A Revolution in Favor of Government
Origins of the U.S. Constitution and the Making of the American State

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of the citizens were no longer visible to, nor much felt by, the taxpayers. the Constitution and the Federalists took the American people some way back toward pruner conditions, when they could enjoy the benefits of government without paying for its costs.25

With the "Revolution of 1800," this peculiarly American system of taxation was perfected; the Republicans abolished internal taxation and made the federal government rely solely on the impost for its tax revenue. With evident self-satisfaction, Jefferson could declare in his second inaugural address that his prudent policies had made it possible to discontinue internal taxation.

The remaining revenue on the consumption of foreign articles, it paid cheerfully by those who can afford to add foreign luxuries to domestic comforts, being collected on our seaboards and frontiers only, and incorporated with the transactions of our mercantile citizens, it may be the pleasure and pride of an American to sit, what farmer, what mechanic, what laborer, ever sees a tax-gatherer of the United States.26

CONCLUSION:
THE CONSTITUTION,
THE FEDERALISTS, AND
THE AMERICAN STATE

With the adoption of the Constitution by ratifying conventions in Virginia and New York in the summer of 1788, the Federalists emerged victorious from the great struggle over ratification. In orations, poems, toasts, and songs, the friends of the Constitution celebrated America's entry into "An Era new." But, while the Federalists enjoyed their success, Antifederalists refused to accept defeat. Instead, they began the campaign for a second constitutional convention. Although that campaign came to nothing, many of the men who had voted against the Constitution soon became virulent critics of the first Federalist administrations. Thus, ratification did not mean the end of politics, nor did it mean that debate about the future course of the American republic ended. Nevertheless, the votes in Richmond and Boston were certainly important. Now the Federalists faced the next step of state building, creating the institutions of government that would realize their ideas about a national state in America.

The mainstream interpretation of the Federalist argument presents it as a call for limited government and protection of minority rights. This study has offered a different interpretation. It sees the Federalist argument as an attempt to convince the American public about the need to build a powerful state and to explain how this state would work. The idea of an American national state that they developed during the ratification debate was the result of creative thinking in the face of serious challenges. Although the rest of this conclusion is devoted to an explication of both the challenge the Federalists faced and the concept of the state they developed, it is possible to sum up the basic issue here: What the Federalists had to do, and what they did, in the debate over ratification, was to develop a conceptual framework that made it possible to accommodate the creation of a powerful national government to the strong anti-statist current in the American political tradition.
Among historical sociologists, one of the most common explanations for the process of state building is the pressure of war and the competitive environment of the international system of states. The response made by both Federalists and Antifederalists to American independence may seem to confirm the validity of such explanations. Yet further reflection on state building suggests that external pressure did not determine the development of states in any absolute sense. Even though the creation of a “fiscal-military state” may have been a prerequisite for a nation’s political survival and economic well-being, the historical record demonstrates that this type of state could be formed by different trajectories. Thus, although both France and Britain developed “fiscal-military states” that provided the same basic functions, they did so by radically different paths: France through absolutism and Britain through a parliamentary system.

In the debate over ratification, the conflict between the Federalists and the Antifederalists did not concern the need for stronger government or the nature of this strength. Rather, their disagreement turned on the questions of how strong government would be created and what the consequences of it would be. The crucial issues to the Antifederalists were the likely effect strong government would have on popular rights and liberties and the need for limits to the state’s extractive capacity. These questions may appear distinctly separate but were, in fact, closely intertwined. A strong government would affect traditional Anglo-American rights to property and person primarily through its extractive capacity. It would do so not only by making claims on the citizen’s property but by means of taxation but also, to a lesser extent, on his person through demands for military service. For this reason, the disagreement between the Federalists and the Antifederalists can be reduced to the single question about the acceptable extent of the new government’s extractive powers.

