

THE CONCEPTS OF SOVEREIGNTY AT THE AMERICAN FOUNDING

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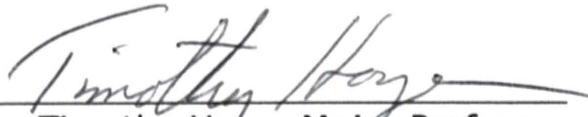
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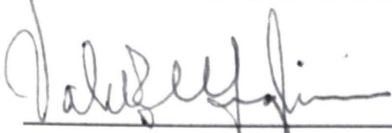
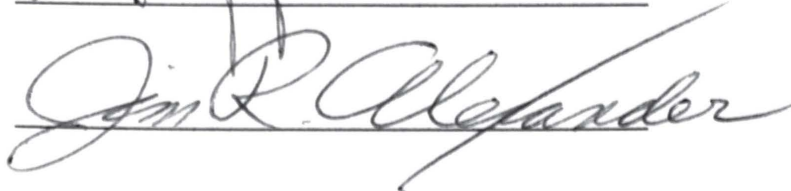
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To the Dean of the Graduate School:

I am submitting herewith a thesis written by Alice A. Butler entitled "The Concepts of Sovereignty at the American Founding." I have examined this Thesis for form and content and recommend that it be accepted in partial fulfillment of the requirements for the degree of Master of Arts with a major in Government.


Dr. Timothy Hoyer, Major Professor

We have read this thesis and recommend its acceptance:

Accepted:


Dean of the Graduate School

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Ruthann Geer, my friend, peer, and office mate receives a special thank you. She was always there with a smile and a good word. Thank you Ruthann.

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ABSTRACT

ALICE A. BUTLER

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This thesis examines the importance and influences of the concepts of sovereignty throughout the establishment of the United States structure of government. It is an examination of the different aspects of sovereignty identified from the early days of colonization through the ratification of the Constitution. Five specific concepts of sovereignty are recognized. These are absolute sovereignty, state sovereignty, popular sovereignty, individual sovereignty and national sovereignty.

Each of these concepts of sovereignty played a major role in the writing of the Constitution, and has contributed to the flexibility, balance, and strength of the American government.

Sovereignty continues to play a key role in international politics as well as those in the United States. It continues to be an important aspect of government that needs to be studied and considered.

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CHAPTER I

INTRODUCTION

This work represents a study of the importance of the concepts of sovereignty at critical times as the United States was emerging into a nation. Sovereignty is a concept that has been present in political theory since Jean Bodin, a French theorist, began his study of law and history in the sixteenth century and from this study devised the theory of absolute sovereignty.¹ This thesis will discuss the history of sovereignty as a concept over time as well as the prominent position sovereignty held in American political theory from approximately 1775 through 1791.

Sovereignty was a concept frequently spoken of prior to and during the Revolutionary War, throughout the debates at the Convention and continuing through the ratification process of the Constitution by the individual state legislatures.

It is this author's contention that the ongoing debate regarding sovereignty shaped the basic founding of the United States rule of law and fundamental form of government. The concepts of sovereignty

¹ Maritain, Jacques. "The Concept of Sovereignty." *American Political Science Review* 44 (1950).

alluded to are absolute sovereignty, popular sovereignty, individual sovereignty, state sovereignty and national sovereignty.

These five concepts of sovereignty were the basis of the discussions regarding the form of government into which the United States would evolve. The discussions of sovereignty continued throughout the ratification process of the Constitution via the *Federalist Papers* and the *Anti-Federalist Papers*.

The concepts of sovereignty continue to be an important feature in the lives, civil rights and civil liberties of the American people and the American government.

The concept of sovereignty is particularly relevant in America's present circumstance. Following the terrorist attacks on September 11, 2001, there was a large and powerful governmental shift. Civil liberties and individual freedoms have been threatened by the government in an attempt to guarantee what is thought to be safety from further attacks in America. Since those terrorist attacks, the government has vigorously intruded into the private lives of everyday Americans exceeding what many believe to be the limits placed on government by the Constitution.

It is important that the issue of individual and national sovereignty continue to be clearly defined and the lines not blurred by

fear or over-zealous governmental intrusion. At the same time, the government must not be unduly restricted in its attempt to secure the United States from further violation and violence. A sense of balance is a very importance factor in keeping faith with the sovereignty of the individual as well as permitting the national government to use its power of sovereignty to protect the country.

