

Gerard Cullen
Student Number: 11425989

**To what extent is the American Constitution an elitist document?
Why then did the framers provide for public participation in the political
process?**

The best way to approach this assignment is to split it into two and answer first to what extent do I feel the American Constitution an elitist document. When this has been answered then it will be possible to move on to try to understand why the framers of the constitution provided for public participation in the political process.

I should begin by saying that I think the Constitution is a very elitist document, but before I elaborate on that opinion I feel that it is necessary to firstly define what an 'elite' is, and also to provide a bit of background information on the Constitution.

An elite is defined by Webster's Dictionary as the best of a class; the socially superior part of society; or a group of persons who by virtue of position or education exercise power or influence. When we talk about elites though we have to bear in mind that they prize order and stability above all else, and if they can preserve the status quo they will, however this is diverting from the main question. It is perhaps the last part of the definition that is most relevant when we come to the American Constitution, and ask ourselves to what extent it is an elitist document. Before I come to that though I feel that it is necessary to explain how the Constitution of the United States of America came into being.

Without going too far back into history, the thirteen North American colonies had rebelled against the British government after coming to see King George III and his colonial governors as tyrants, and also there were disputes over taxes that had to paid both to the colonial legislatures and the British government. These tensions reached a climax in 1775 and the American War of Independence broke out. This war lasted until 1783, when the British granted independence to each of the thirteen colonies. Each of the thirteen states were now independent and bound together under a loose agreement called the Articles of Confederation (AOC).

The Articles of Confederation provided for a unicameral legislature with each state being allotted representatives based upon their total population, but each state had only 1 vote in the legislature. There were many flaws in this arrangement like the fact that there was no executive body; the fact that nine states had to agree to pass legislation; and crucially the AOC could not legislate in the following areas:

- The national government could not levy taxes, only request funds from the states. This resulted in the national government going into debt almost immediately.
- The national government could not regulate commerce and each state had set up tariffs against the other. The result was a building economic recession.
- The national government did not have exclusive control over the money supply. Each state and the national government had its own money supply.

In the face of these crises, the elites (for want of a better word), of the thirteen states decided unilaterally to revise the AOC, and so the Constitution of 1787 was born.

It is now time to examine to what extent the Constitution is an elitist document.

*“We, the people of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.”*¹

Superficially at least the Constitution can be said to be a very elitist document by virtue of the way in which it came into being. It was written by fifty-five men out of a population of approximately four million. If we consider that the framing of the Constitution to be the real beginning of the USA, which was in theory supposed to be a democracy, then we have to see the Constitution to be an elitist document because of the way in which the Founding Fathers (a tiny fraction of the population) decided to scrap the AOC and come up with an alternative behind closed doors, without the majority of the population knowing what was going on.

Another superficial argument can be made based upon the fact that the delegates who signed the Constitution were as Thomas Jefferson put it “... an assembly of demigods”. According to Dye and Zeigler “the men at the convention belonged to the nation’s intellectual and economic elites”². Therefore the Constitution was always going to be biased towards elites because even though the majority of the population were small freeholding farmers their views were not taken into account at the Convention for the simple reason that none of the delegates really came from that section of the nation.

As I have said both these reasons are superficial, but if we get into the detail of the constitution then we can see that it is a very elitist document in several key areas.

The first is economic elitism. The Constitution gave Congress “*power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States*”³. This is all well and good, but when taken with the fact that according to Article 1 Section 2 “*Representatives [and direct taxes] shall be apportioned among the several States which may be included within this Union, according to their respective numbers*”⁴ - taxation and representation based upon population. This meant in essence that a rich man paid exactly the same amount of tax as a poor man regardless of his wealth, and if we consider that the men at the convention were all very well-off if not extremely rich, then whatever their intentions were the constitution could only benefit them and those like them. The Constitution also gave Congress the power to regulate commerce between the states. This regulation in concert with the provision that “*No tax or duty shall be paid on articles exported from any state*”⁵ created a huge free trade area were none had existed before, and of course this would be very beneficial to those American merchants - including many of the framers of the Constitution- that traded across the USA. Again we can see just how elitist the Constitution is because it

benefits big business even though the majority of the population were small freeholders and small merchants that benefited from a certain degree of protectionism. Economic elitism can also be seen in the parts of the constitution that give Congress powers over the regulation and value of money, bankruptcy laws, weights and measures, and so forth. These powers would enhance financial stability in the nation and this move could only benefit the more economically orientated members of the Constitutional Convention.

There is also evidence of military elitism within the Constitution. Section 8 of Article 1 provides for the creation of an army and navy. Naturally a nation needs an army and navy, but this act has to be seen in the context of just what the American elites gained from it. The Constitution concentrated the military might of the USA under the Commander in Chief aka the President. The President also had the power, with the advice of the senate, to make treaties and to send and receive ambassadors. We have seen that the Founding Fathers wished to create a strong centralised government and this concentration of military and diplomatic might gave them the ability to do just that, with the added benefit of giving them the means to put down any revolution that might occur. Therefore in this sense it can be shown that the Constitution is an elitist document since it enshrined the desires of the Founding Fathers for stability and freedom from revolution, and since the President who commanded all this great power would invariably be a member of the elites himself, their position within society could and would be safeguarded.