Federalists and Antifederalists approached this question differently. The latter fell back on a tradition of anti-statism that was well established in America, resorting to arguments employed in the struggle against the expansion of British power during the 1760s and 1770s. Before the Peace of Paris in 1783, the colonists had lived happily under the protective wing of the British Empire. It was only when the British state tried to extend its powers of extraction that the colonists turned against the Empire and in the process developed a reasoned argument why it was legitimate to do so. Like the ideologues of the Revolution, the Antifederalists based their critique of the Constitution on the importance of maintaining the state governments’ monopoly on extractive powers. The power over direct taxation and the command over the militia had to remain in the states, or else the state governments would dwindle away and the people be exposed to the insatiable demands of a distant and expensive government. By their choice of rhetoric, the Antifederalists became the bearers of the Country tradition, which had informed the Revolution and which would soon inform the opposition politics of the Democratic-Republicans. This choice
was caused by a structural deficiency of the union. The Articles of Con-

The Constitution gave Congress certain responsibilities but failed to provide the means to attain them. Such a pernicious grant of power from the states to the union conformed to the widespread aversion to distant and costly government among the people. This was where the Federalists faced a challenge. They wished to create a powerful national state, but they would only be able to secure popular acceptance of such a state if they could demonstrate that it was exercising its extractive capacity. It would not threaten the personal, liberty or well-being of the citizens. The Federalists solved this dilemma by developing a blueprint for a state that would be powerful yet respectful of the people's aversion to government. The key to this understanding was federalism.

The creation of a “fiscal-military state” demanded the centralisation of authority. Britain and continental Europe had achieved this by strengthening the position of Parliament and the monarch respectively. Even if the Federalists had been inclined to either of these alternatives, and there is nothing to suggest that they were, these alternatives were hardly feasible in America. A federal system of government, by contrast, provided a partial centralisation of authority, that is, a centralisation of certain specified powers. Federalism, therefore, promised the creation of a limited and “focused” yet strong national government. The idea that the Constitution was a transfer of specified powers—a made by the American people—

from the states to the national government appeared soon after the Constitu-
tion had been made public. The national and the state governments, the Federalists argued, were fundamentally different institutions. Whereas the states were established by a grant of every power and right that the people had not explicitly reserved, the national government was established through a grant of specified powers. Everything that was not granted was reserved by the people or vested in the states.

The federalist principle confined the federal government to a sphere in which it was generally recognized that the union had to act as one nation: essentially, the areas of defense, commercial regulations, and for-

These relations. Ensuring that it would not stray into other government activities was one important way to increase the legitimacy of the new national government. Nevertheless, the most significant problem remained: How would the Federalists' state meet the means that would allow it to act vigorously within its sphere of government, without putting so much pressure on the citizens that they would find it oppressive? Here the road to legitimate government went through good statesmanship, good administration. It was sometimes held that, in the long run, the people would gradually develop loyalty to the new government when they found that it governed well. In the short run, however, Federalists hoped that the new government would acquire legitimacy by reducing the overall pres-

ure of government on the people. Although the long- and short-term strategies of the Federalists converged to some extent, there is also a tension

II

Before proceeding to a discussion of the Federalists' idea of a national American state, it may be useful to briefly recapitulate the argument so far. The Federalist understanding of their national state developed from the awareness that the national government was too weak to defend the territorial and commercial interests of the United States. That weakness

CONCLUSION
between them. While the former aimed at winning the hearts and minds of the American people, the latter aimed to reduce contact between the national government and the citizens to a minimum. I will confine discussion to the short-term strategy, which was more important to the argument the Federalists presented during the ratification struggle.

Contact between the government and the people could be reduced by making the right choices about the state’s resource mobilization. If administered correctly, the national government could be both powerful, on the one hand, and light and inconspicuous, on the other. It could be argued that this equation was easier to solve because a fortunate geopolitical situation and modest foreign policy goals meant that the United States could manage with only a small national state. Yet this argument is open to doubt, because geopolitics and foreign policy goals can vary with equal validity be regarded as, respectively, a principal cause and a principal consequence of the powerful anti-statist tradition that served as the foremost barrier to American state-building. But, regardless of how we view these matters, there is nothing in the debate over ratification that suggests that the Federalists contemplated the creation of a big and expansive government. Few thousand soldiers and a small civil administration, mainly made up of customs men and a handful of law officers, would prove sufficient.

