical literature is a matter of the approach taken, as well as the questions asked, rather than a matter of arriving at fundamentally different answers to identical questions. Many studies in the traditional literature question an economic interpretation of the Constitution because they question whether the Constitution is strictly an economic document designed solely to promote specific economic interests. Of course, it was not designed merely to promote economic interests. Many others question an economic interpretation because they question whether the founders were really attempting to solely, or even to principally, enhance their personal wealth, or the wealth of those they represented, as a result of adopting the Constitution. Of course, the founders were not. Others question an economic interpretation because they question whether the founders were really involved in a conspiracy to promote specific economic interests. Of course, they were not. Others question an economic interpretation because they question whether political principles, philosophies, and beliefs can be ignored in an attempt to understand the design of the Constitution. Of course, they cannot. In contrast, the modern economic history of the Constitution does not take any of these positions.

Yet, the conclusions drawn from the modern evidence on the role of the economic, financial, and other interests of the founders *are* fundamentally different from the conclusions found in the traditional literature. The primary reason is that the statistical technique employed

in the modern reexamination yields estimates of the separate influence of a particular economic interest or other factor on the founders' behavior (how they voted) taking into account, and controlling for, the influence of other interests and factors on the founders' behavior. The traditional literature nearly always draws conclusions about how the majority of the delegates with a particular interest - for example, how the majority of public securities holding delegates - voted on a particular issue, *without* regard to the influence of other interests and factors on behavior and *without* any formal statistical analysis. Prior studies, consequently, do not control for the confounding influences of other factors when drawing conclusions about any particular factor. As a result, the modern reexamination and the prior studies will often reach different conclusions about the influence of the same economic interest or other factor on the founders' behavior. The conclusions differ because in a sense the studies *are* asking different questions. The modern economic history of the Constitution asks: How did a particular economic interest (for example, slaveholdings) per se influence a founder's voting behavior taking into account all the influences of other factors on voting behavior? Prior historical studies more simply ask: How many of the founders with a particular economic interest (for example, founders with slaveholdings) voted the same on a particular issue?

The modern approach to the creation of the Constitution may be disquieting to individuals of all political persuasions. It may be personally difficult for many to embrace. The evidence suggests motivating factors and intent on the part of our Founding Fathers that may be distasteful to conservatives, moderates, and liberals alike, to those on the left, in the middle, and on the right. The methodology employed, rational choice and methodological individualism, will be acceptable to some. But methodological individualism and a presumption of rational choice are likely to be troublesome to others. Some may have difficulty because an economic

approach to the creation of the Constitution appears "too calculating." To some, it may appear "too deterministic" or "too economic." Yet, it actually is meant to be a dispassionate view of the founders. It does not offer a special approach to the behavior of the founders because of the unique position reserved for them in our nation's history. It treats them as it would any political actor. The modern approach represents an impartial, disinterested explanation of the behavior of our Founding Fathers, employing what are today commonly accepted techniques of economic and statistical analysis. Yet, many individuals tend to look at our Founding Fathers through rose-colored glasses. They often place the founders on a pedestal and treat them as demigods. Many contend that the founders were motivated primarily, if not solely, by high-minded political principles "To Form a More Perfect Union." The modern approach argues otherwise.