During times of extreme stress and fear this conflict between the rights of the individual and the rights of the government are not unusual. History shows us that this reaction by government has occurred since the Constitution became the rule of law in the United States. Therefore, it is of utmost importance in this current time of crisis to listen to the Founders and those who wrote in support as well as those who opposed ratification of the Constitution. They designed a government that has stood the test of time. We must appreciate and protect the liberty those who founded this country gave to the American people. Only by understanding the beginning is it possible to carry into the present the Constitutional Democracy the United States was founded upon. In this way, we are able to protect the legacy left us by those who worked so diligently in building the American system of government.

CHAPTER II

The Theory of Absolute Sovereignty

Jean Bodin, a French philosopher writing in the sixteenth-century is credited as the first philosopher to introduce the idea of absolute sovereignty to the governmental process. Bodin had extensive training in the humanist tradition, which included the "study of grammar, rhetoric, and moral philosophy."² At the time of Bodin's writings, France was in great turmoil. Bodin was attempting to determine how to bring some stability and order to circumstances threatening to spiral out of control. The situation was creating the threat of civil war and much destruction to France and her citizens.

Bodin turned to history as a way to establish a formula for bringing peace to his country and people. He was attempting to discover a way to bring harmony in government so the religious factions could coexist in a peaceful manner. He was dedicated to finding a universal law of truth that would make this possible and avert the civil war he believed was imminent.

² Skinner, Quentin *The Foundations of Modern Political Thought: Volume One: The Renaissance*. New York: Cambridge University Press, 1978, p. xxiv.

Bodin was not content to merely study law and history. His mission was to study and comprehend the meaning of history. He intended to present the law in its most enduring form as shown by time and historical experience.³ Bodin wrote *The Method for the Easy Comprehension of History*. When Bodin wrote *Method*, he had become more interested in the forms of government and the history of government than in the law as an end to itself. Bodin's thesis was that with the understanding of other governments he would be able to take the best parts of them and mold them into the most workable government possible for the French people. In his writing of *Method*, Bodin put forth his theory of absolute sovereignty with an updated format of a limited monarchy. Bodin saw absolute monarchy as a way to end the religious strife overwhelming France during his lifetime.

Within the text of *Method for the Easy Comprehension of History* Bodin defined the Commonwealth as numerous families with their communal interests ruled by a sovereign power. A commonwealth must have adequate territory to support the family units that make up the community. After the basic necessities of life were comfortably available, then man had the time to reflect on life and become a

³ Bodin, Jean. *Six Books of the Commonwealth*. Trans. M.J. Tooley. Oxford: Alden Press (www.constitution.org/bodin/txt). p. 4

political being. With security and leisure, man was able to acquire moral virtue and the ability to contemplate important spiritual matters.

Bodin saw the ordinary family unit as a miniature version of the state. The patriarch was the absolute head of the family, just as the king was to be the absolute head of the state. The family that was controlled and ordered properly reflected a state that was also under appropriate control. Only these families joined with the monarch constituted a Commonwealth. Bodin defined sovereignty as "that absolute and perpetual power vested in a Commonwealth."⁴ When speaking of absolute sovereign, Bodin made it clear that absolute power does not mean exemption from all law. In Bodin's ideal absolute monarchy, royalty was subject to the laws of God, nature, and selective human laws. He stated that princes were subject to civil laws as long as they were reasonable and fair to all, including the monarch.

After the St. Bartholomew's Day Massacre when his life was threatened, Bodin revised his ideas of sovereignty. Bodin's view of absolute monarchy was strengthened and he became utterly convinced that if there were to be peace, security, and an end to the needless violence and devastation, absolute monarchy was an undeniably

⁴ Bodin. p. 28

necessary force. Bodin was horrified at the pointless brutality and devastation caused by the Religious Wars. He was convinced anarchy would follow if the Religious Wars continued unabated. Bodin came to define law as "the rightful command of a sovereign touching all of his subjects in general, or matters of general application..."⁵

In *Method for the Comprehensive Understanding of History*, Bodin defines his understanding of the different types of government. He stated that the principle of mixed government was unrealistic and asked the circular question, if sovereignty is "indivisible" how is it possible for a "...prince, a ruling class, and the people all to have a part at the same time."⁶ If all are lawgivers, who would be left to obey the laws? Who would be the lawgiver if the prince who makes the laws was obliged to obey the laws given to him by those for whom he is responsible to rule? His answer was that absolute monarchy was the form of government offering peace and stability to the country.

