

The Codification of American Federalism: An Analysis of Events Preceding the Ratification of the United States Constitution

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I: Introduction

The concept of American Federalism has been a cornerstone of American political thought for centuries. Federalism is the relationship between federated states, the 50 states in the United States, and a central governing body, the Federal Government.¹ American Federalism is a political system where power is divided between federated states and a central government,² and the federated states retain a large portion of their original independence and police powers.³ The exact balance of powers between the states and the Federal Government has been heavily debated since before the Articles of Confederation. However, it is not the purpose of this paper to weigh in on this long-standing debate. The question is instead: *How and why did the idea of a federated system, where the states retain their own sphere of sovereignty, become codified in American political thought?* This question is important because it looks at a fundamental concept of American political thought and asks why we think what we think. Once one understands why a belief is embedded in thought, the belief can be better understood in the modern era in order to ask if the belief

¹ W. Brooke Graves, *American Intergovernmental Relations: Their Origins, Historical Development, and Current Status* (New York: Scribner, 1971) at 5; William H. Riker, *The Development of American Federalism* (Boston, MA: Kluwer, 1987) at 13; Alison L. LaCroix, *The Ideological Origins of American Federalism* (Cambridge, MA: Harvard University Press, 2011) at 6; Edward A. Purcell, *Originalism, Federalism, and the American Constitutional Enterprise: a Historical Inquiry* (New Haven, CT: Yale University Press, 2014) at 7; Virginia Commission on Constitutional Government, *We the States*, 1964 at xxvii.

² W. Brooke Graves, *American Intergovernmental Relations: Their Origins, Historical Development, and Current Status* (New York: Scribner, 1971) at 5; K. C. Wheare, *Federal Government* (Westport, CT: Greenwood Press, 1980) at 2; Edward A. Purcell, *Originalism, Federalism, and the American Constitutional Enterprise: a Historical Inquiry* (New Haven, CT: Yale University Press, 2014) at 7; Virginia Commission on Constitutional Government, *We the States*, 1964 at xxvii.

³ W. Brooke Graves, *American Intergovernmental Relations: Their Origins, Historical Development, and Current Status* (New York: Scribner, 1971) at 5; William H. Riker, *The Development of American Federalism* (Boston, MA: Kluwer, 1987) at 13; Edward A. Purcell, *Originalism, Federalism, and the American Constitutional Enterprise: a Historical Inquiry* (New Haven, CT: Yale University Press, 2014) at 7; Virginia Commission on Constitutional Government, *We the States*, 1964 at xxvii; Shlomo Slonim, *Forging the American Nation, 1787-1791: James Madison and the Federalist Revolution* (Palgrave Macmillan, 2018) at xviii. It is important to note this form of American Federalism is not necessarily always referred to by that name. For example, Slonim refers to it as both “Dual Federalism” and “New Federalism.”

still deserves to fit into contemporary American political thought due to changes, or lack thereof, in the fundamental political culture that led to the codification of the belief.

Background

The formation of American Federalism lasted nearly 200 years. It began with the first colonies. These colonies were subject to very little British oversight, so they formed their own essentially sovereign governments. These governments served all natural duties of a sovereign state other than militaristic protection. This protection was provided by the British government. This system worked for 150 years until around 1750 when the British Government began imposing more taxes on the colonists. In response to this, Benjamin Franklin formed a Plan of Union to unite the colonies under one government. This would allow the colonies to work together under one government and have a unified negotiating power with the British government. The colonies rejected this plan because they were not willing to sacrifice their own sovereignty. This may seem counterintuitive because the colonies were not fully sovereign under the British government, but they were mostly satisfied with the current arrangement of powers and were not willing to sacrifice power to another central government. Ultimately, the colonies found a need to band together against an increasingly controlling British government, so they met for the first continental congress. This was the first display of colonial unity. However, the colonies only did this in the face of the British threat and united only for negotiating power. The second continental congress met shortly after the conflict began. This meeting was revolutionary because it created the Articles of Confederation. These articles united the colonies under one 'sovereign' federal government. However, this federal government was weak with no

enforcement mechanisms and the colonies did not recognize the actions of Congress as truly binding. After the Revolutionary War, the Articles of Confederation were replaced by the United States Constitution. The Constitution contained enforcement mechanisms and was officially amended ten times before all 13 states ratified the document. This document created a supreme power in the United States.

The United States Constitution and the Bill of Rights codified American Federalism. American Federalism is unique because the structures embedded in the founding documents codify the sovereign power of the states. This was done in two ways: the restriction of the federal government and the empowerment of state governments. The federal government was restricted through enumerating the powers of Congress. This limited Congress to only possessing the powers expressly granted to them in the constitution by Article 1, Section 8. The state governments were empowered through the electoral college, the senatorial election system, and the tenth amendment. The electoral college grants each state the ability to delegate their own delegates however they seem fit for the election of the president. The senatorial election system allowed each state's legislature to directly vote for their senators rather than being directly elected by the people. The Tenth Amendment to the Constitution provides "[t]he powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively."⁴ This grants a broad power to the states which allows a state to govern itself in most regards.

⁴ U.S. Const. amend. X.

The formation of American Federalism is a long story and every part of the story exists outside of a vacuum. The methodology of American Political Development recognizes the path an institution takes, and every step along this path is crucial to its development. I will use this methodology to look at the theories present in the literature: Dutch influence, British influence, colonial history, changing definitions of a constitution and republicanism, and the influence of small states and slave states. From these theories, any that fall apart will be dismissed. Then, the theories that can stand on their own, to some extent, will be operationalized into key variables to be better identified through time. These theories will be assessed to discover if the theory recognizes the entire timeline, a portion of the timeline, or none of the timeline. I will ultimately argue: Federalism became codified in American political thought due to a changing definition of republicanism with heavy influences from a changing definition of a constitution and a desire to change from the established British system working together through time as the American nation was born from the colonial era to the ratification of the United States Constitution.

II: Literature Review

Scholars have identified two major classes of explanations surrounding the codification of federalism in American political thought: external and internal influences. The external scholars tend to argue the founding fathers had some of their own ideas, but the institution of federalism was either adopted from or adopted in opposition to foreign governments. The internal scholars tend to argue federalism cannot be simply attributed to historical influences from foreign governments, but it needs to be attributed to complex internal issues like change in culture around the constitution or political motives from

certain states. All of these arguments fall into the same trap; they are *static* and ignore the factor of *time*. They might look at small sections of the timeline, but every theory fails to look at the full scope of the timeline. They look at the question of federalism in a vacuum and ignore the basic fact that political decisions exist in a continuum. In short, they all ignore one or more pieces of the timeline or they fail to acknowledge the complexities of a certain piece of the timeline.

External Influences: The Dutch Republic

External influences come from both the Dutch Republic's confederate system and the British imperial system. The Dutch Republic had a facially similar system to the United States Under the Articles of Confederation. The Dutch Republic was formed in the late 16th century after seceding from the Hapsburg empire. Scholars argue it was a negative influence on the drafters of the Constitution.⁵ The Dutch Republic was a confederacy of seven provinces under one general government and required the unanimity of all seven provinces to make any decisions.⁶ The Articles of Confederation also bound together several *independent* states. The Articles of Confederation also required a large majority of states to make any important decisions. Then, during the eighteenth century, the Dutch economy began to lag, "[a]griculture stagnated, foreign trade suffered from increased competition, and the country lagged considerably behind the leaders in its transition to

⁵ Oscar Gelderblom, "The Political Economy of the Dutch Republic," Taylor and Francis, 2016, <https://doi.org/10.4324/9781315554488> at 1; William H. Riker, "Dutch and American Federalism," *Journal of the History of Ideas* 18, no. 4 (October 1957): pp. 495-521, https://doi.org/10.1007/978-94-009-3273-9_3 at 496; K. C. Wheare, *Federal Government* (Westport, CT: Greenwood Press, 1980) at 43.

⁶ William H. Riker, "Dutch and American Federalism," *Journal of the History of Ideas* 18, no. 4 (October 1957): pp. 495-521, https://doi.org/10.1007/978-94-009-3273-9_3 at 496.

industrial capitalism.”⁷ Similar economic pains were being felt under the Articles of Confederation. The founding fathers knew about these similarities because there were several reliable books and a few travelers’ observations on the Dutch Republic available to use during the Constitutional Convention.

The founding fathers, at the Constitutional Convention, used the failing Dutch economy to push for a strong centralized government to replace the Articles of Confederation. The delegates argued the Dutch Republic was even less efficient than the Articles of Confederation, due to the unanimity needed to make any centralized decisions, so the inefficiencies in the Articles of Confederation were due to the disproportionate power of the regional governments in comparison to the federal government.⁸ They did this by quoting the books they had available to them and a popular story about the abuse of a *quid pro quo* by the town of Briel.⁹ Due to the reliance on Dutch examples, scholars argue the founding fathers were influenced by the Dutch failures.¹⁰ Scholars also argue these lessons, which we allegedly learned from the Dutch, contributed to the idea of federalism becoming codified in American political thought.¹¹

The counterargument states the founders could not have been influenced by the Dutch Republic because the founders did not have adequate knowledge of the functioning of the Dutch Republic and that they were projecting the failure of the Articles of

⁷ Oscar Gelderblom, “The Political Economy of the Dutch Republic,” Taylor and Francis, 2016, <https://doi.org/10.4324/9781315554488> at 1.

⁸ *Ibid*; William H. Riker, “Dutch and American Federalism,” *Journal of the History of Ideas* 18, no. 4 (October 1957): pp. 495-521, https://doi.org/10.1007/978-94-009-3273-9_3 at 496.

⁹ In this story, the town of Briel would not vote to approve a bill until one of the citizens of Briel received a promotion to the rank of colonel. William H. Riker, “Dutch and American Federalism,” *Journal of the History of Ideas* 18, no. 4 (October 1957): pp. 495-521, https://doi.org/10.1007/978-94-009-3273-9_3 at 503.

¹⁰ K. C. Wheare, *Federal Government* (Westport, CT: Greenwood Press, 1980) at 43.

¹¹ *Ibid*.

Confederation onto those of the chimeric confederacy of the Dutch Republic. In this time, the framers worked with information on the Dutch that was both sparse and inaccurate.¹² There were only three to four reliable sources in the entire collection of books available to the framers¹³ which led the framers to misunderstand both unanimity¹⁴ and the tax system.¹⁵ The framers, including the ambassador to the Netherlands and Benjamin Franklin, all failed to properly understand the story about Briel as an everyday occurrence, but it was more infrequent than the story-tellers realized.¹⁶ Despite the several mentions of the inefficiencies of the Dutch government during the Constitutional Convention, it seems to have had very little effect on the arguments for ratification. At the Virginia convention for ratification, Patrick Henry argued Virginia would keep largely their power under a Dutch-esque system, and James Monroe argued the systems of the Dutch Republic and the United States were too different to be comparable.¹⁷ Ultimately, ratification still passed despite these references.

However, the founding fathers did not invent these Dutch problems. They only mislabeled them. These problems only served as a metaphor for the problems of the United States under the Articles of Confederation.¹⁸ The Dutch Republic was a confederacy, like the United States under the Articles of Confederation. The cultures of these two systems were different and the systems were not politically comparable. The Dutch Republic did serve

¹² William H. Riker, "Dutch and American Federalism," *Journal of the History of Ideas* 18, no. 4 (October 1957): pp. 495-521, https://doi.org/10.1007/978-94-009-3273-9_3 at 513.

¹³ *Id* at 506.

¹⁴ *Id* at 510.

¹⁵ *Id* at 509.

¹⁶ *Ibid.*

¹⁷ *Id* at 514.

¹⁸ *Id* at 518.

the benefit of “bolster[ing] the framers’ confidence in the universal validity of their assertions about the Articles of Confederation.”¹⁹ Therefore, the Dutch Republic demonstrated an important debate on federalism, but, according to Riker, the influence came from the United States history itself, not the Dutch Republic.²⁰ This means the Dutch Republic does not shed much light on the actual reasons behind the codification of federalism in American political thought.

The British Empire

In the realm of external influences, the British Empire is seen by many scholars as a major influence on American Federalism. However, scholars disagree on the *way* the British Empire influenced American Federalism. The first set of scholars argue American Federalism was an extension of the British federal structure. The second set of scholars argue American political thought surrounding federalism rejected the British Empire’s view of parliamentary, or federal, sovereignty. Ultimately, both theories ignore the post-colonial influences on American Federalism.

Continuation

The British Empire had a loose and undefined federal system. The first set of scholars argue the American federal system was built to mirror the British Empire’s federal system. In the British system, the Parliament functionally existed within the sphere of external matters and the colonial governments dealt with colonial matters. The empire’s structure of power was as follows: (i) the crown appointed colonial governors, controlled

¹⁹ *Ibid.*

²⁰ *Ibid.*

foreign affairs, and served as the commander in chief;²¹ (ii) Parliament, for the most part, legislated for the affairs of the empire and Great Britain, and avoided legislation solely on internal colonial affairs;²² (iii) the colonies themselves ran their own “Internal Police” with representative governments.²³ Even at a cursory glance, this distribution of powers is fairly similar to the post-constitution United States: (i) the President appoints cabinet officials, controls foreign affairs, and serves as the commander in chief; (ii) Congress legislates for the affairs United States, and avoids legislating solely on internal state affairs in accordance to enumerated powers clause;²⁴ (iii) the states run their own law enforcement, possess police powers, and have representative governments.²⁵ Congress and the President form the federal government.²⁶ The colonies would then be the states functioning in their own sphere of sovereignty. The revolutionary change from the British Empire to the United States did result in a very different system of checks and balances, but the institution of federalism was a *continuation* from the British Empire’s ‘federal system,’ not a change.²⁷

Change

²¹ Andrew C. McLaughlin, “The Background of American Federalism,” *American Political Science Review* 12, no. 2 (1918): pp. 215-240, <https://doi.org/10.2307/1943600> at 217.