Even though the Federalist national state was intended to be small, it would still need resources and it could still raise those in ways that were more or less conducive to the sentiment of the people. In general, the Federalists planned to reduce the “friction” that was likely to arise from resource mobilization, by making the national government as independent of the people as possible. Their aim was to create a government that was light, in the sense that its demands did not press too heavily on the people. Thus, there would be no demand on the citizens to provide for the defense of the country. Instead, this would be taken care of by professional soldiers, thereby freeing the citizens for the pursuit of private happiness. There would be no direct taxes on polls and land and, consequently, no more tax auctions or evicted families. Direct taxes would be replaced by a national import and, possibly, an excise on spirits. In this way, the overall tax burden would actually decrease and the pressure on the people be eased. By their very nature, indirect taxes on consumer items were oppression. If the tax became too heavy, consumption would decrease and tax evasion increase, thereby leading to a reduced revenue. Self-interest would therefore force the government to avoid levying too heavy taxes. Yet another way to reduce the pressure on the citizens was by restoring public credit. If the union’s credit rating was good, the national government could raise money enough to pay only the interest charges on the debt and postpone payment on the principal. In future crises, sound public credit would allow the mobilization of resources without a dramatic increase in tax pressure, thereby ensuring a minimum of state interference in the lives of the citizens.

Aiming to reduce contact between the national government and the people, the Federalists also tried to make the new government as inconspicuous as possible. Thus, the actual physical presence, the very visibility of the national government would be limited. The small peace-time army would be quartered in posts along the western and northern borders. There would be no soldiers quartered among the civilian population, as the case was in Britain and in major American ports in the years preceding independence. The concentration of the troops in a distant and thinly populated border area also ensured that American regulars would not be used to enforce law and order, a further difference from British and European conditions. The revenue service, which in all “fiscal-military states” made up by far the greatest part of the civil administration, would essentially be a waterfront operation. It would come into direct contact only with merchants involved in overseas trade. Like the settlers on the frontier, such merchants—and, indeed, the rest of the population in the port cities—were likely to support the new government because they were obviously stood to gain from it.

Federalists even argued that if direct taxes ever had to be levied by Congress, they would not be administered by a separate department of federal tax collectors and surveyors. Instead, the national government would employ state officers in a federal capacity, thereby investing the federal taxman with the legitimacy of the state government. This idea also appeared in discussions of the federal judiciary. Thus, according to some Federalists, there would be no construction of federal courthouses, nor would a distinct corps of federal judges be created. As with the internal revenue, Congress would use state courthouses and employ state judges to hear federal cases. In short, as soon as the national government entered the American interior, it would try to merge as fully as possible with the already existing government apparatus of the states.

Once the Constitution was adopted and the Federalists were in power, they came to pursue policies and create institutions consistent with the principles they had expressed in the ratification debate. The state they made was financed almost exclusively by the proceeds from customs duties, Federal assumption of state debts and of the union’s expenses for its defense and common debt allowed the states to reduce taxation dramatically, thereby easing the burdens of the people. The Federalist peace establishment came to exist of a small regular army, which served as a border constabulary securing western expansion by overcoming the Indian tribes that stood in the republic’s way. Together with Congress’s unwillingness to reform the militia, all this made sure that the demands made by the national government on the citizens in the fiscal and military sphere were next to nonexistent. Despite their success in creating a state that was inconspicuous and light, the Federalists fell from power in the election of 1800. Yet the shift in power was not accompanied by any radical reform of government pol-
In the fiscal and military sphere, the Federalists had created institutions that outstripped them. In fact, they laid the groundwork for what would serve as the American national government throughout the nineteenth century.