The sign of a Royal monarchy is when people obey the law of their prince and the prince obeys Gods' law and natural law, making property and liberty available to all. A Royal or True king is one who observes the laws of nature as closely as he wishes his subjects to

⁵ Bodin, p. 46

⁶ Bodin, p. 52

obey his laws. In this way he secures their loyalty, liberty and their own property.

When Bodin wrote of the Divine Right of kings, he did not mean that kings were created by or blessed by a special or specific gift from God. He meant that to do right and good was divine. The absolute monarch was divine in a human sense, not in a godly sense.

Everything we do and all of our obligations are to God. This applied to subjects as well as to rulers; all were subject to the laws of God. The sovereign must follow God's laws; the people must follow Gods' laws as well as the sovereign law. Even though Jean Bodin was a very religious man and believed that the sovereign must follow God's law, he was not a supporter of the integration of church and state, but believed rather that there should be a definite separation between the two entities.

Bodin also held the belief that the monarch had not the right to tax nor take the land from the people he rules. Without property families could not thrive. Families were the basic unit of government according to Bodin. This was a right the king was not allowed to violate under any circumstances.

The land was an important part of Bodin's theory. The king was not permitted to sell any of his kingdom's domains. To do so would

diminish his power and that of the kingdom because he would be losing land and citizens which were the basic make up of his community and his absolute power.

Bodin did not advocate divine rights of kings as it came to be known in later years in France. In Bodin's theory, the king was answerable to God first and not responsible to follow the laws of his own making, except for those that would diminish his own power.

Niccolo Machiavelli was a Florentine philosopher. He was a politician of great stature and ability. Machiavelli dealt with both the foreign and national affairs of Florence. He was a talented and capable political figure. In spite of this, affairs beyond his control caused his downfall, imprisonment, torture, and finally exile from political life. He continued to muse over political theory throughout his life.

It is generally accepted that Machiavelli was widely read in France, including by Jean Bodin. Bodin was at first an admirer of Machiavelli's writings, as were most people in France. Machiavelli faded in French favor ultimately because France was ruled by Katherine Medici, who was related to the Medici's of Florence. She was very unpopular and considered a foreigner by the French.

In *The Prince*, Machiavelli described a sovereign who did not inherit his throne by familial reasons, tradition, history or custom.⁷ Machiavelli is known to be the first to have articulated *raison d'etat* (Reason of state). Reason of state is the understanding that the state is to be preserved by any means necessary. In the preserving of the state, the means need not be fair, just, popular or even reasonable. The important thing is that the state be preserved.⁸ Machiavelli in *The Discourses* wrote that great states were formed by great men. The states were supported and nurtured by people living in them with their main interest being vested in a strong common local military and a strong commitment to civic virtue. Machiavelli also stated that to be successful a state must be small in order to reduce jealousy and rivalry between those who would chose to lead the state.⁹

Seventeenth-century political theorists recognized the appearance of the Reason of State and its sudden spread as it was happening. They were also aware this Reason of state was changing the political landscape as it spread. Politics became a separate entity from Reason of state. Politics came to be seen as following the laws of nature and caring for the people under a princes' rule. Reason of state

⁷ Machiavelli, Niccolo. *The Portable Machiavelli*. Ed.trans. Bondanella, P., Musa, Mark. p. 18

⁸ Viroli, Vaurizio. "The Revolution in the Concept of Politics." *Political Theory* 3 (1992) :473.

⁹ Baron, Hans. "Machiavelli: The Republican Citizen and the author of 'the prince'." *English Historical Review* 76 (1961): 219-221.

was seen as the prince taking power and resorting to tyranny in order to achieve his goals.

Along with the scientific revolution and the great advances in scientific knowledge, the political scene was also radically changing. Philosophers began applying scientific methods in their theories and this resulted in large advances in the field of political thought.

