

ELEVEN REVOLUTIONS

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Was the war in which the United States won its independence from Britain also a revolution? Compared with the French Revolution, the American Revolution was hardly revolutionary. Certainly what happened in the United States between 1775 and 1783 was not an economic or social revolution. In some ways, the states in 1783 were more like they were as colonies than they are like those states today. The new state constitutions did not generally replace one class with another in leadership positions, although many loyalists fled to Canada during the war, and their property was confiscated. Many of the colonial leaders became state leaders. What changed was not so much personnel as institutions. More than replacing the persons who held power, the American Revolution redefined the positions of power. A modern United States federal election could conceivably replace the president, vice-president, cabinet, a third of the Senate, and all of the members of the House of Representatives, but there would still be no revolution if the same constitution prevailed. Personnel change can occur without constitutional change, because

constitutions are not concerned with who is in office as much as how they are chosen, what they can or cannot do, and how they will be replaced.

When I composed my dissertation, I compared the first state constitutions with the colonial frames of government they replaced in an attempt to answer the question: “How revolutionary, in an institutional sense, was the American Revolution?” After my research, I concluded that the United States, during its war for independence, underwent a true political revolution. In reality, there was not a single revolution, but many, as each colony became a state. In eleven of the thirteen states, there was enough political change to justify the term revolutionary, and in some experienced more revolution than others.

Connecticut and Rhode Island were exceptions. They were the only two colonies that did not write new constitutions in their transition from colonies to states. They did not have to. They were already virtually independent. They already elected both their lower and upper houses of their legislatures, and they even elected their governors, who served terms of only one year. Connecticut and Rhode Island also had the most frequent legislative elections. Before 1776, Rhode Island and Connecticut were practically independent already, except for trade and foreign policy. Consequently, they merely adapted their colonial charters as their first state constitutions.

In the other eleven colonies, independence required revolution. British imperial policy before the French and Indian War had allowed them more self-determination than contemporary French or Spanish colonies, but they were not at all like Connecticut and Rhode Island. The voice of non-elected officials, in eleven of the thirteen colonies, was loud enough to drown out the voice of elected representatives. In those colonies, colonists were subject to officials and even legislators who were in no way subject to them.

Eight of the states drafted new constitutions in 1776, four of them even before the Declaration of Independence. Two of these rewrote their first constitutions by 1785. Two other states wrote their first constitutions in 1777. Massachusetts was the last state to draft a constitution, which it completed in 1780, but that constitution lasted into the twentieth century. Connecticut and Rhode Island did not write new constitutions until 1818 and 1842, respectively.

Most dramatic of all the institutional changes wrought by American independence was the conversion of partially representative governments into fully representative ones in which every state official was either elected or chosen by someone who was elected. Power before 1776 came from above and below, but after independence it came only from the electorate over whom it

was exercised. Self-government was the most important legacy of the American Revolution.

In most colonial governments, beyond the local level, only the legislatures contained persons who were elected, and these were usually confined to the lower of two houses. In most states, the American Revolution made legislatures more representative, not only by making all legislatures subject to election, but by increasing the number of legislators, by shortening the terms of the legislators, by requiring legislators to have been and be residents of the districts they represented, and, in some cases, by reapportionment to increase representation for western regions that had gained population. Some of the new states also reduced qualifications for voting so that more of the inhabitants could participate in the election process. Behind all these changes was the idea that taxes and laws should be made by representatives of the people who would have to pay and taxes and obey the laws. In other words, there should be no taxation or legislation without representation. For one man to tax another man without his consent was considered theft. For one man to pass a law for another man without his consent was considered slavery.

Before independence, only five of the thirteen states had fully elected legislatures. Besides Rhode Island and Connecticut, they were Pennsylvania,

Delaware, and Massachusetts. The legislatures of Pennsylvania and Delaware were unicameral, consisting of only one elected house. In Massachusetts, the elected members of the lower house chose the members of the upper house. Eight of the thirteen states had upper houses of their legislatures composed of members who were not elected by the people but chosen by non-elected leaders who inherited their authority. The king of Britain chose the members of the upper houses of seven of the colonies, and a proprietor chose the members of the upper house of Maryland. After independence, every state elected all members of the legislature, either directly or indirectly. The first state constitutions generally transformed semi-representative legislatures into fully representative ones in which every legislator would be elected by persons affected by his laws and taxes, and every legislator was subject to those same laws and taxes.