²² *Ibid.*

²³ *Id* at 218.

²⁴ U.S. Const. art. 1. § 8.

²⁵ *Ibid*; Jack P. Greene, *Negotiated Authorities: Essays in Colonial Political and Constitutional History* (Charlottesville: University Press of Virginia, 1994). It is important to note that this is only a surface-level comparison and the next paragraph criticizes it for just that reason, so this criticism has been omitted from this paragraph.

²⁶ I recognize the Judicial branch is a key part of the federal government, but for the context of this comparison, it is not important to mention because the judiciary at the time of adoption of the United States Constitution was functionally powerless and a judicial federalism took several more decades to form in the United States.

²⁷ Jack P. Greene, *Peripheries and Center: Constitutional Development in the Extended Politics of the British Empire and the United States, 1678-1788* (Athens: University of Georgia Press, 1986) at x.

The ‘change scholars’ argue American Federalism was not a continuation of the British imperial system, but rather a new ideological development.²⁸ Originally, the colonial charters derived from royal authority instead of parliamentary authority. Therefore, colonial matters and imperial matters would be governed by separate governmental bodies.²⁹ However, royal governors and other parliamentary powers claimed there could only be one “supreme law-giving authority” in the empire.³⁰ It was this disagreement that formed the American federal system. In response to the traditional prohibition on *Imperium in Imperio*, or dominion within dominion, the United States struggled with how to preserve the power of the colonies while having some form of federal power.³¹ In this way, the colonies did not continue the British imperial system of powers. Rather, they broke from the British system to form an *Imperium in Imperio* and even struck down allowing Congress to veto state laws, which allowed both the state and federal governments to be *supreme* within their own specific sphere of influence.³² This embrace of multiplicity was the *change* from the British system. The British imperial system did not have multiplicity and the new United States did.³³ This multiplicity was American Federalism and “the emergence of a normative vision of multilayered government.”³⁴ It represented a break from traditional political thought surrounding sovereignty and is why federalism became codified in American political thought.

²⁸ Alison L. LaCroix, *The Ideological Origins of American Federalism* (Cambridge, MA: Harvard University Press, 2011) at 6.

²⁹ *Id* at 8.

³⁰ *Ibid.*

³¹ *Id* at 9.

³² *Ibid.*

³³ *Ibid.*

³⁴ *Id* at 10.

Dutch and British influence theories ignore the post-colonial era of the timeline to American Federalism. For example, the Dutch theory is flawed because it fails to consider the influence of colonial relationships and the Articles of Confederation on the reasoning behind the stories about the Dutch Republic. The British continuation theory also ignores the influence of colonial relationships on colonial political thought. The British change perspective does address how, through time, the political institutions surrounding federalism changed. However, it fails to give credit to the influence of post-revolutionary governance on the codification of federalism. Therefore, all of these arguments are too static. They either ignore the influence of time or do not consider enough time.

Internal Influences: Colonial History

The other major class of explanations on the topic of American Federalism is internal. The first internal argument argues specific factors of colonial history worked together to make American Federalism the logical answer to the issue of federal tyranny.³⁵ There were six major factors: the cultural, social, and political community;³⁶ large amount of experience the colonies had working together;³⁷ the defects in the Articles of Confederation;³⁸ military necessity,³⁹ economic necessity,⁴⁰ and nationalism.⁴¹ The colonies had a “high degree of cultural, social, and political community.”⁴² Despite their mass facial differences, like nationality and religion, the same type of government, possessing

³⁵ John C. Ranney, “The Bases of American Federalism,” *The William and Mary Quarterly* 3, no. 1 (1946), <https://doi.org/10.2307/1922893> at 2.

³⁶ *Ibid.*

³⁷ *Id* at 8.

³⁸ *Id* at 12.

³⁹ *Id* at 14.

⁴⁰ *Id* at 18.

⁴¹ *Id* at 23.

⁴² *Id* at 2.

bicameralism, separation of powers, representative government, and a written constitution, were put into effect by every colony after the end of the Revolutionary War.⁴³ Second, the colonies already had experience working together under the British crown⁴⁴ and the Articles of Confederation under a federal structure.⁴⁵ Third, the defects in the Articles of Confederation demonstrated the unrealistic nature of a federal government holistically subservient to the whims of a single opposition state.⁴⁶ Fourth, military necessity encouraged the colonies to band together under a constitution because each colony could not completely defend itself at all times, but unified resources could be pooled and distributed as necessary.⁴⁷ Even though this military unity scared states because they thought they were losing sovereignty, the states were putting their own safety first by guaranteeing for their own defense.⁴⁸ Fifth, economic necessity served a similar role as military necessity. Economic necessity would sometimes harm a state and benefit that same state at a later date. Sixth, the nation was originally seen as the states rather than the United States.⁴⁹ This is why a dual federalism solution had to be selected for the United States Constitution. The people were citizens of their state and citizens of the United States, so both sovereignties had to have enough power to retain their own sphere of sovereignty.

⁵⁰ These six factors combined are the six factors that made it possible and necessary to form a union of 13 sovereignties where each colony maintained some form of

⁴³ *Id* at 6.

⁴⁴ *Id* at 8.

⁴⁵ *Id* at 10.

⁴⁶ *Id* at 12.

⁴⁷ *Id* at 15.

⁴⁸ *Id* at 17.

⁴⁹ *Id* at 23.

⁵⁰ *Id* at 24.

independence under a supreme federal government.⁵¹ Scholars who ascribe to this theory have come to a consensus on all six factors affecting the codification of federalism, rather than one of these factors or a collection of several, but not all factors. However, this theory ignores the influence of British political thought on the codification of federalism and the political thought preceding the colonial era.

The Legal Empire

Some scholars argue the study of law fundamentally changed during the American empire and that change is why the institution of federalism became codified in American political thought. In 1787, the founding fathers created a constitution to bind the states together, but there was another constitution under the British Empire that had a similar effect of bending the colonies together under the crown.⁵² The British constitution was interpreted in two separate ways. The London interpretation saw Parliament as omnipotent with unlimited power.⁵³ The colonial interpretation believed there were restrictions on Parliament's power to legislate in the place of colonial government.⁵⁴ Scholars supporting the republicanism theory, discussed below, argue a change in interpretation from the London to the colonial interpretations.⁵⁵ These interpretations of the British constitution will be discussed further in the next section. However, the scholars

⁵¹ Id at 25; Edward A. Purcell, *Originalism, Federalism, and the American Constitutional Enterprise: a Historical Inquiry* (New Haven, CT: Yale University Press, 2014) at 10.

⁵² Daniel Joseph Hulsebosch, *Constituting Empire: New York and the Transformation of Constitutionalism in the Atlantic World, 1664-1830* (United States: The University of North Carolina Press, 2006) at 6.

⁵³ Id at 7.

⁵⁴ *Ibid.*

⁵⁵ It is important to note here the colonial interpretation of parliamentary, or federal, power was not in full swing at the beginning of the colonial era. However, the catalyst of the colonial interpretation was, in fact, the formation of the American colonies. By moving across the Atlantic Ocean and functioning essentially independent from Parliament, the colonists' view of Parliament's power, and by extension, the power of the British constitution changed from an omnipotent power to a restricted power.

discussed here argue the very definition of a 'constitution' changed.⁵⁶ Before, a constitution was the relationship between jurisdictions. It was the way of thinking about how to carry out the project of government and the legal culture surrounding the process of governing.⁵⁷ The Anglo-American *interpretation* of the British constitution was the American *definition* of a constitution.⁵⁸ The Anglo-American constitution is both liberal and republican.⁵⁹ It protects both individual liberties and public interest. However, most of these ideas were present under the British crown, so this is not where the distinction in definition originates.

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There were two important distinctions between the British constitution and the United States Constitution. The first distinction is the way in which the constitutions existed in society. The British constitution was not one document to be studied and examined as a field of law.⁶¹ The British constitution was fluid and constantly changing, but the United States Constitution is one rigid document.⁶² The United States Constitution can be changed, but it is a slow process requiring a supermajority of the legislature.⁶³ The British constitution only requires a simple majority of the legislature to change the

⁵⁶ *Ibid*; Mary Sarah Bilder, *The Transatlantic Constitution: Colonial Legal Culture and the Empire* (Cambridge (Mass.): Harvard University Press, 2008) at 4.

⁵⁷ Daniel Joseph Hulsebosch, *Constituting Empire: New York and the Transformation of Constitutionalism in the Atlantic World, 1664-1830* (United States: The University of North Carolina Press, 2006) at 7,

⁵⁸ *Ibid*.

⁵⁹ *Ibid*.

⁶⁰ *Ibid*; Mary Sarah Bilder, *The Transatlantic Constitution: Colonial Legal Culture and the Empire* (Cambridge (Mass.): Harvard University Press, 2008) at 4.

⁶¹ Daniel Joseph Hulsebosch, *Constituting Empire: New York and the Transformation of Constitutionalism in the Atlantic World, 1664-1830* (United States: The University of North Carolina Press, 2006) at 8, Mary Sarah Bilder, *The Transatlantic Constitution: Colonial Legal Culture and the Empire* (Cambridge (Mass.): Harvard University Press, 2008) at 6.

⁶² *Ibid*.

⁶³ *Ibid*.

constitutional environment.⁶⁴ The American Constitution existed as one document from which case law could be derived and studied.⁶⁵

Second, the British constitution, in its fluidity, had an undefined federal system. In this system, the colonies could, in theory, enact some power of sovereignty against Parliament, but Parliament ultimately held the power.⁶⁶ Every level of government held power but this power was wild and untamed. It risked being fundamentally changed at any moment in time. The American Constitution laid out a defined federal system where the two levels of government had clear, defined, and limited powers.⁶⁷ In some ways this centralized authority came from the colonial era, but the new centralized authority was structurally easier to understand.⁶⁸ This codified a particular form of American Federalism which came from this change in constitutional and legal thought.⁶⁹ The change from a common-law constitution to a codified constitution meant the only plausible federal system was one with a structured federal government of limited powers where the states wield a power that comes from constitutional law and not ordinary politics.⁷⁰ This theory does factor in the entire timeline following the codification of federalism from colonization to the creation of the United States Constitution. However, this theory is simply underspecified because it fails to factor in the influence of other competing theories.

⁶⁴ *Ibid.*

⁶⁵ *Ibid.*

⁶⁶ Daniel Joseph Hulsebosch, *Constituting Empire: New York and the Transformation of Constitutionalism in the Atlantic World, 1664-1830* (United States: The University of North Carolina Press, 2006) at 9.

⁶⁷ *Ibid.*

⁶⁸ *Ibid.*

⁶⁹ *Ibid.*

⁷⁰ *Ibid.*

Republicanism

Some scholars argue there was a transformation of thought pertaining to the theoretical definition of republicanism rather than the legal definition of a constitution. The definition of republicanism was originally aligned with the London interpretation of the British constitution where Parliament was omnipotent with unlimited power and could regulate colonial matters. This was a republic in the sense that Parliament was elected, but there were many tax-paying citizens who were regulated by Parliament without participating in parliamentary elections.⁷¹ The American colonists are an example of these citizens. The definition of republicanism then shifted to the colonial interpretation of the British constitution where Parliament's power was, in theory, limited by only being able to work within the federal sphere of power.⁷² From this change of definition came American Federalism. Under British rule, the colonial desire for a federated system increased as the definition of republicanism changed, so when independence was achieved it was only a matter of time until the United States formed a federated system like the one seen in the United States Constitution. This theory only focuses on the outward and observable emanations of ideas⁷³ such as the Constitution and other explicit political writings. By doing this, it ignores the influence of time and the competing theories on the codification of American Federalism.

⁷¹ Bernard Bailyn, *The Ideological Origins of the American Revolution* (Cambridge, MA: The Belknap Press of Harvard University Press, 2017) at xiv.

⁷² *Ibid*; Gordon S. Wood, *The Creation of the American Republic: 1776-1787* (Chapel Hill: Univ. of North Carolina Press, n.d.) at viii.

⁷³ Gordon S. Wood, *The Creation of the American Republic: 1776-1787* (Chapel Hill: Univ. of North Carolina Press, n.d.) at ix.

The Influences of Small States and Slave States

It has been argued the small states and slave states wielded enough power during the Constitutional Convention to preserve their independence and retain an effective role in the functioning of the national government.⁷⁴ The Constitution helped do this by normalizing the Electoral College, the institution of the Senate, Advice and Consent requirements for appointments, and the enumeration of congressional powers. The Electoral College mirrored the composition of Congress, but it retained the separation of powers by not granting the power of selecting the executive to the legislature.⁷⁵ The smaller states and slave states retained their disproportionate power due to the format of the Senate and the Three-Fifths Clause. In regards to the Three-Fifths Clause, the slave states were able to artificially inflate their number of citizens by counting enslaved persons as three-fifths of a citizen which gave slave states a larger population and more representation in the House of Representatives. However, the Constitution restricted this power by not allowing the importation of new slaves, but this clause expired in 1808 which removed any lasting power behind the clause.⁷⁶ Then, the electors were chosen by popular election within each state, but the electors had to choose two candidates, one of whom could not be from the elector's state.⁷⁷ This created a system that gave the states, not just the people in the states, power in the selection process of the executive.