Even though the principle of federalism would limit the national government to a few specified functions, and even though it would strive to reduce contact with the citizenry by imposing as little pressure as possible and by becoming almost invisible, it would be wrong to conclude that the Federalist state would be a weak state. As the Anti-Federalist opposition suggests, the Constitution created a government possessing all the important powers of the European "fiscal-military state." If we return momentarily to the structure of the Hanoverian state, we can better appreciate the Anti-Federalists' objections to the Constitution and their claims that the state governments would wither away as a result of its adoption. In Britain, as much as 90 percent of government expenses went to pay for activities relating to the "fiscal-military sphere," that is, armies, navies, and debt servicing. If the Constitution was adopted, all the functions pertaining to the "fiscal-military state" would belong to the national government, and it would become vastly more important than the state governments. Furthermore, consider that state growth in the eighteenth century consisted of growing armies and fleets, as well as growing revenues and public debt; there was every reason to believe that the state governments would be completely dwarfed by the national government in the future.

The Anti-Federalists also made another objection that helps us see the strength rather than the weakness of the new national state. In important respects, this government was a fixed government, as the conventional interpretation of the Constitution holds, but an unlimited government. True, the national government would be limited to specified functions but, within its sphere, there would be no limits to its power. It would act directly on the citizen with no intermediate function left to the state governments, and there would be no serious limits to its executive capacity. As long as a majority could be secured in Congress, the national government could raise as many men as it saw fit and as much money as it thought the nation could provide. There were to be no limits on the size or kind of troops that Congress could establish, nor any restrictions on when they could be raised. Similarly, Congress could raise revenue by means of any kind of tax and were to be no restrictions on its right to borrow money.

The Constitution gave the national government the means to completely mobilize the resources of the American nation. To the Federalists, this was a necessary consequence of the functions that the union had been created to provide. There was simply no way to determine in advance what sort of resources would prove sufficient to defend the United States against the ambitions of other nations. Because the needs of the union were potentially endless, there could be no restrictions on the national government's right to extract the resources necessary to meet these needs. Although in practice the national government could be counted on to be small, light, and inconspicuous, it was a government that held the full powers of the "fiscal-military state" in reserve.

III

The Madisonian interpretation of the Federalist persuasion presents the adoption of the Constitution as a history of frustrated intentions. James Madison did not leave Philadelphia feeling like the proud "father of the Constitution," as he is routinely portrayed. Madison left disappointed, because the Convention had not heeded his proposal for a congressional veto, or negative, on state legislation. Contrary to what he intended with the Virginia plan, the Constitution would therefore find it difficult to influence the way that the state legislatures acted against minorities. Religious and economic life, the two areas in which abuse against minorities was most likely to occur, would remain within the jurisdiction of the state governments, and the national government would have no power to prevent or correct wrongs that originated in state laws or state administration. Considering this, it is not surprising that the Madisonian interpretation sees the fulfillment of the Constitution in the adoption of the fourteenth amendment.\footnote{The interpretation offered in this work may seem to present a similar argument of intentions never realized. Thus, while the Federalists may have won the battle over the Constitution, they lost the war over the political development of the United States. No powerful centralized state developed in America after the ratification of the Constitution. In the 1790s, the Federalist administrations used their fiscal and military powers sparingly. Toward the end of the decade, when they did make plans to raise a substantial army and when they embarked on an ambitious program of taxation, they suffered defeat at the polls and lost power to the Jeffersonian Republicans. When the Anti-Federalists expressed their fear that the national government would subvert the states, they had assumed that state growth would continue to take place only within the fiscal-military sphere, as the case had been throughout the eighteenth century. Because of the appeasement following the defeat of Napoleon, however, the nineteenth-century state, both in America and Europe, came to develop differently. The military state contracted in absolute terms, but there was also a shift in the priorities of the state that further eroded the "fiscal-military state." Increasingly, government spending shifted from military to civilian expenses. In 1790, civilian expenses in European states amounted to about 25 percent. In 1910, the figure was 75 percent. The fastest growing areas of spending were infrastructure and education. American government spending conformed to this pattern. The European "fiscal-military state" did not evolve into the "fiscal-military state."}
military states" of the eighteenth century had spent their revenue on the army, the navy and debt servicing, in the 1790s and the early nineteenth century, the federal government outspent the state governments by far; almost all the money it spent went to meet the costs of debt servicing and defense. In contrast, the biggest items in the budget of American government—at state and national level—in the last quarter of the nineteenth century, was education, highways, and postal services. To the greatest part, these functions belonged with the states and not the national government.