It was thought at the time that language had changed so that princes' turned the ancient concept of tyranny inside-out; the word "politic" actually became the word for tyranny. This meant that one family was to have control of the people with all the power and privilege that accompanied the control. "The advent of the Reason of State was an ideological revolution precisely because it dethroned the language of politics that had lasted for three centuries with great splendor and glory."¹⁰

Machiavelli, in *The Prince*, is seen to be exploring the means of gaining power, while in *The Discourses* he is studying and defining the ways of creating longevity and stability in the state once the power has been achieved.¹¹ Machiavelli, like James Madison who would follow him, was intently interested in the safety, security and stability of his state. In this, both Madison and Machiavelli were united.

¹⁰ Viroli, Vaurizio. p. 476.

¹¹ Ingersoll, David E. "The Constant Prince: Private Interests and Public Goals In Machiavelli".

It was Machiavelli's contention that men of honor and virtue, and those who had a sense of duty were needed in order to form a strong competent government. Machiavelli stated "...the strong, independent Germanic peoples whose simplicity and lack of corrupting luxuries helped to protect their liberty." had that sense of *virtu*¹²

The people of the United States also held that they were blessed with the vast resources of their country, not covetous of luxuries, and therefore had what they needed in order to carry out the nation building they were undergoing. The religious ideas of virtue, hard work and thrift as well as the idea of civic virtue from the American point of view assured their success as a state. Machiavelli had a "...unwavering faith in the potential power of a united people ruled by a republican form of government and defended by its own citizen-soldiers..."¹³

The Founding Fathers of the United States spent a great deal of time reading and studying of the history and the governments of the past. They were aware of Jean Bodin, Machiavelli, and other philosophers who came before them. They studied different types of governments in a historical context and analyzed why these governments eventually failed. They also studied the positive features

¹² Machiavelli, Niccolo. p. 14.

¹³ Ibid. p. 17.

of ancient governments in order to gain an understanding of what had worked in the past. James Madison, once he realized the Articles of Confederation were failing, made an exhaustive study of governments of the past. This was the source of many of the ideas he put forth during his political life.

The founders of the United States were not subjected directly to the solid and unchangeable ideas prevalent in Europe in the Eighteenth-century. They were aware of the governmental styles and old habits of the Europeans, however, they had not lived there or been brought up with the same beliefs as those in Europe. The old ideas were not a part of their daily lives; this allowed them the flexibility of presuming they could undertake the mission of establishing a new type of government and do it successfully.

CHAPTER III

The Genesis of American Political Thought and Concepts of Sovereignty

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The "founding" of the United States began much earlier than the writing of the Declaration of Independence, the act of revolution, the Articles of Confederation or the writing of Constitution. As the

Colonies were growing and being established they began, with the approval of the British monarch who allowed them a charter, to establish the rules and regulations they agreed to live by in their separate communities. The colonial governments in America were the basis of American constitutionalism.¹⁴ The majority of political scientists readily acknowledge the contributions of John Locke and other European influences, while ignoring the colonial roots of independence. We should also look inward to "our own shores as well" when studying the founding of America.¹⁵

There were massive numbers of writings in the colonies as they established themselves. These were in the form of sermons by local preachers, newspaper commentaries and editorials, oaths, as well as

¹⁴ Donald S. Lutz, ed. *Colonial Origins of the American Constitution*. (Indianapolis: Liberty Fund, Inc., 1998), xx.

¹⁵ Ibid. xxi.

pamphlets. Many early documents were written in England for the colonists. These documents included charters and the instructions for them to follow once they reached the colonies. The documents represent the first American constitutional traditions and the notion of the divisibility of sovereignty. The writings of the colonists in America represent the second tradition relating to the eventual establishment of the United States Constitution.¹⁶ The blending of these two traditions; the writings in England prior to departing for the colonies, and those documents written to govern the colonies after they were established gave the American colonists a new perspective on government by defining their own political beliefs, aims and ambitions.

The colonists became experienced in designing their own laws and government. They looked at each other's compacts and laws and were able to expand on the work done previously. The laws and administration of the colonies became uniquely American. This revising and review led to the idea that the American Constitution should have a political means of revising if it should become necessary as the country grew and flourished. The colonists also became comfortable with the idea of a single document being the basis of their

¹⁶ Ibid. xxi.

government.¹⁷ Each state ultimately wrote its own constitution. The colonists were comfortable and content with the establishment of the local rule of law and governance in their lives.