⁷⁴ Shlomo Slonim, *Forging the American Nation, 1787-1791: James Madison and the Federalist Revolution* (Palgrave Macmillan, 2018) at xvi.

⁷⁵ *Id* at 40.

⁷⁶ U.S. Const. art. 1. sec. 9.

⁷⁷ Shlomo Slonim, *Forging the American Nation, 1787-1791: James Madison and the Federalist Revolution* (Palgrave Macmillan, 2018) at 40-41.

The Senate was formed to grant extra power to the small states and the legislatures of each state. The state legislatures directly elected Senators, so there was a certain power to be retained by the states and the very nature of the Senate retained power in the hands of the small states.⁷⁸ This is because the Senate was originally the chamber representing the states and the interests of the people as citizens of their state. The House of Representatives represented the people as citizens of the country. By dividing Congress in this way, the states retained a crucial function in the federal government, as a result of the lobbying of small states and slave states. The Advice and Consent of the Senate requirement to “appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States,”⁷⁹ once again, shows the power of the small states, with their disproportionate representation in the Senate, and the states themselves through the election process of Senators.⁸⁰

Finally, the states constrained the power of the federal legislature by pushing for the enumeration of congressional powers.⁸¹ The enumeration of congressional powers is where the Constitution restrained the powers of Congress by listing these powers individually in Article 1, Section 8 of the Constitution. This preserved state power because it restricted the power of Congress to infringe upon the sovereignty of the states. The small states and slave states advocated for the enumeration of legislative authority because an unrestrained Congress could abolish slavery or oppress the small states from a large

⁷⁸ *Id* at 37.

⁷⁹ U.S. Const. art. 1. sec. 8.

⁸⁰ Shlomo Slonim, *Forging the American Nation, 1787-1791: James Madison and the Federalist Revolution* (Palgrave Macmillan, 2018) at 42.

⁸¹ *Id* at 59.

state-controlled house.⁸² The responsibility for these clauses being so fundamentally integrated into the Constitution can be largely attributed to the lobbying efforts of small states and slave states. Slonim argues, through the efforts to achieve constitutional codification the Electoral College, the institution of the Senate, the Advice and Consent requirements of the Senate, and the enumeration of congressional powers the small states and the slave states normalized the power of the states in American political thought.⁸³

The concept of federalism and how it has become codified in American political thought is a deeply complicated issue and one that scholars have attempted to answer in various ways. Some scholars argue the Dutch Republic and the British Empire externally influenced the codification of federalism. Others also argue changing definitions, influential states, and colonial history influenced the codification of federalism. All of these arguments are static in the sense that they only account for some portion of the timeline, but they ultimately ignore the influence of the other competing theories articulated above and the way ideologies form outside of a vacuum. Meaning, every decision is made due to the events and decisions before it and a decision will impact future decisions. Therefore, these theories need to consider the influence of each other on the ultimate codification of American Federalism.

Of these arguments, only six can be seriously considered to explain why the concept of American Federalism became codified in American political thought. The theory not considered is the influence of the Dutch Republic. This is because the Dutch were used as a cipher for the failures of the Articles of Confederation due to possessing a system similar to

⁸² *Id* at 64.

⁸³ *Ibid.*

the Articles of Confederation. However, these systems were not comparable due to differences in structure and political thought, so it is reasonable to believe any stories or arguments about the Dutch Republic are, in actuality, stories about the Articles of Confederation under a different name. Therefore, I will not be considering the Dutch influence on American Federalism as a reason for the codification of American Federalism. The other six theories will need to be more thoroughly tested to discover if they can properly explain the puzzle laid out in this paper. These theories will be tested using American Political Development.

III: Methodology and Conceptual Framework

American Political Development is an interdisciplinary study where theories surrounding a question of development in American politics are viewed over time. For years, American Political Development has been an abstract concept, but Orren and Skowronek defined the methodology in 2004. In this book, political development is defined as a “durable shift in governing authority.”⁸⁴ The authority mentioned here is designated as governing authority, but it is expansive enough to recognize political institutions as well as traditional state actors. However, for authority to accomplish its purpose, change cannot only be an intent to act. It must be an actual structural event resulting in authority changing possession.⁸⁵ A shift is defined as a rearrangement, redirection, or reconstruction of authority through a major event, usually highly controversial. This shift can be seen through authority changing hands from different institutions or even different

⁸⁴ Karen Orren and Stephen Skowronek, *The Search for American Political Development* (Cambridge: Cambridge University Press, 2007)) at 123.

⁸⁵ *Id* at 124-127.

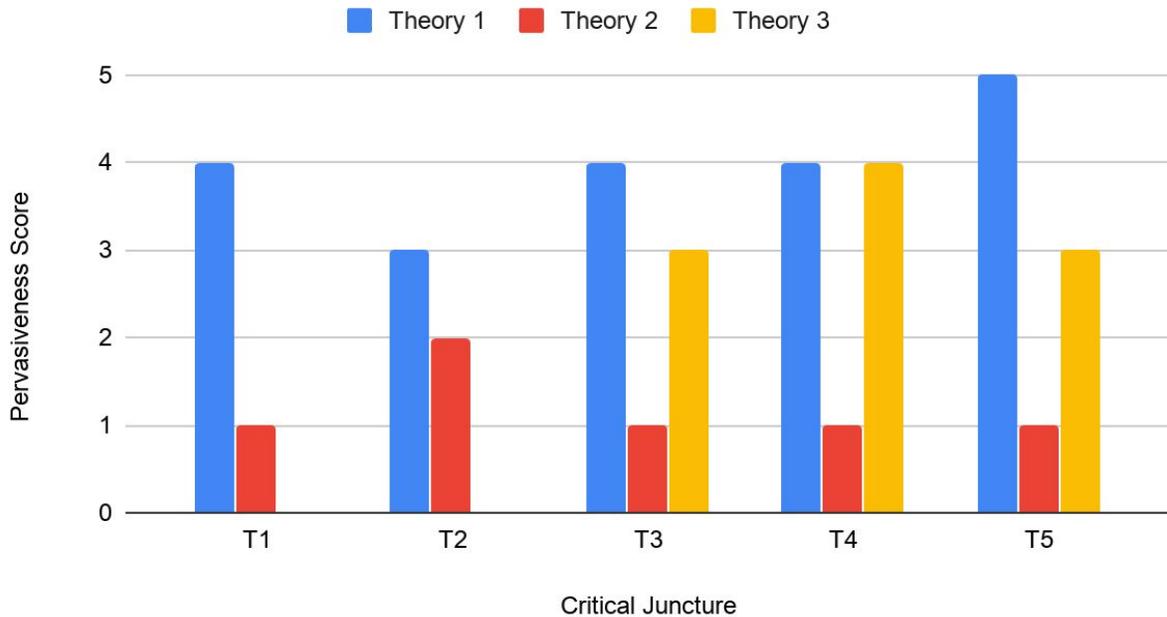
governments.⁸⁶ The durability of these shifts requires the shifts to be lasting. These shifts must have lasting effects on the state of institutions and governments.⁸⁷ These durable shifts are seen in reality at critical junctures in time when there is a change in authority. American Political Development looks at these critical junctures and asks how institutions and governments fundamentally change along these critical junctures to form a new movement, process, or ideology. This is done by evaluating the political institutions at every critical juncture and operationalizing the theories at each critical juncture to test if the theory in question and the happenings of reality are the same. If they are, it is fair to assume at this point in the timeline the theory in question helped develop the movement, process, or ideology in question. It is even possible for multiple theories to simultaneously contribute to development at one critical juncture. Then, the theories are mapped along the timeline to discover which theory or theories best explain the development in question. This is on a table similar to the example seen below in Chart 1. The method for determining the strength, or pervasiveness of a theory will be discussed below.

⁸⁶ *Id* at 127-129.

⁸⁷ *Id* at 129-131.

Chart 1

Example Chart



In this table, theory 1 has heavily contributed to the development with heavy influence from theory 3 and an insignificant amount of influence from theory 2.

In this case, there are 5 critical junctures. These junctures will be labeled T_1 - T_5 for each major point in time. T_1 is the era of colonial development from roughly 1600-1750. This is the era of British governors and was chosen because it exemplifies the earliest parts of the relationship between the federal government, or parliament and the crown, and the federated states, the colonies. This is where the governing authority of the colonies was originally established. T_1 is the natural beginning for the timeline because this is when the governing authority was established and the establishment of authority is a shift in authority. T_2 is the early-revolutionary era. This era runs from roughly 1750-1774. T_2 ends with the first continental congress. T_2 is a critical juncture because it demonstrates the shift in political thought from being disjointed colonies to being colonies under one federal

colonial government as shown by Benjamin Franklin's Plan of Union. This is a shift in authority from the British crown to the individual colonies and an 'alliance' binding the colonies together. T_3 is the mid-revolutionary era from 1774-1781. T_3 ends with the ratification of the Articles of Confederation and the establishment of a federal government, albeit a weak one. T_3 demonstrates the wariness of the colonists of federal systems to the extent where the federal government had no real power. This is a shift in authority from the alliance binding the colonies together to an established federal government. T_4 is the late-revolutionary era ending from 1781-1787. T_4 begins with the ratification of the Articles of Confederation and ends with the Constitutional Convention. T_4 demonstrates the failures of a weak federal system and the slow acceptance of a stronger federal government. This shift in authority is the process of transferring from one governing system with an emasculated federal government to another with a powerful federal government. T_5 is the constitutional era from 1787-1791. T_5 begins with the Constitutional Convention and ends with the ratification of the Bill of Rights. T_5 demonstrates the willingness to create a federal system and the legal codification of American Federalism. This is the final shift in governing authority. In this critical juncture, there is a shift from a powerful federal government to a federalist system where the states have real power. This is exemplified by the Bill of Rights weakening the powers of the federal government and granting the states broad police powers in the Tenth Amendment to the Constitution. T_1 - T_5 lay out the critical junctures in the process of codifying American federalism in American political thought starting from the original establishment of a western governing authority

in the United States and ending with the codification of American Federalism in the United States Constitution.

From the critical junctures, every theory must be operationalized for every critical juncture. To do this, I will discuss each critical juncture and within this discussion operationalize each theory individually. The theories must be operationalized into factors by which the ideas can be tested so the theory can be tested in comparison to reality. Not every theory is applicable to every critical juncture. This is because some theories do not contend to consider certain aspects of the timeline. Therefore, it would be improper to attempt to operationalize some theories for some critical junctures, but this will be discussed further with each critical juncture as it arises. The six theories that will be considered are as follows: British change (external), British continuation (external), historical factors (internal), the legal definition of a constitution (internal), the definition of republicanism (internal), and the political influence of small states and slave states (internal). However, the theories first need to be operationalized into high level expectations. The theory on British change expects to find a country distrustful of their current government to the extent where it is willing to form a new political system. The theory on British continuation expects to find a country satisfied with the state/federal relationship that existed pre-revolution. The theory on republicanism expects to find a country rejecting the British definition of republicanism which allowed Parliament to have complete control over the state. The theory on colonial historical factors expects to find a country only being influenced by internal factors to develop a new concept of federalism.

The theory on the definition of a constitution expects to find a county adopting a system of law that can be tested like a science with a rigid constitution. The theory on small states and slave states expects to find small states and slave states influencing the conventions to create the federalist system which disproportionately empowered these states. From these high level operationalization each theory will be operationalized for each critical juncture.

T₁ is the era of colonial development and is only applicable to five theories. The small state and slave state theory is not applicable here because this theory deals with the end of the timeline. The theory of British change is operationalized by looking for frustration with British authority,⁸⁸ small protests against the crown, and ideas reflecting colonial unity from an oppressive government which is shown by the use of phrases such as tyrant and oppression. This theory is looking for a country distrustful of their current government to the extent where it is willing to form a new political system. However, this is early in the process so the dissatisfaction with the British government is only just starting to bubble. The theory of British Continuation is operationalized by looking for satisfaction with British authority and ideas reflecting satisfaction with the status quo which is shown by the use of phrases such as benevolence and other verbiage showing contentment. The theory on the definition of republicanism is operationalized by looking for a definition of republicanism favoring a limited legislature, and institutions and political thought supporting a weak legislature with no power over colonial governments. The theory on the legal definition of a constitution is operationalized by looking for a general distrust for law

⁸⁸ Frustration with British authority can be seen in letters, newspapers, and other writings of the time. Frustration is present when the writings reflect an overall dissatisfaction with the crown. The frustration will be measured based on its pervasiveness. Satisfaction follows this same process but it looks for the opposite ideas.

easily changed. The theory on colonial historical factors is operationalized by looking for cultural, social, or political consistencies throughout the colonies.

T₂ is the early-revolutionary era and is only applicable to five theories. The small state and slave state theory is not applicable here because this theory deals with the end of the timeline. The theory of British change is operationalized by looking for political systems changing to work against the established British system, large protests against the crown, and ideas reflecting colonial unity from an oppressive government. This is slightly later down the timeline, so the distrust should be more intense which should cause the protests to be larger. The theory of British Continuation is operationalized by looking for consistencies in political systems to reflect the established British system and ideas reflecting satisfaction with the status quo. The theory on the definition of republicanism is operationalized by looking for a definition of republicanism favoring a limited legislature, institutions supporting a weak legislature with no power over colonial governments, and prevalent rhetoric pushing against parliament's new taxes. The theory on the legal definition of a constitution is operationalized by looking for a general distrust for law easily changed. The theory on colonial historical factors is operationalized by looking for cultural, social, or political consistencies throughout the colonies.