References

- Ackerman, Bruce (1991), We the People, 2 volumes. Cambridge, MA: The Belknap Press of Harvard University Press.
- Beard, Charles A. (1913 [1935]), An Economic Interpretation of the Constitution of the United States. New York, NY: Macmillan Publishing Company.
- Bjork, Gordon Carl (1963), "Stagnation and Growth in the American Economy, 1784-1792," Ph.D. dissertation, University of Washington.
- Bjork, Gordon Carl (1964), "The Weaning of the American Economy: Independence, Market Changes, and Economic Development," Journal of Economic History 24: 541-560.
- Brown, Robert E. (1956), Charles Beard and the Constitution: A Critical Analysis of An Economic Interpretation of the Constitution. Princeton, NJ: Princeton University Press.
- Buchanan, James M., and Gordon Tullock (1962), The Calculus of Consent: Logical Foundations of Constitutional Democracy. Ann Arbor, MI: University of Michigan Press.
- Dougherty, Keith L. (2001), Collective Action under the Articles of Confederation. New York: Cambridge University Press.
- Elliot, Jonathan, editor, (1836 [1888]), The Debates in the Several State Conventions on the Adoption of the Federal Constitution as Recommended by the General Convention at Philadelphia, in 1787, 5 volumes. Philadelphia, PA: J. B. Lippincott.
- Farrand, Max, editor, (1911), The Records of the Federal Convention of 1787, 3 volumes. New Haven, CT: Yale University Press.
- The Federalist: A Commentary on the Constitution of the United States, Being a Collection of Essays written in Support of the Constitution agreed upon September 17, 1787, by the Federal Convention (1788 [1937]). New York, NY: The Modern Library.
- Ferguson, E. James (1961), The Power of the Purse: A History of American Public Finance, 1776-1790. Chapel Hill, NC: University of North Carolina Press.
- Grubb, Farley (2004), "Creating the U.S. Dollar Currency Union, 1761-1811: A Quest for Monetary Stability or a Grab for Sovereignty," American Economic Review: forthcoming.
- Higgs, Robert (1987), Crisis and Leviathan: Critical Episodes in the Growth of American Government. New York, NY: Oxford University Press.
- Jensen, Merrill (1964), The Making of the Constitution. New York, NY: Van Nostrand.

- Jillson, Calvin C. (1988), Constitution Making: Conflict and Consensus in the Federal Convention of 1787. New York, NY: Agathon Press.
- Journals of the Continental Congress, 1774-1789 (1904-1937), 34 volumes. The Library of Congress. Available at: <http://memory.loc.gov/ammem/amlaw/lwjc.html>.
- Kelly, Alfred H., and Winfred A. Harbison (1970), The American Constitution: Its Origins and Development, 4th edition. New York: W.W. Norton and Company.
- McCusker, John J., and Russell R. Menard (1985), The Economy of British America. Chapel Hill, NC: University of North Carolina Press.
- McDonald, Forrest (1958), We the People: The Economic Origins of the Constitution. Chicago, IL: University of Chicago Press.
- McGuire, Robert A. (2003), To Form A More Perfect Union: A New Economic Interpretation of the United States Constitution. Oxford and New York: Oxford University Press.
- McGuire, Robert A., and Robert L. Ohsfeldt.(1984), "Economic Interests and the American Constitution: A Quantitative Rehabilitation of Charles A. Beard," Journal of Economic History 44: 509-519.
- Nettles, Curtis P. (1962), The Emergence of a National Economy, 1775-1815. New York, NY: Holt, Rinehart, and Winston.
- Richards, Leonard L. (2002), Shays's Rebellion: The American Revolution's Final Battle. Philadelphia: University of Pennsylvania Press.
- Riker, William H. (1987), "The Lessons of 1787," Public Choice 55: 5-34.
- Rossiter, Clinton (1966), 1787: The Grand Convention. New York, NY: Macmillan Publishing Company.
- Shepherd, James F. (1993), "State Tariff Policies in the Era of Confederation," paper presented at the 68th annual meeting of the Western Economic Association International, Lake Tahoe, Nevada, June 21, 1993.
- Shepherd, James F., and Gary M. Walton (1976), "Economic Change after the American Revolution: Pre- and Post-War Comparisons of Maritime Shipping and Trade," Explorations in Economic History 13: 397-422.
- Storing, Herbert J. (1981), The Complete Anti-Federalist, 7 volumes. Chicago, IL: University of Chicago Press.
- Whaples, Robert (1995), "Where Is There Consensus among American Economic Historians? The Results of a Survey on Forty Propositions," Journal of Economic History, 55: 139-154.

Wood, Gordon S. (1969), The Creation of the American Republic 1776-1787. Chapel Hill, NC: University of North Carolina Press.

Walton, Gary M., and James F. Shepherd (1979), The Economic Rise of Early America. New York, NY: Cambridge University Press.