These compacts having been established and agreed to, the colonists began to understand the concept of individual, popular, and state sovereignty. This happened while they were still under the rule of an absolute sovereign in Great Britain; however, the sovereign at that time was not exerting his authority. The concept of absolute sovereignty would be replaced after the Revolutionary War with a Confederation, which ultimately became a nationally sovereign form of government.

Those seeking religious freedom were among the first settlers to risk the journey to the new British colonies. They quickly established covenants to establish the rules and regulations for all living in their communities. "The Pilgrim Code of Law, for example, begins by referring to both the charter from the king and the Mayflower Compact as its legal basis."¹⁸ The Pilgrim Code of Law was the first example of a constitution in the English language.

The Mayflower Compact (November 11, 1620) is very short, and simply states that by signing the compact the people agree to

¹⁷ Ibid. xxi.

¹⁸ Ibid. xxii.

"...combine ourselves into a Civil Body Politick..." in order to live under "...just and equal laws..." that are thought to be for the "...general good of the Colony."¹⁹ In 1625 came the Plymouth Oath of Allegiance and Fidelity. This was to avoid swearing the Oath of Supremacy commanded by Henry VIII and the Oath of Allegiance to James I. The Plymouth Oath of Allegiance and Fidelity was an oath to the colonies, which ultimately became a founding document and a way of accepting into the communities those who later immigrated to the colonies. This was a religious oath, but was used to

...implicitly create a civil society, establish and underwrite its legitimacy, define citizenship, provide a means for adding new citizens later, and define a police power while enunciating a political theory based on popular consent, political equality and loyalty to the common good of the citizenry.²⁰

By establishing a civil society, with its basis on popular consent the Plymouth Oath of Allegiance and Fidelity began to define state sovereignty as well as popular sovereignty. The fact that the Plymouth Oath was established in order to avoid swearing allegiance to the

¹⁹ Ibid. The original copy of the document disappeared in the Seventeenth-century. The surviving copy came from the John Carter Brown library. They have the oldest surviving reprint of the document.

²⁰ Ibid. p. 33.

British sovereign was an indication that the denial of absolute sovereignty was beginning to take root. There was also a hint of individual sovereignty in this as well, because it meant that new immigrants could become part of the society and were allowed the same rights, privileges and responsibilities of those who were already living there. The oath, by defining police power, meant the individual had rights within the system of justice so that their rights as an individual were looked to and protected, as were those of the community.

The first known formal document referring to popular sovereignty was the Massachusetts Election Agreement of May 18, 1631. This document defined the election process. All (male) freedmen, those who had town privileges, were allowed to vote. Voting was not restricted to those who were landholders. This lack of property qualifications for voting "established popular sovereignty, representation, political equality, and majority rule."²¹ Originally, in order to have town privileges, a freedman had to be a member of the church. This meant that people who were not members of the church were not bound to the colony or by the church covenants. This obligation was revised in 1632 and stated that no elder of the church

²¹Ibid. p. 40.

would be allowed to be a civil magistrate. This stipulation is an indication of the early idea of separation of church and state and the rule of law being based on a civil foundation. This was called the Oath of a Freeman, or of a Man to Be Made Free.²² In 1634, there was another revision. A new oath was instituted to acknowledge the Massachusetts Legislature in May 1634. This oath replaced the early oath of 1631 and was known as the Oath of a Freeman. This pledge had the distinction of changing the standing of a person from subject of England to a citizen of America. These were the beginnings of the new ideas of American sovereignty as well as the denial that the king of England held absolute sovereignty over them.

The Massachusetts Body of Liberties, December 1641, was "one of the most important and under appreciated documents in American history."²³ This is because "The Massachusetts Body of Liberties is considered the first post medieval or modern, bill of rights."²⁴ Since this document included several cities at the time of its writing, it was the also the first instance of a federal system of governance. The eighteenth item of "Liberties" states that no man will be imprisoned until after the law has sentenced him to be so detained. Another says that a person may not be sentenced twice for the same crime. "For

²² Ibid. p. 41.

²³ Ibid. p.70.