T₃ is the mid-revolutionary era and is only applicable to four theories. The small state and slave state theory is not applicable here because this theory deals with the end of the timeline. The theory on the legal definition of a constitution is also not applicable here because this theory deals with the beginning and the end of the timeline. The theory of British change is operationalized by looking for political systems changing to work against

the established British system, ideas reflecting colonial unity from an oppressive government, and, most importantly, a violent revolution against the British. The theory of British Continuation is operationalized by looking for consistencies in political systems to reflect the established British system and ideas reflecting satisfaction with the status quo. Despite the war, it is still possible for continuation from the British system for the system of American Federalism. The war does not necessarily need to be on the issue of federalism. Therefore, consistencies in political institutions can show a continuation of the British system. The theory on the definition of republicanism is operationalized by looking for a limited federal legislature and a colonial government trying to avoid violence when defending the rights of the federated states. The theory on colonial historical factors is operationalized by looking for the colonies being banded together for military safety, the colonies working together to achieve a common goal, and cultural, social, or political consistencies throughout the colonies.

T₄ is the late-revolutionary era and is applicable to all six theories. The theory of British change is operationalized by looking for a refusal to follow the established British social structure, ideas reflecting colonial unity from an oppressive government, and an *Imperium in Imperio*. As a reminder, *Imperium in Imperio* is an empire within an empire or a sovereign state within a sovereign state. The theory of British Continuation is operationalized by looking for colonies who are adopting British social structures, adopting a sovereign powerful federal government, and ideas existing to reflect satisfaction with the status quo. The theory on the definition of republicanism is operationalized by looking for a limited federal legislature and political and social institutions limiting federal power. The

theory on colonial historical factors is operationalized by looking for federal economic protections against the actions of the other states, the colonies working together to achieve a common goal, and cultural, social, or political consistencies throughout the colonies. The theory on the legal definition of a constitution is operationalized by looking for a general distrust for law easily changed and well-defined structures of government limiting the ability for individual parties to gain large quantities of power quickly. The theory on the political influence of small states and slave states is operationalized by looking for a dedication to the state governments over the federal government.

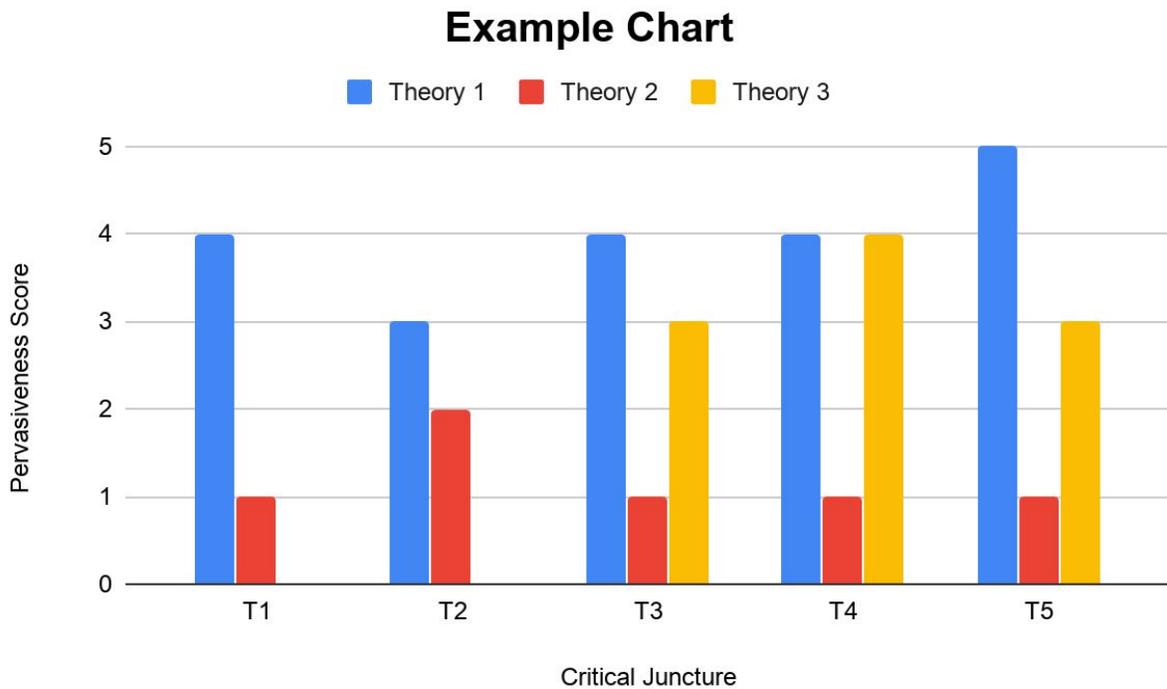
T₅ is the constitutional era and is applicable to all six theories. The theory of British change is operationalized in the same way as T₄ by looking for a refusal to follow the established British social structure, ideas reflecting colonial unity from an oppressive government, and an *Imperium in Imperio*. The theory of British Continuation is also operationalized the same way as T₄ by looking for colonies who are adopting British social structures, adopting a sovereign powerful federal government, and ideas existing to reflect satisfaction with the status quo. The theory on the definition of republicanism is operationalized by looking for a limited federal legislature and political and social institutions limiting federal power. The theory on colonial historical factors is operationalized by looking for an economic necessity of a federal system, the colonies working together to achieve a common goal, rhetoric promoting colonial military success, negative rhetoric on the Articles of Confederation, and cultural, social, or political consistencies throughout the colonies. The theory on the legal definition of a constitution is operationalized by looking for well-defined structures of government limiting the ability

for individual parties to gain large quantities of power quickly, and a constitution that can be scientifically studied as a field of law. The theory on the political influence of small states and slave states is operationalized by looking for rhetoric promoting state power and states deserving power and dedication to the state governments over the federal government.

All of the theories have now been established for every portion of the timeline. For a more condensed version of the preceding paragraphs see Tables 1-3. In the next section, I will test every theory in every critical juncture to see which theories are met within which critical junctures. To do this, I will look at data such as letters, political writings, government documents, transcripts from meetings, and newspapers from each critical juncture. When the data can show each factor of a theory is pervasive throughout the majority of the documents within a critical juncture, that theory applies to that portion of the timeline. However, if each factor of a theory is not pervasive throughout the majority of the documents within a critical juncture, it would be improper to claim the theory is relevant to that portion of the timeline. Within each critical juncture, the theories will be given a pervasiveness score of 0-5. 0 will mean the theory does not attempt to explain this portion of the timeline. 1 will mean the theory has no grounding in fact for a particular critical juncture. 5 will mean the theory perfectly explains the actual reality of the critical juncture. Each step along the scale will be distinct from the ones surrounding by how accurate the theory is to the portion of the timeline it is attempting to answer. The scores will be assigned and justified below for every tested theory. From there, the theory will be graphed onto a chart showing which theories best explain the portion of the timeline they

attempt to explain. Then, the pervasiveness scores for each theory will be added together to determine overall pervasiveness throughout the entire timeline. The higher the score means the more pervasive the theory. See chart 1 below for an example. I predict a mixture of the changing from the British system, the political influence of small states and slave states, and the changing legal definition of a constitution will be proven to be why the idea of American federalism became codified in American political thought.

Chart 1



In this table, Theory 1 has heavily contributed to the development with heavy influence from Theory 3 and an insignificant amount of influence from Theory 2. This is determined because theory 1 has an overall score of 20, Theory 2 has an overall score of 6 and Theory 3 has an overall score of 10. Theory 3 is particularly interesting because it has scores of 0 for T₁ and T₂. This means Theory 3 did not attempt to answer these portions of the timeline.

Therefore, Theory 3 is penalized for not recognizing these portions of the timeline.

However, this means a theory with a lower average pervasiveness score for the critical junctures attempted to be answered may have a higher overall score.

Table 1

	T1	T2
British Change	Frustration with British Authority	Political systems changing to work against the established British system
	Ideas Reflecting Colonial Unity from an Oppressive Government	Ideas Reflecting Colonial Unity from an Oppressive Government
	Small Protests Against the Crown	Large Protests Against the Crown
British Continuation	Satisfaction with British Authority	Consistencies in political systems to reflect the established British system
	Ideas Reflecting Satisfaction with the status quo	Ideas Reflecting Satisfaction with the status quo
Republicanism	Definition of Republicanism Favors a Limited Legislature	Definition of Republicanism Favors a Limited Legislature
	Institutions Supporting a Weaker Legislature with No Power over the Colonies	Institutions Supporting a Weaker Legislature with No Power over the Colonies
	Political Thought Supporting a Weaker Legislature with No Power over the Colonies	Prevalent Rhetoric Pushing Against Parliament's New Taxes
Colonial History	Cultural, Social, or Political consistencies	Cultural, Social, or Political consistencies
Constitution	A General Distrust for Law Easily Changed	A General Distrust for Law Easily Changed
Small/Slave States	Not Applicable	Not Applicable

Table 2

	T3	T4
British Change	A Revolution Against the Crown	<i>Imperium in Imperio</i>
	Ideas Reflecting Colonial Unity from an Oppressive Government	Ideas Reflecting Colonial Unity from an Oppressive Government
	Political systems changing to work against the established British system	Refusing British Social Structures
British Continuation	Consistencies in political systems to reflect the established British system	Adopting British social structures
	Ideas Reflecting Satisfaction with the status quo	Refusing a powerful federal government

	Not Applicable	Ideas Reflecting Satisfaction with the status quo
Republicanism	A Limited Federal Legislature	A Limited Federal Legislature
	Non-Violent Requests, At First, for Parliament to Stop Infringing on the Colonies	Political and Social Institutions Limiting Federal Power
Colonial History	Colonies Banded Together for Military Safety	Federal Economic Protections
	Cultural, Social, or Political consistencies	Cultural, Social, or Political consistencies
	Colonies Working Together to Achieve a Common Goal	Colonies Working Together to Achieve a Common Goal
Constitution	Not Applicable	A General Distrust for Law Easily Changed
	Not Applicable	Well-Defined Structures in Government
Small/Slave States	Not Applicable	Dedication to the State Over the Federal Government

Table 3

	T5
British Change	<i>Imperium in Imperio</i>
	Ideas Reflecting Colonial Unity from an Oppressive Government
	Refusing British Social Structures
British Continuation	Adopting British social structures
	Refusing a powerful federal government
	Ideas Reflecting Satisfaction with the status quo
Republicanism	A Limited Federal Legislature
	Political and Social Institutions Limiting Federal Power
Colonial History	Cultural, Social, or Political consistencies
	Economic Necessity of a Federal System
	Negative Rhetoric on the Failures of the Articles of Confederation
	Rhetoric Promoting Colonial Military Success
	Colonies Working Together to Achieve a Common Goal
Constitution	Constitution Studied as a Field of Law/ Law as a Science

	Well-Defined Structures in Government
Small/Slave States	Rhetoric Promoting State Power and States Deserving Power
	Dedication to the State Over the Federal Government

IV: Analysis

To analyze my data, I will be following the natural flow of the timeline. Meaning, I will assess each critical juncture individually. Under each critical juncture, every applicable theory will be assessed individually to determine if the theory accurately explains the events present. Then, the critical juncture will be assessed as a whole using a discussion of the pervasiveness scores of all applicable theories to determine which theory is the most pervasive for that particular critical juncture. This process will be repeated for every critical juncture until the entire timeline has been analyzed. Once the entire timeline has been analyzed, the timeline will be assessed as a whole using a discussion and pervasiveness score assessment of all theories to determine which theory is the most pervasive.

T_1

T_1 runs from roughly 1600-1750. This is when the governing authority of each of the colonies and the relationship between the colonies and the British government was originally established. During this time, the relationship between the colonies and the British government was fairly healthy. Only five of the six theories attempt to explain this portion of the timeline. The small state and slave state theory does not attempt to explain this portion of the timeline, so it will automatically be given a pervasiveness score of 0. The

other five theories will be analyzed and tested based on the conceptual framework laid out above.

British Change

Under T_1 , the theory of British change is operationalized by looking for (1) frustration with British authority, (2) small protests against the crown, and (3) ideas reflecting colonial unity from an oppressive government. This theory is expecting to find a country distrustful of their federal government to the extent where it is willing to form a new political system. However, this is early in the process so this theory is only expecting the dissatisfaction with the British government to be just starting to bubble.

There are two major examples of frustration with the British evident in the materials assessed from T_1 . First, Bacon's Rebellion was a rebellion in Virginia. However, this rebellion was not widespread and was ultimately put down by force.⁸⁹ The willingness to rebel shows there was some frustration with the British Governor in Virginia because those without a grievance would not create an armed rebellion. Second, New England colonists actively fought against the crown having control over their trade.⁹⁰ The New England colonists had the desire to increase their profit margins, but the British continued to raise control over trade. This caused the colonists to blatantly defy royal authority and systematically break down the 'royalization'⁹¹ of the colonies in New England.⁹² This was

⁸⁹ Thomas Mathew, *The Beginning, Progress, and Conclusion of Bacon's Rebellion in Virginia*. 1705. Manuscript/Mixed Material. <https://www.loc.gov/item/mtjbib026582/>.

