Washington Giving the Laws to America *(circa 1800) captures the almost mythical qualities Americans attached to the Constitution and its creators. The Framers themselves took a modest view. Washington wrote: "Experience is the surest standard by which to test" a nation's constitution.*

The Constitution

This spring, the nation will begin its major celebrations of the Constitution's bicentennial. A Smithsonian Institution symposium on "Constitutional Roots, Rights, and Responsibilities" in May is but one of many scholarly events that will accompany the fireworks, parades, and speeches across the land. Here, in advance of those events, our contributors variously recall the troubles of the young Republic that spurred the Founding Fathers to frame a new charter, describe the debates in Philadelphia, and trace the Constitution's evolution through amendment and judicial interpretation over the next 200 years. For easy reference, we also publish the text of the original Constitution and its amendments.

'IT IS NOT A UNION'

by Peter Onuf

When news of the Peace of Paris reached the United States in the spring of 1783, war-weary Americans marked the event with jubilant parades. In Philadelphia, a writer in the *Pennsylvania Gazette* pleaded with his fellow citizens to restrain their revels during the celebratory "illumination of the city." It was the end of seven long years of deprivation and sacrifice, and an occasion for much pride: The United States (with crucial help from France) had just bested the mightiest power on earth.

Patriots looked forward to a new epoch of prosperity and growth. In a Fourth of July oration in 1785, a prominent Boston minister named John Gardiner declared that "if we make a right use of our natural advantages, we soon must be a truly great and happy people." The hinterland would become "a world within ourselves, sufficient to produce whatever can contribute to the necessities and even the superfluities of life."

Many Americans shared Gardiner's optimism. Their land was inherently rich in natural resources, still barely exploited. Virtually all of its three million inhabitants (including some 600,000 black slaves)

still lived within 100 miles of the Atlantic Ocean, in a band of settlement stretching some 1,200 miles from Maine to Georgia. In 1790, the first U.S. census would establish the nation's demographic center at a point 25 miles *east* of Baltimore. At the time of the Revolution, that Maryland city, with a population of some 6,000, was the nation's fifth largest, behind Philadelphia (30,000), New York (22,000), Boston (16,000), and Charleston (14,000).

Directly or indirectly, city folk depended upon trade for their livelihood. Merchant ships set sail for Europe bearing wheat, corn, fur pelts, dried fish—or headed down the coast to pick up cargoes of tobacco, indigo, and rice from Southern plantations before crossing the Atlantic. They returned carrying calico, velvet, furniture, brandy, machinery, and often with new immigrants. Labor shortages in the cities pushed wages for servants, stevedores, and carpenters far higher than those prevailing in the cities of Europe. Many foreign visitors remarked on the new nation's general good fortune. "Nor have the rich the power of oppressing the less rich," said Thomas Cooper, a British scientist, "for poverty such as in Great Britain is almost unknown." (Such reports were not always reliable. One traveler wrote home about the amazing American Wakwak tree, with fruit that grew in the shape of a young woman.)

A Christian Sparta?

But the overwhelming majority of Americans—more than 90 percent—lived on farms. On a tract of 90 to 160 acres, the typical American farmer grew corn and other staples for home consumption, and raised chickens, pigs, and a dairy cow or two for his family, with perhaps a few extra animals to be bartered in the village market. Visits to town were weekly events at best; anyone who journeyed more than 50 miles from home was probably heading west, leaving for good. People and news traveled slowly. It took about a month for a Philadelphia newspaper to reach Pittsburgh, then a crude frontier outpost 250 miles inland.

Despite the general sparsity of population, local crowding and worn-out cropland in New England produced growing numbers of migrants. They crossed the Appalachians over rough wagon trails to the frontier in western Pennsylvania and Virginia, or to the future states of Kentucky, Tennessee, and Ohio. Other settlers moved South, to Georgia and the Carolinas. And all during the 1780s modest