The first state constitutions also made the legislatures more representative by increasing the number of legislators, which reduced the number of persons per legislator, increasing the opportunity for constituents to be heard. It also facilitated the expression of more points of view, and expanded the opportunity for people to become legislators. Every state except Connecticut and Rhode Island added more legislators, eight of them by

significant amounts. In New York, for example, the number of legislators increased from 43 to 94. In Pennsylvania, the number of legislators increased from 58 to 72, in Delaware from 18 to 30, in Georgia from 37 to 60, and in North Carolina from 72 to 111. In South Carolina, the number of legislators increased from 62 to over 200.

Before the revolution, appointed members of the upper houses of eight colonies had served indefinite terms, and many states had lower houses of legislators who were elected for multi-year terms. Eight of the thirteen new states shortened the terms of legislators. More frequent elections kept lawmakers more responsive to voter opinion. New York and New Jersey reduced the term for lower house members from seven years to one. After the new state constitutions, members of all the lower houses of the state legislatures, and of the unicameral legislatures of Pennsylvania and Georgia, served no more than one year, except for South Carolina, in which the term was two years. The maximum number of years a member of the upper house of a state legislature served, after independence, was five years. In eight of the new states, the maximum number of years between legislative elections was only two.

Writers of the first state constitutions also helped to make legislatures more representative by establishing residence requirements for legislators. By

requiring lawmakers to come from the areas for which they would speak, the constitution drafters rejected the principle of virtual representation by which Parliament had claimed the right to legislate for Americans who did not sit in it. Eight of the eleven states that wrote new constitutions required not only that a legislator be a resident of the state but also of the district he represented. Residents of a region could be expected to be familiar with its problems and needs. Furthermore, laws affecting a region needed to be made by persons living in it to make lawmakers subject to their own work. South Carolina required a legislator to have property in the district he represented.

The first state constitutions related representation for districts to their population. Nine of the eleven states that wrote new constitutions either expanded representation for western districts that had increased in population or related representation to population. The principle of equality was not yet a reality, but the states were moving toward it.

Seven of the eleven states that wrote new constitutions expanded suffrage by reducing property requirements to vote. Merely paying taxes met the property requirement in three states (Pennsylvania, New Hampshire, and North Carolina), and New York cut property requirements for voting in half. In New Jersey, the 1776 constitution even allowed women to vote.

The American Revolution was most revolutionary in what it did to the office of governor. Governors of eleven of the thirteen colonies were not elected. They owed their positions not to the persons they governed, but rather to the king or proprietor who appointed them. If they wanted to keep their jobs, they had to please the king or proprietor, not the people over whom they exercised authority. Only Connecticut and Rhode Island elected their governors before 1776. The king appointed the governors of eight of the colonies, and proprietors chose the governors of three others. After the American Revolution, governors were all chosen either directly by voters or by legislators who themselves had been elected. The new state constitutions made all governors responsible to the people.

Seven of the new state constitutions allowed the elected legislatures to choose the chief executives. The other six states let voters directly elect the governor, or president, or executive council that acted as chief executive. By making the governor's office representative, writers of the first state constitutions made certain that those who exercised power over others would be under their power as well. The first state constitutions took a large step toward John Locke's ideal of government by consent of the governed when they

made governors subject to the authority of many of those over whom they exercised authority.

The new state constitutions also reduced the terms of the governors or chief executives. Before 1776, there was no limit to the terms for governors appointed by the king or proprietor in eleven of the thirteen states. They served indefinitely, or at the pleasure of the aristocrat who appointed them. Only Connecticut and Rhode Island limited the terms of their governors. After independence, every governor served a term that ranged from one to three years. In nine of the new states, the chief executives served for a term on only one year. Frequent elections kept governors mindful of their positions as servants rather than as masters of the governed. Six of the new states constitutions established residency requirements for governors. Requiring them to have lived in their states for a certain number of years insured that governors would be familiar with the problems and desires of the people over whom they exercised authority.