⁹⁰ Philip S Haffenden. "The Crown and the Colonial Charters, 1675-1688: Part I." *The William and Mary Quarterly* 15, no. 3 (1958): 298-311. doi:10.2307/1915619 at 303.

⁹¹ Royalization refers to a campaign by the British crown to make all of the colonies subject to royal charters under a British Governor and subject to closer oversight by the crown.

⁹² Philip S Haffenden. "The Crown and the Colonial Charters, 1675-1688: Part I." *The William and Mary Quarterly* 15, no. 3 (1958): 298-311. doi:10.2307/1915619 at 308.

spread throughout the rest of the American Colonies and, to some extent, the rest of the world, but it was nearly as successful throughout the rest of the American Colonies. These two examples demonstrate there was some frustration with British authority, but these are the only two examples somewhat pervasive in T₁.

Regarding the small protests against the crown, the previous two examples best exemplify this. Bacon's Rebellion, while a violent protest, was small in nature and was not spread through the rest of the colonies.⁹³ The New England colonists working against the increasing British authority in trade can also be construed as a 'protest' against British authority.⁹⁴ However, the examples fall into the same pitfall under this factor. They are not common throughout the colonies or T₁.

Regarding colonial unity, there is no evidence of the American Colonies uniting against an oppressive government. There *may* be some similarities throughout the colonies during T₁, but these similarities are very rare. These similarities can be seen in reference to Bacon's Rebellion when Bacon was referred to as a patriot, but language similar to this did not appear often in regard to this rebellion. Also, this was the only rebellion during T₁ which demonstrates a lack of colonial unity. Even after the American Revolutionary War, similarities between the colonies were nearly non-existent, but during T₁ the colonies were functionally separate countries with separate political systems and cultures.⁹⁵

⁹³ Thomas Mathew, The Beginning, Progress, and Conclusion of Bacon's Rebellion in Virginia. 1705. Manuscript/Mixed Material. <https://www.loc.gov/item/mtjbib026582/>.

⁹⁴ Philip S Haffenden. "The Crown and the Colonial Charters, 1675-1688: Part I." The William and Mary Quarterly 15, no. 3 (1958): 298-311. doi:10.2307/1915619.

⁹⁵ Richard R. Beeman, Plain, Honest Men: the Making of the American Constitution (New York: Random House Trade Paperbacks, 2010).

For T_1 , the theory of British change is given a pervasiveness score of 2.34. This is an average of the scores of the three individual operationalized factors. The first element receives a score 2 because the factor is met and describes some happenings of T_1 , but this element is only sparingly met. The second element receives a score of 4 because this factor is met and is fairly pervasive throughout T_1 and the colonies themselves. The 'rolaylization' of the colonies was deconstructed systematically throughout almost all 13 colonies. However, the third factor receives a score of 1 because the factor does attempt to answer the overall research question. Therefore, the factor cannot receive a score of zero, but this is the only reason the factor is receiving any points.

British Continuation

Under T_1 , the theory of British Continuation is operationalized by looking for (1) satisfaction with British authority and (2) ideas reflecting satisfaction with the status quo. This theory is expecting to find a country so satisfied with its current relationship with its federal government that it formed a political system modeled after the empire it rebelled from. Considering this is so early on the road to revolution, this critical juncture is the most likely critical juncture to find satisfaction with the empire.

Satisfaction with British authority can be shown by looking at how the citizens refer to the authority figures in the colonial system: i.e. the British Governors. The report on Bacon's Rebellion was written by a planter shortly after the rebellion.⁹⁶ This report refers to the governor in a very positive light and was found over a century after the events of Bacon's Rebellion, so there would be no need for the author to artificially inflate the ego of

⁹⁶ Thomas Mathew, The Beginning, Progress, and Conclusion of Bacon's Rebellion in Virginia. 1705. Manuscript/Mixed Material. <https://www.loc.gov/item/mtjbib026582/>.

the governor. The report refers several times to the governor's "civility" which implies the author had a positive view of the governor as a person.⁹⁷ However, this report refers to Bacon as a patriot, so it is reasonable to believe the author is not satisfied with the current power vested in the governor.

Satisfaction with the status quo set by the British can be shown by looking at the founding documents of the colonies. If the colonial charters, set up and create similar institutions to the British Empire which reinforce deeply rooted British institutions, the colonies must have at least some satisfaction with the current status quo. The New York Charter of Privileges is a perfect example of a colonial government institutionalizing British systems. The New York Charter of Privileges essentially laid out a British Parliamentary model within the colony of New York.⁹⁸ This was not a singular experience in the colonies, but this was a New England experience. The southern colonies tended to reject parliamentary models for more populist systems of government. However, the willingness to adopt and institutionalized the British system of governing demonstrates the New England colonies being satisfied with the British status quo.

For T₁, the theory of British continuation is given a pervasiveness score of 2.46. This is an average of the scores of the two individual operationalized factors. The first element receives a score of 3 because the factor is met, but this element is met with conditions. The citizens tended to see their governors as good people and leaders, but the issues with the crown resulted in underlying issues that ultimately led to the reference of Bacon as a patriot. The second element receives a score of 1.92 because this factor is met in the 5 New

⁹⁷ *Ibid.*

⁹⁸ "1683: Charter of Liberties and Privileges (New York)." Online Library of Liberty.

England of the original 13 colonies. 1.92 is a result of the 'successful' colonies (5) divided by the total number of colonies (13) times the scale (5).

Republicanism

The theory on the definition of republicanism is operationalized by looking for a (1) definition of republicanism favoring a limited federal legislature, and (2) institutions and political thought supporting a weak British legislature with no power over colonial governments. This theory is expecting to find a country slowly siphoning power from Parliament. While this may happen further into the timeline, there is no evidence of Parliament being seen as weak or limited. The Colonial Charter of Virginia demonstrated the power of colonial government Virginia by exerting police powers through banning gambling, idleness, drunkenness, etc.⁹⁹ The Colonial Charter of Virginia, Pennsylvania Charter of Privileges, and the New York Charter of Privileges established governments of the people of the individual colonies allowing the individual colonies to represent their interests to Parliament with some authority.¹⁰⁰ However, the granting, or declaring, of power to the colonies does not necessarily mean Parliament was weakened. Parliament still retained the power to pass any laws they saw fit. Here, the colonies only passed laws in addition to parliamentary laws. They recognized the authority of Parliament because every charter was made in the name of Parliament and the King. The states here were only exerting a sphere of power within their own borders, not a sphere of sovereignty cut equal

⁹⁹ Colonial Charter of Virginia from Virginia Company Of London, and Library Of Congress. The records of the Virginia Company of London. edited by Kingsbury, Susan M Washington: Govt. Print. Off., to 1935, 1906. Image. <https://www.loc.gov/item/06035006/>.

¹⁰⁰ *Ibid*; "Pennsylvania Charter of Privileges." The Avalon Project: Charter of Privileges Granted by William Penn, Esq. to the Inhabitants of Pennsylvania and Territories, October 28, 1701; "1683: Charter of Liberties and Privileges (New York)." Online Library of Liberty.

to that of Parliament. Therefore, for T₁, this theory is simply off-point and receives a pervasiveness score of 1.

Colonial History

The theory on colonial historical factors is operationalized by looking for (1) cultural, (2) social, or (3) political consistencies throughout the colonies. For the first two elements, the colonies, in T₁, are severely lacking. The colonies were functionally separate cultures far into the late 18th century.¹⁰¹ However, there were regions with similar cultures and societies like New England or the Southern Colonies. Social interactions were such a large portion of the colonial cultures it would be unfair to consider these elements separately. For example, in the southern colonies plantation culture was created by how different plantation owners interacted with each other. Therefore, these two elements will be considered and weighed together and granted a single pervasiveness score of 2 because this theory attempts to answer the research question and there are regional similarities, but the colonies, as a unit, do not have any social or cultural consistencies.

Despite the lack of social or cultural consistencies, the three colonial charters assessed created very similar political systems with most of the power vested in the people. These political systems are not perfectly similar because some of the colonies were more populist but others were more parliamentary. However, the basic political ideology of having a system where the people have a right to participate in government was existent in all of the colonial charters assessed.¹⁰² Therefore, the political consistency element will be

¹⁰¹ Richard R. Beeman, Plain, Honest Men: the Making of the American Constitution (New York: Random House Trade Paperbacks, 2010).

¹⁰² Colonial Charter of Virginia from Virginia Company Of London, and Library Of Congress. The records of the Virginia Company of London. edited by Kingsbury, Susan M Washington: Govt. Print. Off., to 1935, 1906. Image. <https://www.loc.gov/item/06035006/>; "Pennsylvania Charter of Privileges." The Avalon Project:

given a pervasiveness score of 4 because the theory almost perfectly predicts the happenings of reality. The average of these elements results in a total pervasiveness score of 3.

Constitution

The theory on the legal definition of a constitution is operationalized by looking for a general distrust for law easily changed. The colonial charters assessed all demonstrate a goal of stabilizing the laws of the colony.¹⁰³ The colonial charters law groundworks for governments of law which are not susceptible to the whims of a single person like the king was to the British government. The charters created legislatures of powerful, elected representatives like the General Assemblies in Pennsylvania and New York and the House of Burgesses in Virginia.¹⁰⁴ These legislatures, like the current United States Congress, are purposefully slow. By creating charters slowing the institutional process of changing colonial law, the creators of these charters showed disgust for the British system where laws could be changed quickly by the monarch in favor of a system of law as a slow science to be tested and carefully analyzed before being implemented. This is perfectly in line with what the theory would predict and is seen throughout the entirety of the colonies, so this theory receives a pervasiveness score of 5.

Discussion

For T₁, the theories are ranked as follows: Constitution, Colonial History, British Continuation, British Change, and Republicanism. This shows the constitutional definition

Charter of Privileges Granted by William Penn, Esq. to the Inhabitants of Pennsylvania and Territories, October 28, 1701; "1683: Charter of Liberties and Privileges (New York)." Online Library of Liberty.

¹⁰³ *Ibid.*

¹⁰⁴ *Ibid.*

theory heavily contributed to the development of American Federalism with moderate influence by the theory on colonial historical factors. However, the pervasiveness scores of British change and British continuation are very close in terms of their pervasiveness score which indicates neither one of these theories dominates the other. These theories are dichotomies, so one is as true as the other is false. Here, there is roughly a 55/45 split, but this is within a reasonable margin of error where it is not possible to guarantee. Finally, the republicanism definition theory has no grounding in fact during T_1 .

T_2

T_2 runs from roughly 1750-1774. T_2 ends with the first continental congress because the continental congress was the first official sign of independent governance from the colonies. This critical juncture demonstrates the shift in political thought from being disjointed colonies to being colonies under one federal colonial government. This is a shift in authority from the British crown to the individual colonies. Only five of the six theories attempt to explain this portion of the timeline. The small state and slave state theory does not attempt to explain this portion of the timeline, so it will automatically be given a pervasiveness score of 0. The other five theories will be analyzed and tested based on the conceptual framework laid out above.

British Change

The theory of British change is operationalized by looking for (1) political systems changing to work against the established British system, (2) large protests against the crown, and (3) ideas reflecting colonial unity from an oppressive government. This theory is expecting to find a country distrustful of their federal government to the extent where it

is forming a new political system. T_2 is later down the timeline, so this theory expects the previous distrust from T_1 to be more intense which should cause the protests to be larger and the colonial unity to be stronger.

The only political system shown to work against the established British system during T_2 is the Pennsylvania General Assembly, but the charters discussed in T_1 are still applicable here. Publick papers from Pennsylvania show the people of Pennsylvania believed they could go to their government and receive a positive response.¹⁰⁵ This contrasts the British system where the colonies would rarely receive a response from the King or Parliament. This amount of involvement from the people in government was radically different from the amount of involvement from the people in the British system of government.

Regarding protests against the crown, the most famous protest of the American Revolutionary War occurred during T_2 . The Boston Tea Party was a large protest against the British Empire's new tax on tea and the people took these actions on a large scale.¹⁰⁶ The Boston Tea Party caused \$1.7 million worth of damage, factoring for inflation. The impact of the Boston Tea Party on the Revolutionary War and the monetary damages constitutes a large protest.¹⁰⁷ However, these protests did not happen often because much of the colonial population was unsure whether they supported the revolutionaries.

¹⁰⁵ Copies of several publick papers, which have passed in the Province of Pensilvania in the month of November. 1755.

¹⁰⁶ On Tuesday night arrived in this City, a gentleman, who came express from Boston, with the following interesting intelligence viz. Boston. December 16. It is understood that Mr. Rotch, owner of the ship Dartmouth, rather lingered in his preparations . New York, 1773. Pdf. <https://www.loc.gov/item/rbpe.0030270a/>.

¹⁰⁷ "Boston Tea Party Damage," Boston Tea Party Ships, accessed March 13, 2020, <https://www.bostontepartyship.com/boston-tea-party-damage>

Regarding colonial unity, there is *little* evidence of the American Colonies uniting against an oppressive government during T_2 . The Albany Plan was proposed to the colonies to unite the colonies together as a unit. This would have allowed the colonies to negotiate with the British government as a unit. However, the Albany Plan was rejected by the colonies in favor of retaining more independence.¹⁰⁸ Furthermore, there are some similarities throughout the colonies during T_2 , but these similarities are political. However, the colonies failed to unite against their soon to be mutual enemy. T_2 ends at the first continental congress so this meeting is in T_3 . Therefore, the colonies cannot be seen to be uniting together a few short years before the Revolutionary war.