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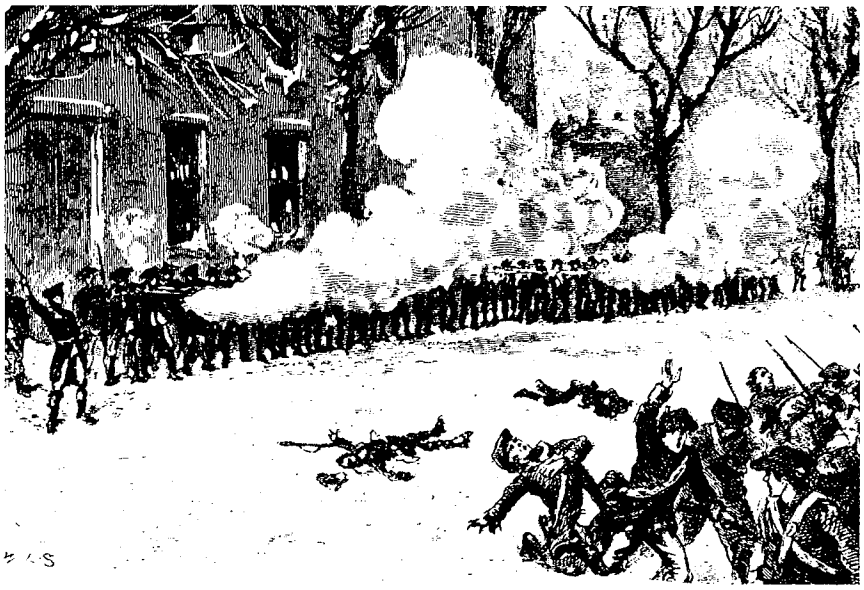

Shaysites fall under the fire of Massachusetts militiamen in 1786. Though quickly suppressed, Shays's Rebellion shocked the nation's leadership.

numbers of new immigrants from Europe continued to arrive at East Coast ports, chiefly from Ireland, Scotland, and Germany.

And yet, despite the outward signs of economic vitality during the mid-1780s, there was a growing alarm among many of the new nation's leaders—men such as George Washington, John Jay, and Alexander Hamilton. The states, only loosely bound together under the Articles of Confederation of 1781, were constantly bickering over conflicting territorial claims beyond the Appalachians, and Congress was powerless to mediate. Near Wilkes-Barre, Pennsylvania militiamen had even opened fire on Connecticut settlers.

Spain and Great Britain were poised to take advantage of the frontier's "anarchy." To the north, British troops still garrisoned forts along the Great Lakes, a violation of the Treaty of Paris. To the south, the Spaniards, who held New Orleans and claimed all the lands west of the Mississippi, had closed the great river to American shipping below Natchez. King Charles III's officers were actively encouraging American settlers in Kentucky to break away from the Union and establish political and commercial relations with Spain.

Washington and his allies worried less about America's outright conquest by a foreign power than the nation's fragmentation and decline into a state of degrading neocolonial dependency. A postwar

consumer spree deepened that concern. Samuel Adams, the austere Bostonian, fretted that his countrymen's hunger for "luxury" goods imported from England—glassware, clocks, rugs—was "prostituting all our glory, as a people." Few of his peers shared Adams's vision of a future America reigning as a virtuous "Christian Sparta," but they worried that the expensive imports would drain the nation of scarce hard currency and hinder the growth of domestic industry.

The states themselves were badly divided over these and other issues. The merchants, farmers, and fishermen of the North regarded the slave-owning plantation proprietors of the South with deep suspicion. Geographically and culturally, great distances separated them. Thomas Jefferson once drew up a list comparing the people of the two regions, describing Northerners as "chicaning," "jealous of their liberties and those of others," and "hypocritical in their religion." Southerners, he said, were "candid," "zealous for their own liberties but trampling on those of others," and devoted only to the religion "of the heart."

Economic issues were also divisive. Many Northern traders and politicians were angered by British laws that banned American merchantmen from the lucrative trade with the British West Indies, involving the exchange of Southern tobacco and rice for Caribbean sugar, molasses, and rum. But the Southerners feared a Northern monopoly on that traffic more than they did the relatively benign British one. Pierce Butler, later a South Carolina delegate to the Federal Convention, declared that the interests of North and South were "as different as the interests of Russia and Turkey."

Do-Nothing Congress

None of these challenges would have proved insurmountable for a strong national government. But the Continental Congress, operating under the Articles of Confederation, was ineffective. The Confederation was but "a firm league of friendship," as the 1781 document put it, that left the states their "sovereignty, freedom and independence, and every Power, Jurisdiction and right" not expressly delegated to the Continental Congress.

Among the many powers left to the states was that of taxing the citizenry. Congress received its revenues by levies on the state governments—"a timid kind of recommendation from Congress to the States," as George Washington described it. If a state chose not to pay, as often happened, Congress could do nothing.