²⁴ Ibid. p. 70.

bodilie punishments we allow amongst us none that are inhumane, Barbarous or cruell” is stated in another rule.²⁵ There are two regulations relating to women. One asserts that if a man does not leave enough of his estate to his wife upon his death, she will be able to make a complaint to the General Court and they will allow her additional relief. The other was that a man should not beat his wife unless defending himself from her attack. Any corrections of her actions should be filed as a complaint and the authorities will see to it that she received the necessary discipline. There was also a provision that men were not to treat their domesticated animals in a brutal way. There were stipulations of actions that would lead to capital punishment. These were of a religious nature. A man could be put to death if he worshiped any other god but the Lord God, a woman who was a witch would be put to death, death was appropriate for cursing God or murder. Bestiality was a crime for which the animal also was killed and buried, homosexuality required the death of both parties, adultery caused both offending parties to be put to death, kidnappers, and those who bore false witness with the purpose to take another’s life were also to find their lives in forfeit. The fact that citizens were given a defined body of rights continued to encourage the belief of the

²⁵ Ibid. p. 77. The spelling is taken from the original document, and is not corrected.

importance and sovereignty of an individual in the North American colonies.

The majority of these previously mentioned documents have their basis in the religious beliefs of those who wrote them. In 1637, Roger Williams and his followers left the Massachusetts Bay Colony and took up residence in Providence. Williams believed that swearing the Oaths required by the Massachusetts Bay Colony involved taking God's name in vain. The oath of the Providence Agreement August 20, 1637 constitutes the first political compact resting on popular sovereignty.²⁶ Additionally, it was the first example of the separation of church and state, by limiting Town Meetings and actions to those that applied to civil matters only.

The Fundamental Orders of Connecticut (the Constitution of 1639) is also known as one of the earliest possible examples of a "...written constitution in America."²⁷ This work served as a constitution for Connecticut for one hundred and seventy-seven years. It established the routine used for electing the governor. A person who was eligible to vote brought in a piece of paper upon which was written the name of his choice to be Governor. The man collecting the most votes was thereby elected as Governor for the period of one

²⁶ Ibid. p. 161.

²⁷ Ibid. p. 211.

year. It also stated that a man could not be chosen for governor more than once in a two-year span. In 1650, the Connecticut Code of Laws was added to the Fundamental Orders of Connecticut. This document dealt with "the constitutional status of colonial codes of law."²⁸

Owing to the Puritan principle of hard work, one of the first items mentioned in the Code of Laws is that no man shall be allowed to spend his time "...idlely or unprofitably, under paine of such punishment as the Courte shall thinke meet to inflict..."²⁹ The constable was directed to watch for such laziness and to report it to the court so punishment might be applied to such behavior. There were also provisions regarding juries, jurors, and a grand jury. Schools were to be instituted in any township with a population of fifty. Children were to be taught to read and write in order that they might be able to read the Bible. It was also so the learning of their ancestors would not be lost to future generations. If a township's population increased to one hundred families there was to be more advanced education so that the children would be prepared to attend a university. If this was not done, the township was required to pay a yearly fine until they had established the appropriate schools to educate their children. There were also laws pertaining to "...burglary and theft, heights of fences,

²⁸ Ibid. p. 241.

²⁹ Ibid. p. 242. The original spelling has not been changed.

finer, the militia, swearing, murder..." and the penalties associated with them.³⁰ This shows that the beginnings of the civil codes in America were rooted in Christian values and beliefs.

William Penn established a colony in Pennsylvania in which he wished to offer religious freedom to those who were in the religious minority. In order to encourage people to join him, he wrote Concessions to the Province of Pennsylvania in 1681. Penn offered very generous land holdings to those who wished to settle in Pennsylvania. He stipulated that Indians were to be treated fairly and with respect. Any harm to an Indian would be punished as if it had been committed against a colonist. Of course, the Indian shared the same fate if he abused a colonist. The laws regarding slander, drunkenness, and etcetera were to remain as the laws in England had specified. Citizens were to mark their stock within three months of acquiring them; if this was not done, they became property of the governor so as to avoid any arguments among men. It was also stipulated that only a certain number of acres were to be cleared of timber in order to preserve trees. No one was to leave the province without posting notice in town and with the clerk of the city so that all debts might be resolved before departure. These measures were highly successful.

³⁰ Ibid. p. 241.

Pennsylvania before the revolution was more highly populated than either New York or Boston.