For T_1 , the theory of British change is given a pervasiveness score of 2.67. This is an average of the scores of the three individual operationalized factors. The first element receives a score 3 because the factor is met and describes the happenings of T_2 , slightly more than the happenings of T_1 . The second element receives a score of 4 because this factor is met and is fairly pervasive throughout T_2 , but the protests were not as violent or large as the theory would expect. The third factor receives a score of 1 because the factor does attempt to answer the overall research question, but the colonies rejected their chance to unite. Therefore, the factor cannot receive a score of zero, but this is the only reason the factor is receiving any points.

British Continuation

The theory of British Continuation is operationalized by looking for (1) consistencies in political systems to reflect the established British system and (2) ideas

¹⁰⁸ "Albany Plan of Union, 1754." U.S. Department of State.

reflecting satisfaction with the status quo. This theory is expecting to find a country so satisfied with its current relationship with its federal government that it formed a political system modeled after the empire it rebelled from. As time moves on this theory expects to find less satisfaction with the empire, but rather institutional consistencies between the British empire and the colonies.

In T_2 , there is no evidence of institutional consistencies being created to reflect the established British system. This is likely because the colonies were beginning to reject all things British. This goes from British culture to British political systems. The colonists rejected forming a federal government due to a fear of recreating a British system. Therefore, this factor receives score of 1 because the factor does attempt to answer the overall research question, but fails to be substantiated

Regarding the status quo, the colonists enthusiastically upheld the status quo in early T_2 , but towards the end of the critical juncture this changed. Early on the colonists rejected making large changes by refusing to adopt the Albany Plan.¹⁰⁹ The colonists of Pennsylvania also requested raises in fines and forfeitures in their own colony to raise money for the King's use.¹¹⁰ However, towards the end of T_2 the colonists began rejecting the status quo through protests like the Boston Tea Party. Therefore, this factor will receive a score of 3 because this theory is accurate for slightly over half of T_2 . For T_2 , the theory of British change is given a pervasiveness score of 2.

Republicanism

¹⁰⁹ *Ibid.*

¹¹⁰ Copies of several publick papers, which have passed in the Province of Pensilvania in the month of November 1755.

The theory on the definition of republicanism is operationalized by looking for a (1) definition of republicanism favoring a limited legislature, (2) institutions supporting a weak legislature with no power over colonial governments, and (3) prevalent rhetoric pushing against parliament's new taxes. This theory is expecting to find a country slowly siphoning power from Parliament.

For T_2 , *Common Sense* by Thomas Paine illuminates the political thought of the critical juncture. At the time of publication, *Common Sense* was the largest sale of any book in American History. *Common Sense* declared the British Constitution “merely temporary” and supported a new limited legislature after calling for an armed revolution.¹¹¹ This is supported by the rejection of the Albany plan, which favored a more powerful federal legislature.¹¹² Therefore, this factor will be given a pervasiveness score of 5. For the second factor, there is no evidence of institutional changes supporting the weak legislature like in T_1 , so it will also receive a score of 1. The third factor can also be found in *Common Sense* which is very pervasive in the culture of T_2 . *Common Sense* argues the taxes on the colonies are so unjust that an armed revolution is justified.¹¹³ Therefore, the third factor will also receive a pervasiveness score of 5. By averaging the three factors the pervasiveness score for T_2 for this theory is 3.67.

Colonial History

The theory on colonial historical factors is operationalized by looking for (1) cultural, (2) social, or (3) political consistencies throughout the colonies. For T_2 , the first

¹¹¹ Thomas Paine, 1737-1809. *Thomas Paine's Common Sense : the Call to Independence*. Woodbury, N.Y.: Barron's Educational Series, inc., 1975.

¹¹² “Albany Plan of Union, 1754.” U.S. Department of State.

¹¹³ Thomas Paine, 1737-1809. *Thomas Paine's Common Sense : the Call to Independence*. Woodbury, N.Y.: Barron's Educational Series, inc., 1975.

two factors are, once again, not met because the colonies were functionally separate societies and cultures for T₂. Therefore, the first two factors will receive a score of 1, but because social interactions were such a large portion of the colonial cultures these two factors will be considered and weighed together. The third factor will receive a score of 5 because the colonies were so politically similar Thomas Paine referred to the colonies as sister colonies for sharing a mother country and the massive political similarities. For T₂, the theory of colonial historical factors is given a pervasiveness score of 3.

Constitution

The theory on the legal definition of a constitution is operationalized by looking for a general distrust for law easily changed. *Common Sense* perfectly exemplifies this. Thomas Paine and the readers influenced by his work had a fundamental problem with the monarchical system of hereditary succession because of the way a new monarch could quickly overturn centuries old precedent in a matter of days.¹¹⁴ This is the true motivation behind the declaration of the British Constitution as “merely temporary.”¹¹⁵ The British constitution was seen as too volatile and easy to change. Therefore, Paine recognized the American people would ultimately and should ultimately reject a system of law that can change on the whim of one person. This is perfectly in line with what the theory would predict so this theory receives a pervasiveness score of 5.

Discussion

For T₂, the theories are ranked as follows: Constitution, Republicanism, Colonial History, British Change, and British Continuation. This shows the constitutional definition

¹¹⁴ *Ibid.*

¹¹⁵ *Ibid.*

theory heavily contributed to the development of American Federalism with moderate influence by the theory on changing definition of republicanism. The theory in colonial history has remained strong, but for T_2 the theory on republicanism was merely more influential. For the scores of British change and British continuation there has been a swing of nearly 1 which indicates the theory of british change has picked up more traction over British continuation, but unless this traction continues this could be within a reasonable margin of error where it is not possible to guarantee whether or not this shift will continue.

T_3

T_3 runs from roughly 1774-1781. T_3 ends with the ratification of the Articles of Confederation because the Articles of Confederation demonstrates the shift in power to establish a weak federal government. This critical juncture demonstrates a shift in authority from the British crown to the structured and codified federal government. Only four of the six theories attempt to explain this portion of the timeline. The small state and slave state theory does not attempt to explain this portion of the timeline, so it will automatically be given a pervasiveness score of 0. The theory on the legal definition of a constitution also does not attempt to explain this portion of the timeline, so it will automatically be given a pervasiveness score of 0. The other four theories will be analyzed and tested based on the conceptual framework laid out above.

British Change

The theory of British change is operationalized by looking for (1) political systems changing to work against the established British system, (2) ideas reflecting colonial unity from an oppressive government, and (3) a violent revolution against the British. This

theory is expecting to find a country distrustful of their federal government to the extent where it is forming a new political system by means of violent revolution. T_3 is later down the timeline, so this theory expects the previous distrust from T_1 and T_2 to be more intense which should cause a violent revolution.

For the first factor, letters from George Washington shine significant light on the political systems of this critical juncture. The political system present during T_3 demonstrated a massive change from the established British system. This is due to the overall weakness of Congress. Washington consistently comments on the weakness of Congress and the inability to get anything done quickly.¹¹⁶ This is a stark difference to the British system because under the British Empire the federal government was powerful and efficient. Here, Washington is seen as being frustrated with the American system, and this frustration is due to the inherent inefficiencies that rise from a weak federal government.¹¹⁷ The first factor is accurate because the political system adopted under the Articles of Confederation was adopted to work against the British system, so it will receive a score of 5.

The second and third factors go hand-in-hand. The colonies united together against an oppressive government when the colonies declared independence from the British Empire. However, the colonies were not completely united against the British Empire. They did all, as governments, declare independence from the British Empire, but there was still a

¹¹⁶ George Washington. George Washington Papers, Series 2, Letterbooks 1754 to 1799: Letterbook 11,- Feb. 5, 1785. 1778. Manuscript/Mixed Material; George Washington. George Washington Papers, Series 2, Letterbooks 1754 to 1799: Letterbook 9,- Aug. 8, 1776. 1775. Manuscript/Mixed Material; George Washington. George Washington Papers, Series 2, Letterbooks 1754 to 1799: Letterbook 10, July 15. 1776. Manuscript/Mixed Material.

¹¹⁷ *Ibid.*

loyalist movement and lack of unity among the revolutionaries For example, Washington nearly faced a mutiny while in Valley Forge.¹¹⁸ Due to this, unsteadiness the second factor is not completely on-point, but it is very close. Therefore, the second factor will receive a score of 4. The third factor is completely accurate, so it will receive a score of 5. Overall the pervasiveness score for the theory of British change for T_3 is 4.67.

British Continuation

The theory of British Continuation is operationalized by looking for (1) consistencies in political systems to reflect the established British system and (2) ideas reflecting satisfaction with the status quo. This theory is expecting to find a country so satisfied with the system forming its current relationship with its federal government that it formed a political system modeled after the empire it rebelled from. Despite this rebellion, it is still possible for continuation from the British system for the system of American Federalism. The war does not necessarily need to be on the issue of federalism. However, there is no evidence of consistencies in political systems to reflect the established British system and ideas reflecting satisfaction with the status quo during T_3 , so this theory receives a pervasiveness score of 1.

Republicanism

The theory on the definition of republicanism is operationalized by looking for a (1) definition of republicanism favoring a limited legislature, (2) a colonial government trying to avoid violence when defending the rights of the federated states. This theory is expecting to find a country rejecting any form of governance which takes power away from the

¹¹⁸ Richard R. Beeman, Plain, Honest Men: the Making of the American Constitution (New York: Random House Trade Paperbacks, 2010) at Pg. 7.

individual colonies whether this is the British Empire or a powerful colonial federal government.

The first factor is met wholly because the definition of republicanism adopted by the colonies for the Articles of Confederation possessed a legislature so weak it was not able to fund the army.¹¹⁹ Congress had no ability to enforce its own taxes and laws on the governments of the colonies. This inefficiency comes from the limiting of the legislature's powers. Therefore, this factor receives a score of 5. For the second factor, there is some evidence of Congress attempting to avoid conflict with the British Empire, but this is ultimately negligible. In 1775, Congress issued the Olive Branch Petition declaring its loyalty to the king.¹²⁰ However, this is an empty petition because a month earlier George Washington was named Commander-in-Chief of the Continental Army.¹²¹ While Congress was allegedly trying to avoid war they were preparing for a full scale war against the British Empire. Therefore, this factor will only receive a factor 3 because there is some 'attempt' to avoid war, but this attempt was half hearted. Overall the pervasiveness score for the theory of the definition of republicanism for T_3 is 4.

Colonial History

The theory on colonial historical factors is operationalized by (1) looking for the colonies being banded together for military safety, (2) the colonies working together to

¹¹⁹ George Washington. George Washington Papers, Series 2, Letterbooks 1754 to 1799: Letterbook 9,- Aug. 8, 1776. 1775. Manuscript/Mixed Material.

¹²⁰ "1775 : Timeline : Articles and Essays : Documents from the Continental Congress and the Constitutional Convention, 1774-1789 : Digital Collections : Library of Congress," The Library of Congress, accessed March 15, 2020, <https://www.loc.gov/collections/continental-congress-and-constitutional-convention-from-1774-to-1789/articles-and-essays/timeline/1775/>.

¹²¹ *Ibid.*

achieve a common goal, and (3) cultural, social, or (4) political consistencies throughout the colonies.

The first and second factors may, at first, seem to go hand-in-hand, but they do not. The first factor is looking for the colonies banding together for military safety which they did. However, there was still some internal conflict with potential mutinies and issues of funding, so this factor will receive a score of 4. The second factor is looking for the colonies working together. The colonies may have been banded together against the British, but they were not entirely united. The colonies functioned as independent countries and worked against each other by only supporting their own interests.¹²² In the case of the war, the colonies had a mutual interest, but the colonies only supported each other when it suited their own goals. This factor is met only in part, so it receives a score of 3.

For T_3 , the cultural and social consistencies are, once again, not met because the colonies were functionally separate societies and cultures for T_3 . Therefore, these factors will receive a score of 1, but because social interactions were such a large portion of the colonial cultures these two factors are considered and weighed together. The political consistencies will receive a score of 5 because the colonies were very politically similar. The colonies continued to possess the same political similarities discussed during T_2 and briefly during T_1 . By averaging the scores for the four factors, the pervasiveness score for this theory for T_3 is 3.25.

Discussion

For T_3 , the theories are ranked as follows: British Change, Republicanism, Colonial

¹²² George Washington. George Washington Papers, Series 2, Letterbooks 1754 to 1799: Letterbook 9,- Aug. 8, 1776. 1775. Manuscript/Mixed Material.

History, and British Continuation. This shows the theory of British change is beginning to dominate British continuation by having a difference of more than 3 points. This indicates the theory of British change best exemplifies T_3 and is beginning to look like the strongest external theory. There is a fairly strong influence by the changing definition of republicanism, but this theory needs to be viewed in light of the theory of British change because some change will inevitably lead to more. This does not discount the changing definition of republicanism because the change does not always lead to *similar* change. The theory in colonial history has remained consistent with a score of around three with a moderate influence.

T_4

T_4 runs from roughly 1781-1787. T_4 begins with the ratification of the Articles of Confederation and ends with the Constitutional Convention. This critical juncture demonstrates a shift in authority from the Articles of Confederation to the framers of the Constitution possessing the power to frame the future of the country. All six of the theories attempt to explain this portion of the timeline. These theories will be analyzed and tested based on the conceptual framework laid out above.