Independence increased the power of the legislatures over the governors. In colonial times, appointed governors could not only veto acts of the legislatures but could also prorogue them or determine when and where they would be called into session. The first state constitutions, except in three

states, denied the governor the power to veto an act. In eight of the eleven states that wrote new constitutions, governors could not prorogue the legislatures. In the other three, the governor's power to prorogue was limited to not more than 90 days. Eleven of the thirteen states gave legislatures the power to impeach executive officials, including the governor. Times of legislative sessions were clearly defined so that legislatures were less subject to the will of a governor, elected or not. Not content with making the governor responsible to the people, the state constitutions took away much of his power. The constitution writers did not want to concentrate power in the hands of any one person, even if he were popular. The policy is not surprising in light of the fact that nine of the state constitutions were written by the state legislatures, and royal or proprietary governors had often defied the legislatures of the colonies before their independence as states.

The principle of separation of powers and checks and balances was written into the first state constitutions long before it was incorporated into the federal constitution of 1787. Five of the thirteen new states limited the number of offices that could be held by any one person. Every state that wrote a new constitution forbid certain officials from sitting in the legislature or in more than one branch of government at the same time. Eight of the new constitutions

allowed judges to serve during good behavior rather than at the pleasure of who appointed them, making those judges more impartial and independent.

Seven of the first state constitutions forbid clergymen from sitting in the legislature, moving toward the idea of separation of church and state.

Distributing power among different branches was a method state founding fathers used to insure that the new governments would limit the power of any one man or body of persons. The first American constitutions increased the number of political offices for which persons could vote or run. Some officials could not serve subsequent terms, allowing greater rotation in office and more opportunity for others to hold positions of authority. In seven states, officials had to leave an office for a certain number of years before they could hold that office again. The new constitutions encouraged transfers of power because the framers distrusted anyone who held much power for much time. Like Lord Acton, they believed that power often corrupted.

The first state constitutions limited the power of state governments by more than separation of powers and checks and balances. Seven of them also contained declarations of rights that defined the rights of individuals that no government should violate. States that included declarations of rights in their new constitutions included Massachusetts, New Hampshire, Pennsylvania,

Delaware, Maryland, Virginia, and North Carolina. The place of the declarations of rights was usually at the beginning of the constitution, demonstrating that the purpose of government is to protect the rights of the people. Lists of specific rights had not generally been a part of the colonial frames of government. What was revolutionary about the first state declarations of rights was not only the traditional rights of Englishmen they defined, but the fact that they were enumerated with unquestionable application to Americans, and, by implication, to all mankind. The rights of Englishmen had become the rights of Americans, and the rights of Americans had become the rights of humanity.

The seven state declarations of rights were remarkably similar to one another. Some were copied almost word for word from the constitutions of neighboring states caught up in the common struggle, reflecting a consensus of political ideals. They included freedom of religion, or the idea that the government should neither dictate a certain religion nor forbid a certain religion; right to trial by a jury of peers; freedom from self-incrimination, which implied a hostility to government-applied torture for confessions; freedom from unreasonable searches and seizures; and a host of other rights that later found their way into the first ten amendments of the federal constitution.

In summary, eleven of the new states wrote new constitutions that revolutionized their governments. By making both houses of the legislature elective, by increasing the number of legislators, by shortening legislative terms, by relating representation to population, by increasing representation for the growing western districts, by establishing residency requirements for legislators, and by enabling a larger percentage of the population to vote, the new state constitutions generally made legislatures more representative and democratic. By making governors subject to direct or indirect election, by limiting their terms of office, and by requiring them to be residents, state constitution writers forced governors to be more sensitive to the needs and wants of those over whom they exercised authority. By separating the powers of government into branches that could check each other, by sharply reducing the governor's power, by making judges more independent of those who appointed them, and by enumerating individual rights, the new state constitutions limited the powers of government and its officials. More elected offices, requirements for rotation in office, and prohibitions on multiple office-holding increased the opportunity of the people to hold public office. In all of these ways, the new state constitutions took significant steps in the direction of greater liberty and democracy. The emerging state governments were not very progressive

compared with later constitutions, because representation and office holding was still mostly limited to white men with certain amounts of property and certain religious beliefs, but the new governments were significantly more democratic than the ones they replaced. They furnished models for the later federal constitution and for new governments created in Europe by the convulsions of the French Revolution and the armies of Napoleon.

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