May 5, 1682 William Penn put forth the Charter of Liberties and the Frame of Government of the Province of Pennsylvania in America. This contained religious principles along with the latest political theory. He established a government that included popular sovereignty, term limits and separation of powers. The bicameral legislature included the Provincial Council, which was the upper house. The members of the Provincial Council were allowed three-year terms, with one-third of them being elected every year. The Council sat continuously. The Council represented the people, not the state and had four standing committees. This had never before been seen in England or the colonies. The General Assembly was filled with freedmen; it started with two hundred and would be allowed up to five hundred as the population grew. This Charter of Liberties was the first to define a formal amendment process and a bill of rights. It included religious freedom and was open to anyone who believed in a supreme authority, or deity.³¹

It is clear therefore that the colonies were well on the road to constitutionalism long before the actual events occurred that caused

³¹ Ibid. p. 271.

them to declare their independence and begin the fight for freedom from England. The colonies had been organized and legalized with ideas and covenants that brought them together under an umbrella, and gradually their loyalty had come to be to their state as opposed to the king of England.

Within these covenants and constitutions, the ideas of sovereignty grew over the Seventeenth-century to include the denial of absolute sovereignty over the territories; each colony had its own set of rules and laws and this led to state sovereignty. By offering suffrage as a way of choosing the persons who would hold government positions, popular sovereignty became an important and necessary feature of American government. Finally, by establishing set rules and regulations that guaranteed rights to individuals the concept of individual sovereignty was also blooming in the colonies. These concepts were not perfected, but slowly they became ingrained in American life and in the American consciousness.

This situation lasted for approximately two hundred years. By the time of the Glorious revolution in England, the majority of people in the American colonies were native born. Most had never risked the sea crossing to visit the land to which their allegiance was pledged. England, being so far removed from the North American colonies, had

for the most part left the colonists to their own devices and had interfered little in colonial affairs. Although Governors were sent from England by the king to administrate the colonies, their salaries were paid by the communities they governed, so it was to their advantage to cooperate and go along with the desires of those who paid their salary.

Before John Locke was born, the colonists in America were already living under local governments, based on popular sovereignty. By the time Locke had written the *Second Treatise*, the American colonists were already practicing what he was writing. Locke, however, had a great influence on Americans, "probably because it nicely justified theoretically what Americans were already doing."³²

It is also interesting to note that while the American colonists used the Bible as the foundation of their political formulas, Locke used "rationalist assumptions." John Locke wrote that humans were rational creatures by nature and equally free. This was the theory he used to argue against tyranny and for a social contract and constitutionalism.³³ The combination of the two, religion and rationale became a uniquely American way of governance.

³² Hyneman, Charles S., Lutz, Donald, Ed., *American Political Writing during the Founding Era: 1760-1805, Vol. I. Indianapolis: Liberty Fund, Inc., 1983. p. 158.*

³³ Morris, Christopher. *The Social Contract Theorists: Critical Essays on Hobbes, Locke and Rousseau.* Landham: Rowman and Littlefield Publishers, Inc., 1999. p.143.

In 1771, John Tucker gave an election sermon in Boston. He stated, "The great and wise Author of our being has so formed us, that the love of liberty is natural."³⁴ He continued to state that religious and civil societies do not necessarily require the same things. Man's rights as a Christian and as a citizen are separate, however, that does not mean that there is no possibility of blending the two into a workable arrangement. The origins of government are from man, however, "...civil government may be said to be from God, as it is he who qualifies men for, and in his over-ruling providence, raises them to places of authority and rule; for by him kings reign..."³⁵ The state of freedom is natural to man, and all have an equal claim to freedom. No one has the right to authority over another by nature or by the will of God. From this logic, men accept the rule of those they choose, so that governance is a matter of an agreement between those who rule and those who consent to be ruled. If a ruler makes mandatory rules without the consent of the people there ceases to be civil law or civil government. This means the ruler is despotic and a tyrant. This situation makes rebellion by the population lawful because such a ruler has taken on laws not granted him by the constitution or the people and that makes the ruler's laws unjust. Mr. Tucker quoted John Locke

³⁴ Ibid. p. 158.

³⁵ Ibid. p. 161.

when speaking of tyranny and the right to rebel against a tyrannical ruler.³⁶ The theme that absolute sovereignty was unacceptable to those living in America rang throughout this sermon and those of many other speakers and writers.