British Change

The theory of British change is operationalized by looking for (1) a refusal to follow the established British social structure, (2) ideas reflecting unity, and an (3) *Imperium in Imperio*. This theory is expecting to find a country distrustful of their former federal government to the extent where it is forming a new political system and purposefully avoiding a system similar to the British system. T_4 is the end of the revolutionary war so

the resentment against the British should still be high and the states should reject anything remotely British.

For the first factor, letters from George Washington allow for insight into this critical juncture. Washington wrote to David Humphreys and fought against British social structures by leaning into the idea of rebellion which deconstructs social structures.¹²³ Washington reiterates this in a letter to Henry Knox where he condemns the social structures of the British by degrading the tyranny inherent in the British social system and praising the revolution. Despite these condemnations of British social structures it is important to note Washington was from Virginia. New England was much more likely to conform to the British social system. Therefore, this factor will receive a score of 3.08 which is discovered by dividing the number of states who rejected British social systems (8) by the total number of states (13) times the scale (5).

Regarding unity, there is *little* evidence of the states uniting during the entirety of T_4 . During the end of the revolutionary war, the states were obviously united by war. However, throughout the rest of T_4 the states only acted in their own best interest. This resulted in the failure to pass basic legislation such as import taxes or to even hold each other accountable.¹²⁴ Therefore, This factor will receive a score of 2.

In T_4 , *Imperium in Imperio* is deeply pervasive throughout the entirety of T_4 . *Imperium in Imperio* is an empire within an empire or a sovereign state within a sovereign state. Under the Articles of Confederation, the state legislatures were completely sovereign.

¹²³ George Washinton to David Humphreys, December 26, 1786. George Washington Papers, Series 2, Letterbooks 1754 to 1799: Letterbook 13, March 5, 1786. 1786. Manuscript/Mixed Material.

¹²⁴ The Rhode Island Delegates to the Governor of Rhode Island, 15 October, 1782. from Edmund Cody. Burnett, Letters: of Members of the Continental Congress, Edited by Edmund C. Burnett, vol. VI (Washington: Carnegie Institution, 1934).

This is shown by the inefficiencies of Congress,¹²⁵ the ability of the states to completely ignore the Articles of Confederation due to the lack of enforcement mechanisms, and the encroachment on federal authority by declaring separate wars.¹²⁶ Therefore, the theory perfectly predicts reality so it receives a score of 5. By averaging the factor scores, the overall pervasiveness score for British change for T_4 is 3.36.

British Continuation

The theory of British Continuation is operationalized by looking for (1) colonies who are adopting British social structures, (2) adopting a sovereign powerful federal government, and (3) ideas existing to reflect satisfaction with the status quo. This theory is expecting to find a country so satisfied with British system it formed a political system modeled after the empire it rebelled from.

The first factor is a dichotomy of the first factor for the theory of British change for T_4 . New England conformed to the British political system. Therefore, this factor will receive a score of 1.92 which is discovered by dividing the number of states who adopted British social systems (5) by the total number of states (13) times the scale (5). For the second factor, the government adopted was sovereign, in theory, but the Articles of Confederation lacked enforcement mechanisms. Therefore, it would be disingenuous to call the federal government under T_4 sovereign, so this factor will receive a score of 1. For the third factor, there was little satisfaction with the status quo. This factor is very similar to the first factor because the New England states followed the British political system, so this

¹²⁵ George Washington Papers, Series 2, Letterbooks 1754 to 1799: Letterbook 11,- Feb. 5, 1785. 1778. Manuscript/Mixed Material.

¹²⁶ "Vices of the Political System of the United States, April 1787," Founders Online, National Archives.

factor will also receive a score of 1.92. By averaging the factor scores, the overall pervasiveness score for British change for T_4 is 1.61.

Republicanism

The theory on the definition of republicanism is operationalized by looking for (1) a limited federal legislature and (2) political and social institutions limiting federal power. This theory is expecting to find a country rejecting any form of governance which takes power away from the individual states. Both factors are perfectly met because the federal legislature under the Articles of Confederation was limited. These limits were built into the framework of the Articles of Confederation because Congress did not have enforcement mechanisms. It was also seen as socially acceptable for states to actively work against the goals and power of the federal government.¹²⁷ Therefore, both factors and the overall pervasiveness score is 5.

Colonial History

The theory on colonial historical factors is operationalized by looking for (1) federal economic protections against the actions of the other states, (2) the colonies working together to achieve a common goal, and (3) cultural, social, or (4) political consistencies throughout the colonies.

Regarding the first factor, the Articles of protection granted no economic protections to the states against each other. This caused states to wage economic war on each other and quickly devolved to needing some sort of protections. However, these

¹²⁷ "Vices of the Political System of the United States, April 1787," Founders Online, National Archives; The Rhode Island Delegates to the Governor of Rhode Island, 15 October, 1782. from Edmund Cody. Burnett, Letters: of Members of the Continental Congress, Edited by Edmund C. Burnett, vol. VI (Washington: Carnegie Institution, 1934); George Washington Papers, Series 2, Letterbooks 1754 to 1799: Letterbook 11,- Feb. 5, 1785. 1778. Manuscript/Mixed Material.

protections were not created until after the end of T₄, so this factor will receive a score of 1.

¹²⁸ Like T₃, the colonies were working together towards the common goal of independence, but this did not exist over the entirety of T₄.¹²⁹ Therefore, this factor will only receive a score 3 for the same reason as this factor in T₃. The cultural and social consistencies are still not present in the colonies to the extent where they are distinct cultures. Therefore, this factor will receive a score of 1 like it has in previous portions of the timeline because the colonies have not become any more culturally similar.¹³⁰ The colonies are still very politically similar. They possess similar political systems with similar checks and balances as they have since T₂, so this factor will receive a score of 5.¹³¹ By averaging the factor scores, the overall pervasiveness score for colonial history for T₄ is 2.5.

Constitution

The theory on the legal definition of a constitution is operationalized by looking for (1) a general distrust for law easily changed and (2) well-defined structures of government limiting the ability for individual parties to gain large quantities of power quickly.

The first factor is perfectly met because there is a large distrust for law easily changed in the states. The ability of one state to shoot down an import tax and affect the entirety of the union demonstrates this because it is difficult to change the law when such a

¹²⁸ "Vices of the Political System of the United States, April 1787," Founders Online, National Archives; The Rhode Island Delegates to the Governor of Rhode Island, 15 October, 1782. from Edmund Cody. Burnett, Letters: of Members of the Continental Congress, Edited by Edmund C. Burnett, vol. VI (Washington: Carnegie Institution, 1934); "Annapolis Convention. Address of the Annapolis Convention, [14 September 1786]," Founders Online, National Archives.

¹²⁹ *Ibid.*

¹³⁰ George Washington Papers, Series 2, Letterbooks 1754 to 1799: Letterbook 11,- Feb. 5, 1785. 1778. Manuscript/Mixed Material.

¹³¹ *Ibid.*

large supermajority is needed.¹³² George Washington was also distrustful of any convention to rewrite the Articles of Confederation because he believed this would set a dangerous precedent allowing the constitution to be easily and frequently rewritten.¹³³ Therefore, this factor will receive a score of 5.

The second factor will receive a score of 2 because the structures of government are poorly defined, but the goal of well-defined structures is being partially met. The Articles of Confederation failed to define the powers for each structure. There was a large power imbalance between the federal and state governments, but the system of government prevents an individual state from gaining too much power. Due to preventing a power imbalance between states, not defining structures of government does prevent some power imbalance, but it does not complete this goal between the federal and state level. By averaging the factor scores, the overall pervasiveness score for the theory on the changing definition of a constitution for T_4 is 3.5.

Small/Slave States

The theory on the political influence of small states and slave states is operationalized by looking for a dedication to the state governments over the federal government. This theory is expecting to find the small states and slave states strong arming the federal government to possess more power relative to the other states. Under the Articles of Confederation there was a massive dedication to the state government over the federal government. The states were allowed and able to impede on federal authority by

¹³² "Annapolis Convention. Address of the Annapolis Convention, [14 September 1786]," Founders Online, National Archives.

¹³³ George Washington Papers, Series 2, Letterbooks 1754 to 1799: Letterbook 14,- Feb. 22, 1788. 1787. Manuscript/Mixed Material.

ignoring the constitution and exercising powers designated to the federal government like declaring war. Therefore, the pervasiveness score for the theory on small states and slave states for T_4 is 5.

Discussion

For T_4 , the theories are ranked as follows: Republicanism, Small/Slave States, Constitution, British Change, Colonial History, and British Continuation. This shows the theory of British change is continuing to dominate British continuation. This indicates the theory of British change is the strongest external theory. There is a tie or the strongest influence between the changing definition of republicanism and the theory on small states and slave states. However, the theory of republicanism has a stronger lead-up to T_4 while the theory on small states and slave states has only just become viable. The theory in colonial history remains consistent, but is slightly lower for this piece of the timeline. The theory on the changing definition of a constitution has become applicable again, but it is only the third strongest theory for T_4 rather than being the most influential like it was previously.

T_5

T_5 runs from roughly 1787-1791. T_5 begins with the Constitutional Convention and ends with the ratification of the Bill of Rights. This critical juncture demonstrates the willingness to create a federal system and the legal codification of American Federalism. This is the final shift in governing authority from the Articles of Confederation government to the Constitutional federalist system. All six of the theories attempt to explain this portion

of the timeline. These theories will be analyzed and tested based on the conceptual framework laid out above.

British Change

The theory of British change is operationalized by looking for (1) a refusal to follow the established British social structure, (2) ideas reflecting unity, and an (3) *Imperium in Imperio*. This theory is expecting to find a country distrustful of their former federal government to the extent where it forms a new political system and purposefully avoids a system similar to the British system. However, T_5 is several years separate from the revolutionary war so the resentment against the British should be waning and the delegates of the Constitutional Convention should be more willing to adopt systems reminiscent of the British system.

The social structures of the United States during T_5 is very similar to the social structures of T_4 . Here, New England conformed to the British social system, but the rest of the states tended to reject the British social system. Therefore, this factor will receive a score of 3.08 which is discovered by dividing the number of states who rejected British social systems (8) by the total number of states (13) times the scale (5).¹³⁴ Regarding the second factor, the states became completely united during T_5 . This is because the states were able to set their differences aside to compromise on a sovereign federal government.

¹³⁵ This put all of the colonies on a fairly equal playing field and prevented the colonies

¹³⁴ George Washington Papers, Series 2, Letterbooks 1754 to 1799: Letterbook 14,- Feb. 22, 1788. 1787. Manuscript/Mixed Material.

¹³⁵ Shlomo Slonim, Forging the American Nation, 1787-1791: James Madison and the Federalist Revolution (Palgrave Macmillan, 2018).

from declaring militaristic or economic war on each other, so the factor of unity receives a score of 5.

Imperium in Imperio exists in T₅ United States. The United States Constitution limited the federal government by enumerating the powers of the federal government. However, the Constitution did establish the federal government as supreme over the state governments. On the other hand, the state governments were given all other powers not included in the Constitution by the Tenth Amendment. This made the states sovereign in all other facets of government. These are known as police power. By creating these two separate fields of power, the United States Constitution and Bill of Rights created a sphere of power where the states are sovereign under the generally sovereign federal government.¹³⁶ Therefore, this factor is completely accurate and will receive a score of 5. By averaging the factor scores, the overall pervasiveness score for the theory on British change for T₄ is 4.36.

British Continuation

The theory of British Continuation is operationalized by looking for (1) colonies who are adopting British social structures, (2) ideas existing to reflect satisfaction with the status quo, and (3) adopting a sovereign powerful federal government. This theory is expecting to find a country so satisfied with British system it formed a political system

¹³⁶ Shlomo Slonim, *Forging the American Nation, 1787-1791: James Madison and the Federalist Revolution* (Palgrave Macmillan, 2018); Samuel Adams, *Boston Independent Chronicle*, 10 January 1788; Remarker, *Boston Independent Chronicle*, 17 January 1788; Edmund Pendleton, Virginia Convention, 5 June 1788; Alexander Hamilton, New York Convention, 24 June 1788; Luther Martin, *Genuine Information IV, Baltimore Maryland Gazette*, 8 January 1788; Patrick Henry, Virginia Convention, 5 June 1788; James Madison, Federalist No.39, *The Federalist Papers*, (Mineola, NY: Dover Publications, 2014), pg. 182-187.

modeled after the empire it rebelled from even after forming a different form of government originally.

The first factor is a dichotomy of the first factor for the theory of British change for T_5 . Therefore, this factor will receive a score of 1.92 which is discovered by dividing the number of states who adopted British social systems (5) by the total number of states (13) times the scale. The second factor is very similar to the first because those who adopt the status quo also adopt the British social structures, so this factor will also receive a score of 1.92. Regarding the third factor, the United States Constitution established a completely sovereign federal government. However, this government was only powerful in its enumerated powers. This federal government did not have unlimited authority. Therefore, this factor will receive a 4 because the federal government is sovereign and powerful, but this power does not extend to the point where it would mimic the British system.¹³⁷ By averaging the factor scores, the overall pervasiveness score for the theory on British continuation for T_4 is 2.61.