Not only did the Articles grant Congress few powers, but they made it difficult for the legislature to exercise those that it did possess. There was no real executive, only a largely ceremonial president of Congress. The congressmen voted by states (there was thus no fixed number of legislators), and most important measures re-

quired the assent of nine of the 13 states to become law. Substantive amendments of the Articles could be adopted only by a unanimous vote in Congress and by the state legislatures. Every effort to strengthen the Confederation failed.

The history of the Articles themselves illustrates the difficulty of organizing concerted action by the states. A year after the Declaration of Independence, the Continental Congress, assembled in Philadelphia, had finally endorsed a draft of the Articles and sent it to the new state legislatures for ratification. Each of the ex-Colonies had strong objections, but, amid the pressures of wartime, they all swallowed their misgivings—except Maryland. It held out for four years, until March 1781. Meanwhile, the Continental Congress was forced to carry on the war effort without any constitutional authority. Laboring under enormous handicaps, it gave George Washington's beleaguered forces in the field little in the way of coherent support.

The 'Dogs of War'

By the mid-1780s, Congress was hard-pressed even to muster a quorum, and it suffered numerous indignities. In June 1783, after the Treaty of Paris, a band of mutinous soldiers surrounded the Pennsylvania State House in Philadelphia, where Congress was meeting, holding the legislators captive for a day. After the Pennsylvania authorities refused to call out the militia and restore order, the legislators decamped for Princeton, New Jersey, then moved to Annapolis, Maryland, before settling in New York City in 1785. The *Boston Evening Post* mocked the politicians for "not being stars of the *first* magnitude, but rather partaking of the nature of *inferior* luminaries, or *wandering* comets."

Victory, in short, had shredded many of the old wartime bonds. Without a common enemy to fight, Americans seemed incapable of preserving their Union. "Lycurgus," a pseudonymous writer in the *New Haven Gazette*, complained that the Union under the Articles "is not a union of sentiment;—it is not a union of interest;—it is not a union to be seen—or felt—or in any manner perceived."

Many local politicians—Congressman Melancton Smith of New York, Luther Martin of Maryland, George Mason of Virginia—dismissed such worries. The Antifederalists, as they were later called, believed that the preservation of republican liberties won by the Revolution depended on maintaining the sovereignty and independence of the states. They held, with Montesquieu, the great French *philosophe*, that republican government could survive only in small countries, where citizens could be intimately involved in politics. Maryland planter John Francis Mercer spoke for the Antifederalists when he declared that he was "persuaded that the People of so large a Continent, so different in Interests, so distinct in habits," could not

be adequately represented in a single legislature.

With some justice, the Antifederalists could also claim that the states were managing quite well. Their citizens enjoyed the benefits of the most progressive constitutions the world had ever known and, by and large, they were prospering. Patrick Henry dismissed all the talk of trouble in the land: Had *Virginia* suffered, he asked?

But Washington, Virginia's James Madison, and other advocates of an "energetic" central government warned that the 13 states would not survive for long on their own, at least not as republics. These nationalists (later called Federalists) viewed the growing power of the states as a threat to peace. The state governments had begun to fill the vacuum left by Congress, adopting their own commercial policies, ignoring national treaties, and, at the behest of wealthy citizens who feared that they would never otherwise be repaid, even assuming some debts incurred by Congress. The nationalists feared that increasing conflicts among the states would unleash what the Old Dominion's Edmund Randolph called the "dogs of war."

Whispering Treason

Such warnings were not easily dismissed. In New York, Governor George Clinton was enriching the state treasury by taxing merchandise shipped through New York between New Jersey and Connecticut. Feelings ran so high that Congressman Nathaniel Gorham of Massachusetts worried that "bloodshed would very quickly be the consequence."

The weakness of the central government handicapped American diplomats. Britain had refused to abandon its outposts on U.S. soil, arguing (correctly) that Congress had failed to enforce some of *its* obligations under the Treaty of Paris, namely, guarantees that prewar debts owed to British creditors would be repaid and that American Loyalists would be reimbursed for their confiscated property.* Several states had simply ignored these provisions.

On the frontier, the threats from foreign powers were a constant worry. Rufus King, a Massachusetts congressman, observed that if the nation's disputes with Spain over the Mississippi and other matters were not settled, "we shall be obliged either wholly to give up the western settlers, or join *them* in an issue of force with the Catholic king." Both prospects, he concluded, were unthinkable.