Other instances of elitism within the Constitution are the sections that deal with slavery: *“No person held to service or labour in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labour, but shall be delivered up on claim of the party to whom such service or labour may be due”*⁶. As can be seen this section allows the continuation of the slave holding elites within American society, at a time when the idea of all men being equal was being bandied about.

From the above we can see that the Constitution of the USA is elitist, then we have to ask the question that why, if the document is elitist, did the framers provide for public participation in the electoral process.

Firstly, if we accept that the framers of the Constitution were the nation's elites, then we have to remember that above all else elites desire order and stability. Therefore at a very basic level the answer to the question would be that as elites (by their very definition) make up a tiny percentage of the population then it would be in their best interests to provide for public participation in the political process because of the possibility that the masses could rise up against them, as they themselves had rebelled against the British.

But if we look at the question in detail we can see that the real reason that the framers provided for public participation in the political process was that the public's

participation was extremely limited in scale. Examples of this would be the way in which the framers adopted the concept of the separation of powers and the system of checks and balances whereby legislative powers were vested in a Congress and Senate; executive powers in a President; and judicial powers in a Supreme Court. Each of these institutions were elected by different constituencies (or in the case of the Supreme Court appointed by the President), and each served different lengths of terms. This prevented the complete renewal of government at a stroke and created continuity within the national government, but regardless of any benefits that this system might have, the fact cannot be avoided that if the people wish to have a change of government, or make their feelings known at all, then they must wait years for it, which is hardly a fair system. The system of checks and balances also diminishes the public's participation in the political process, because, for example, the people elect a President who is radical and wishes to change the status quo, then he can issue executive orders, but Congress can override those orders, and if the president wishes to execute laws he has to rely on executive departments created by Congress. The best justification for this system comes from either James Madison or Alexander Hamilton when they wrote:

*“Ambition must be made to counteract ambition. The interest of the man must be connected with the constitutional rights of the place. It may be a reflection on human nature, that such devices should be necessary to control the abuses of government. But what is government itself, but the greatest of all reflections on human nature? If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself. A dependence on the people is, no doubt, the primary control on the government; but experience has taught mankind the necessity of auxiliary precautions”.*⁷

Judicial Review is another key aspect of the system of checks and balances. This is basically an idea that arose from the *Marbury v. Madison Case* of 1803, whereby the Chief Justice argued that the Supreme Court had the power not only to invalidate laws passed by the lower courts, but also to invalidate laws passed by the elected Congress. From this we can see just how limited the public participation in the political process was because the Congress elected by the people was able to be overruled by the appointed Supreme Court.

However the greatest example of how limited the public's participation was in the political process, was the way in which the elections were conducted. By this I mean specifically the elitist way in which the smaller states did not have the same degree of representation, and thus power of the larger states, for example Rhode Island had one representative in Congress, while Virginia had ten. And even this pales in comparison with the Electoral College. Essentially when the people vote in a presidential election they vote for delegates to the Electoral College who then choose

the president from the candidates. What is wrong with this system is when you take into consideration that each state sends delegates to the Electoral College on a basis of population; and in each state the candidate with the most votes takes all the electoral votes (even if they win by only 1%); then those who did not vote for the candidate are effectively throwing their votes away. This system is further complicated by the fact that in the beginning the Electoral College was envisaged as a way for the elites to ensure that their preferred candidate got the job, and to enable them to 'correct' any misjudgements the public might have made on polling day.

In conclusion therefore it can be seen that the American Constitution is a very elitist document, by virtue of the way in which it was conceived; the men who wrote it; the economic elitism imbedded in the document and of course the military elitism. Secondly the question as to why the framers of the Constitution provided for public participation is an easy one - they provided for public participation because they had diluted it so much, and built in so many checks and balances that they did not have to worry about threats to stability and order, which were after all the greatest concerns of elites.

Footnotes:

- 1 The Preamble of the Constitution of the United States of America
- 2 Dye & Zeigler The Irony of Democracy Page 25
- 3 Article 1 Section 8 The Constitution of the United States of America
- 4 Article 1 Section 2 The Constitution of the United States of America
- 5 Article 1 Section 9 The Constitution of the United States of America
- 6 Article 4 Section 2 The Constitution of the United States of America
- 7 The Federalist Number 51

Bibliography:

- The Constitution of the United States of America 1787
- The Federalist Papers Alexander Hamilton; James Madison; John Jay 1787/8
- The Irony of Democracy: An Uncommon Introduction to American Politics Dye & Zeigler 2000