Republicanism

The theory on the definition of republicanism is operationalized by looking for (1) a limited federal legislature and (2) political and social institutions limiting federal power. This theory is expecting to find a country rejecting any form of governance which takes power away from the individual states. The United States Constitution limits the federal legislature explicitly. The enumerated powers clause¹³⁸ limits the federal legislature to only being able to pass legislation which directly promotes one of the listed powers. By doing

¹³⁷ *Ibid.*

¹³⁸ U.S. Const. art. 1. § 8.

this, the federal legislature is limited so this factor receives a score of 5. Federal power is inherently limited by the political institutions of the constitution. For example, the Senate was originally elected by state legislatures instead of the citizens of the state.¹³⁹ The electoral college also empowered the states in this way because the electorates were not necessarily bound to the popular vote over the political influences of the state government.¹⁴⁰ Finally, there was a belief held by many Federalists that the states could never lose their power due to the social standing of the state government in the average citizen's life.¹⁴¹ This factor is completely on point, so it receives a score of 5. Therefore, the overall pervasiveness score for the theory on the changing definition of republicanism for T_5 is 5.

Colonial History

The theory on colonial historical factors is operationalized by looking for (1) federal economic protections against the actions of the other states, (2) the colonies working together to achieve a common goal, (3) rhetoric promoting colonial military success, (3) negative rhetoric on the Articles of Confederation, and (4) cultural, social, or (5) political consistencies throughout the colonies.

Regarding the first factor, economic protections did exist under the new constitution. The Constitution granted congress the power to regulate commerce among the states and protect citizens of one state against another state's malicious rules and regulations.¹⁴² Therefore, this factor is completely accurate and receives a score of 5. The second factor receives a score of 3 because the colonies did ultimately come to a

¹³⁹ Shlomo Slonim, *Forging the American Nation, 1787-1791: James Madison and the Federalist Revolution* (Palgrave Macmillan, 2018).

¹⁴⁰ *Ibid.*

¹⁴¹ Remarker, *Boston Independent Chronicle*, 17 January 1788.

¹⁴² U.S. Const. art. 1, § 8, cl. 3.

compromise, but the colonies were all working to benefit themselves, not the whole. So the result of this factor is met, but not through the predetermined method.¹⁴³ The rhetoric promoting revolutionaries and colonial military success exists, but as internal issues became more prevalent the rhetoric became less prevalent.¹⁴⁴ This factor receives a score of three because it is accurate, but it is not pervasive in T_5 . The cultural and social consistencies continue to not be present in the states to the extent where they are functionally distinct cultures. Therefore, this factor will receive a score of 1 like it has in previous portions of the timeline. The states are still very politically similar. They possess similar political systems with similar checks and balances as they have since T_2 . The states are also now under the same sovereign federal government, so this factor will receive a score of 5.¹⁴⁵ By averaging the factor scores, the overall pervasiveness score for colonial history for T_4 is 3.5.

Constitution

The theory on the legal definition of a constitution is operationalized by looking for (1) well-defined structures of government limiting the ability for individual parties to gain large quantities of power quickly, and (2) a constitution that can be scientifically studied as a field of law.

Regarding the first factor, the structures of government under the Constitution were mostly well-defined. The enumerated powers clause laid out specifically the powers of

¹⁴³ Shlomo Slonim, *Forging the American Nation, 1787-1791: James Madison and the Federalist Revolution* (Palgrave Macmillan, 2018).

¹⁴⁴ Richard R. Beeman, *Plain, Honest Men: the Making of the American Constitution* (New York: Random House Trade Paperbacks, 2010).

¹⁴⁵ *Ibid.*

Congress.¹⁴⁶ The executive branch also experienced a certain level of enumeration in article two.¹⁴⁷ However, the branches were given powers which overlapped with each other and there was some questionability of powers. Due to this unknown, this factor will only receive a score of 4.

Regarding the second factor, the United States Constitution was revered as a government of laws and not of men.¹⁴⁸ The Constitution was able to be studied as a science because there were explicit fundamental laws laid out which could be tested. By laying out these fundamental laws a general political thought surrounding the law was able to form which allowed for a citizen to predict the results of legal disputes and have faith in the system of government being consistent.¹⁴⁹ Therefore, this factor is perfectly met and receives a score of 5. Therefore, the overall pervasiveness score for the theory on the changing definition of a constitution for T_5 is 4.5.

Small/Slave States

The theory on the political influence of small states and slave states is operationalized by looking for (1) rhetoric promoting state power and states deserving power and (2) dedication to the state governments over the federal government.

Regarding the first factor, the rhetoric promoting state power and states deserving power was largely only held by the Anti-Federalists, but the Anti-Federalist writings were not as pervasive as the Federalist Papers.¹⁵⁰ However, this was not unique to the

¹⁴⁶ U.S. Const. art. 1, § 8.

¹⁴⁷ U.S. Const. art. 2.

¹⁴⁸ Edmund Randolph, Virginia Ratifying Convention, 6 June 1788.

¹⁴⁹ Edmund Randolph, Virginia Ratifying Convention, 10 June 1788.

¹⁵⁰ Richard R. Beeman, Plain, Honest Men: the Making of the American Constitution (New York: Random House Trade Paperbacks, 2010).

Anti-Federalists. Therefore, this factor will receive a score of 3 because it existed, but could have been much more pervasive.

For the second factor, there was a significant dedication to the state governments over the federal government. This can be seen through the political institutions implemented to increase states power. This includes the enumeration of Congressional powers, the Senate, the electoral college, and the Tenth Amendment.¹⁵¹ There was a significant dedication to state governments by either increasing the power of the state governments or limiting federal powers by Federalists and Anti-Federalists, so this factor receives a score of 5.¹⁵² Therefore, the pervasiveness score for the theory on small states and slave states for T_4 is 4.

Discussion

For T_5 , the theories are ranked as follows: Republicanism, Constitution, British Change, Small/Slave States, Colonial History, and British Continuation. This shows the theory of British change is continuing to dominate British continuation. This continues to indicate the theory of British change is the strongest external theory. The theory on the changing definition of republicanism is strong in T_5 . However, the theory on the changing definition of a constitution is fairly close behind which indicates fundamental shifts in internal political thought were a greater influence than institutional theories like the

¹⁵¹ Shlomo Slonim, *Forging the American Nation, 1787-1791: James Madison and the Federalist Revolution* (Palgrave Macmillan, 2018).

¹⁵² Atticus IV, *Boston Independent Chronicle*, 27 December 1787; Remarker, *Boston Independent Chronicle*, 17 January 1788; A Freeman III, *Pennsylvania Gazette*, 6 February 1788; Edmund Pendleton, Virginia Convention, 5 June 1788; Alexander Hamilton, New York Convention, 24 June 1788; Luther Martin, *Genuine Information IV*, *Baltimore Maryland Gazette*, 8 January 1788; Patrick Henry, Virginia Convention, 5 June 1788; James Madison, Federalist No.39, *The Federalist Papers*, (Mineola, NY: Dover Publications, 2014), pg. 182-187; Francis Corbin, Virginia Ratifying Convention, 7 June 1788.

theory on small states and slave states. The theory on small states and slave states is especially weak despite its strong showing in T_5 because it appears very late in the timeline. The theory in colonial history remains consistent, and is slightly higher than usual for this piece of the timeline.

V: Findings

The data analysis above makes reference to each of the pieces of the timeline individually, but it is important to assess the timeline as a whole and appreciate how the theories impact each other. Chart 2 and Chart 3 below show the trends of each theory throughout the entirety of the timeline. The data analysis above shows federalism became codified in American political thought due to a changing definition of republicanism with heavy influences from a changing definition of a constitution and a desire to change from the established British system. The theory on colonial historical factors makes a strong showing with an average pervasiveness score of 3.03, but it is overshadowed by the scores of the aforementioned theories, 3.73, 3.6, and 3.47 respectively. The theory of British continuation and the theory on the political influence of small states and slave states both have little to no influence on the codification of federalism in American political thought with average pervasiveness scores of 1.94 and 1.8 respectively. For the theory of British continuation, this makes perfect sense because the theory of British continuation is a dichotomy to the theory of British change and the theory of British change had one of the highest average pervasiveness scores, so the theory of British continuation must be low. The theory on the political influence of small states and slave states is more confusing

because this theory makes a very strong showing in T_4 and T_5 . However, this theory is penalized for not attempting to explain T_1 , T_2 , and T_3 .

Overall, I have found the founders rejected the British system of federal government when forming the United States. To do this, the founders first rejected the London interpretation of republicanism with an omnipotent Parliament. This rejection led the colonists to begin to govern their own affairs. When they began to govern their own affairs, they made another definitional change. The founders rejected the fluid British constitution in favor of a rigid system of government where the law had hard set rules and could be studied like a science. From these definitional changes the decision to form a system of government where the states had power makes perfect sense. The states are able to slow the changing of laws by changing the constitutional framework through a convention of the states and exercising their police powers. The definition of republicanism changing also explains why the powers of Congress were enumerated to limit their power. When the timeline is understood this way, the system of American federalism makes sense. It makes sense why the founders adopted this system of government. Understanding the reasoning and process of creating this system allows one to better appreciate American federalism and why it exists in contemporary politics.

Chart 2

Findings

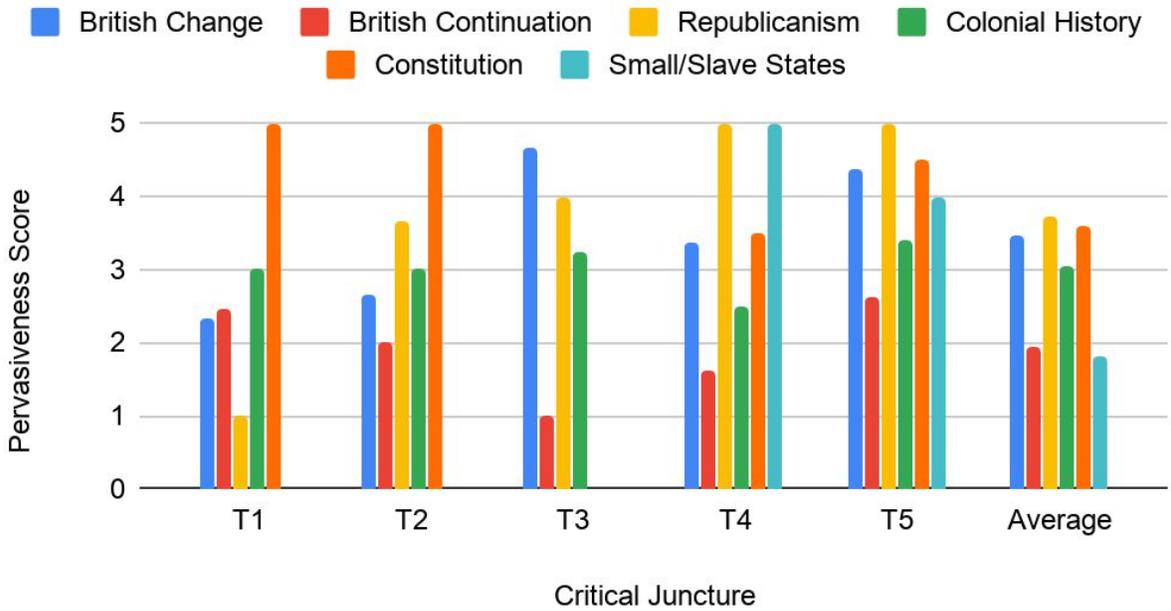
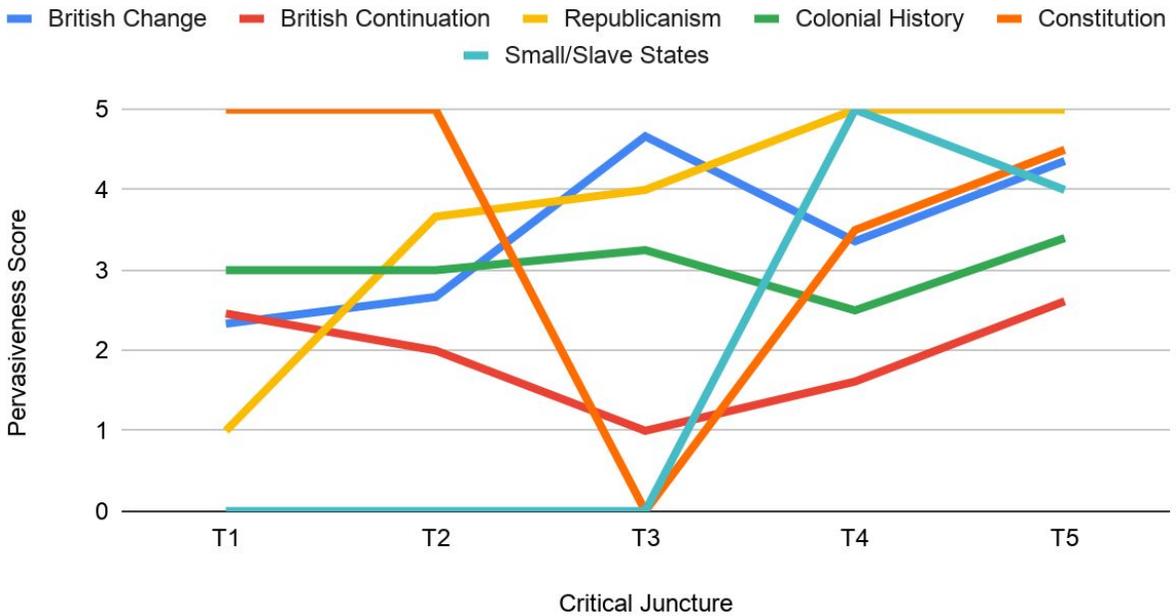


Chart 3

Findings



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