If the purpose of the Constitution was to create a powerful national government, then the development of the American republic may be read as one of the great ironies of history. There is much truth in such a reading. The Constitution created an Old Regime state adapted to American conditions and prejudices and the Federalists did not foresee the great shift in government priorities that took place in the nineteenth century. Contrary to what Federalists and Anti-Federalists alike had predicted, the states continued to be the most important element in the federal structure. Left with powers and tasks that the Anti-Federalists had considered insignificant, the states in fact expanded the sphere of legitimate government activity beyond anything that the participants in the ratification debate had expected. Meanwhile, the era of free trade and free security reduced the importance of the national government and, for well over a century, it remained "a midget institution in a giant land." Nevertheless, it would not be altogether true to say that the actual trajectory of the American republic ran counter to the Federalists' plan for a national government. The Federalists had intended their national state to be light and almost invisible in periods of peace and tranquility. Thus, in comparison to European governments that added on functions to their core of fiscal-military concerns, the American national government remained focused on the concerns for which it was first created. Only when the republic faced insurrections and international crises would it employ all its considerable powers.

The creation of a state that was focused on the fiscal-military sphere and that was geared toward wartime exigencies but intended to keep a low profile in peacetime had important consequences for the political development of the United States. This was a government ill-equipped to address the nation's growing internal contradictions. The compromise reached by the Philadelphia Convention on the question of slavery is the most important example of the Federalists' inability to find a national solution to a crucial domestic issue. During the long period of peace following Napoleon's defeat, the federal government had no need to assert its superiority over the state governments. Peace also allowed the national government to be both inconspicuous and light, "continually at a distance and out of sight" of the citizenry, as Hamilton put it in The Federalist. But, as he had also noted, such a government could "nearly be expected to interest the sensibilities of the people." In the antebellum decades, the federal government never captured the hearts and minds of its citizens. Popular identification with the nation never challenged loyalty to state and sectional identity. In the absence of a strong national government in the internal political life of the nation, sectionalism was allowed to grow unabated until it reached the point where it tore the union apart in civil war.

The Federalists' state performed better in crisis. During the Quasi-War, the War of 1812, and the Mexican War, the American national state showed that it could expand when the need arose. Nevertheless, these were minor engagements, and it is fair to say that the "fiscal-military state" remained a potentiality, rather than a reality, throughout the seventy years that followed on the Constitution's adoption. Although the Civil War marked the failure of the founders' attempt to create a lasting union, it also demonstrated that they had created a national state well adapted to mobilize resources in response to crises. As the war showed, the North could mobilize social resources to an extent never before attempted by any other nation, within the institutional framework provided by the Constitution. A century later, a constitution that is universally regarded as the paragon of limited government allowed for the creation of what today remains the world's only superpower.
Constitution (New York: Knopf, 1996), 288–293. The passage about the Civil War amendments, but especially the Fourteenth, as "the most Madisonian elements of the American Constitution," appears on 337–8. Obviously, the Constitution is just so much a failure if it is regarded as an attempt to put an end to the democratization of American government, as the Constitution never managed to restore the principle of deference or break the trend toward greater popular influence in government.


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