More troubling still to the nationalists were the activities of the American frontiersman themselves. From the Maine District of Massachusetts to western North Carolina, various separatists since the time of the Revolution had been petitioning Congress for admis-

*During the Revolution, some 100,000 Loyalists fled to Britain, Canada, and the British West Indies. Many of the exiles were well-to-do farmers or merchants, and they claimed to have left behind more than $40 million worth of property, which the state governments seized.

sion to the Union as new states. But the older states refused to relinquish their claims. Vermont, legally a part of New York, was the most durable—and dangerous—of these rebellious territories. Rebuffed by Congress during the Revolution, the Vermonters, led by a group including Governor Thomas Chittenden and Ethan Allen, hero of the Green Mountain Boys, had entered into not-so-secret negotiations with London to rejoin the British empire.

The nationalists were dismayed when these talks resumed in 1786. Washington wrote that the Vermonters might "become a sore thorn in our sides," adding, "the western settlements without good and wise management . . . may be equally troublesome."*

The Westerners, in Kentucky and Tennessee, were understandably frustrated by the weakness of the central government. Chief among their complaints was the absence of congressional help in fending off constant attacks by marauding Indians, often instigated by the British and the Spaniards. Nor could the state governments, they argued, effectively govern distant territories. "Nature has separated us," wrote Judge David Campbell of the would-be state of Franklin in western North Carolina. The frontiersmen's anger grew during 1786 and 1787 as rumors circulated that Congress was negotiating with Spain, offering to relinquish American claims to free navigation of the Mississippi in exchange for trade advantages. (These suspicions were justified, but the talks collapsed.) Kentucky's General James Wilkinson and other Westerners talked openly about leaving the Union and forming alliances with the Old World.

A Rat and a Gamble

All of the nationalists' apprehensions were dramatized by a shock in the summer of 1786: the outbreak of Shays's Rebellion.

The rebels were farmers in economically depressed western Massachussetts who faced ruinous new state taxes imposed to help retire the state's wartime debt. As distress turned to anger, Captain Daniel Shays, a veteran of the Revolution, emerged as the leader of a ragtag mob that gathered to close down the Massachusetts courthouses that oversaw farm foreclosures and sent debtors to jail.

Thomas Jefferson, serving abroad as the American minister to France, was unperturbed. "I like a little rebellion now and then," he wrote to Abigail Adams. "It is like a storm in the Atmosphere." But in the United States, the uprising could not be so airily dismissed. It sparked the first general alarm about the future of the Union. "I never saw so great a change in the public mind," observed Boston merchant Stephen Higginson that autumn.

Word of the insurrection spread quickly. In Annapolis, Maryland,

*Vermont finally gained statehood in 1791.

the news came during the first week of September, just as delegates from five states were meeting to discuss the condition of the Confederation's commerce. Among them were two of the country's most ardent nationalists—James Madison and New York's Alexander Hamilton—who were desperately seeking ways to strengthen the central government.

The stage for the Annapolis Convention had been set two years earlier at Mount Vernon, at a meeting hosted by George Washington. There, in March 1785, commissioners from Virginia and Maryland had met to resolve their disputes over tolls and fishing rights on the Potomac River. The success of the meeting led the two state legislatures to call for a larger meeting of all the states, to be held at Annapolis, to consider granting Congress broader powers to regulate interstate commerce.

The Annapolis Convention was a failure. Eight of the 13 states sent no representatives. More out of desperation than careful forethought, Hamilton and Madison proposed yet another meeting to consider strengthening the Confederation, to be held in Philadelphia in May 1787.

So clear to the Annapolis delegates was the case for reform that they might well have agreed to the Philadelphia meeting even without the shocking news from Massachusetts. The six-month rebellion was effectively ended in January 1787, in a battle near the federal armory at Springfield. Four Shaysites lost their lives. But the insurrection had already persuaded many state and local leaders to put aside their doubts about the need for a stronger central government.

In February 1787, after several states had already elected delegates to the Philadelphia Convention, the Continental Congress in New York City endorsed the gathering, with the stipulation (added at the insistence of Massachusetts) that it meet "for the sole and express purpose of revising the Articles of Confederation."

Patrick Henry, the fierce opponent of a stronger Union, had already declined to be a delegate from Virginia, declaring that he "smelt a rat." Indeed, few of the American political leaders who recognized the need for reform harbored any illusions about merely patching up the Confederation. They did not know what would happen at Philadelphia, or even if, like the Annapolis meeting, it would prove to be a failure, but they were now prepared to gamble. As Madison put it one month before the Federal Convention, the hurdles confronting any reform were so great that they "would inspire despair in any case where the alternative was less formidable."