The foundation had been cemented for the revolt against the domination of Great Britain. The colonists were successful in gaining their freedom from the United Kingdom, and the Articles of Confederation became the law of the land.

It slowly became clear that the Articles of Confederation required modification in order for the government of the United States to be successful. The system was breaking down because of the reluctance of each individual state to subject its sovereignty to another authority, or in order to cooperate with the other states in any way that appeared to limit their independence or sovereignty.

The Convention in Philadelphia beginning May 14, 1787 was precipitated by fear. The Confederated United States of America was crumbling; the loose association between the states with a weak and ineffective centralized Congress was presenting great difficulties. The individual state governments were becoming corrupt, the people were beginning to resent taxation, and Congress was meeting infrequently,

³⁶ Hyneman, Charles S., Lutz, Donald, Ed. p. 164.

usually without enough members present to form a quorum. The states were carrying their sovereignty and independence to the extreme. Congress was no longer able to lead as it had in the days of the revolution. The states were not meeting their responsibilities in funding Congress. States were forming individual treaties with European nations, and land locked states were being taken advantage of by those states with access to ports.

The individual states considered themselves separate countries bound together by a loosely organized Confederacy to which their loyalty came second to their own state. Each individual state vigorously and jealously guarded its individual power and independence so that cooperation between the state governments was minimal if not nonexistent. Each state acted as if it was a city-state, and history shows examples of how unsuccessful the city-states were. Machiavelli lived in such a state, and knew very well that model of government was not known to have a satisfying outcome.

The majority of the American population was not troubled by the state of affairs in the United States. Many of the Founding Fathers found themselves having great concerns and they began to believe the union they fought so hard to begin was not going to withstand the pressures and would eventually be reabsorbed by European Countries,

specifically Great Britain. In spite of the taxation revolts, the economy was strong so that rank and file American citizen was not overly disturbed about the problems that seemed so obvious to those who were anxious about the United States of America as an entity unto itself.

The fighting spirit so well exhibited during the revolutionary years had been turned inward and people were fighting each other individually as well as with their own state governments and between the other states in the Confederation. It was beginning to appear to those such as James Madison, George Washington and Alexander Hamilton that anarchy was on the verge of ruling America and without some major changes and a sufficiently strong centralized government the great American experiment was doomed to fail.

The Congress of the United States was bankrupt and unable to gain the financial assistance promised by states in order to pay the country's debts. The Congress had also been trying to gain the power to regulate commerce; however, the individual states were not willing to give them that power. The Congress was ineffective and had no power over the states.

The Shays rebellion in Massachusetts, although minor in reality, caused a great deal of fear in the governors of the individual states

and was instrumental in bringing them to the point of calling for a convention in Annapolis. Added to the anxiety caused by Shays Rebellion were insistent and wildly spreading rumors of British agents inciting men to rise up and stop the courts from sitting in Massachusetts. The other state governments saw the potential for great problems so the call went out to convene in Annapolis and amend the Articles of Confederation. In spite of this, there were not sufficient numbers of delegates at Annapolis to comprise a quorum nor were there likely to be. Congress reluctantly called for a full-fledged convention to assemble in Philadelphia in order to amend the Articles of Confederation. "It was the Critical Period of American history only to those who thought that the American Republic was worth creating and saving."³⁷

One of the striking things about America at this time was the people of the individual cities and states had relatively little knowledge of each other. This was due to the lack of roads and the means of dependable communication. They were living, for the most part, within a community whose people and rules changed little. Most of them had no opportunity to travel great distances, so the people were

³⁷ McDonald, Forrest. *E Pluribus Unum*. (Indianapolis: Liberty Press, 1979) p.257

unfamiliar with the customs and the lifestyle of others who were members of the same confederacy.

One unifying force was that throughout the United States the majority of the people were living in a rural environment. No matter in which state they lived, they had the commonality of being farmers.³⁸ They were neither rich nor poor, but were comfortable middle class residents and were able to fulfill their daily needs.

There were no set class distinctions in America that were as evident and binding as in Europe at the time. In addition, the people of the United States had, in recent memory, bound together and fought a revolution against the United Kingdom for a common cause. This common cause of liberty continued to unite the United States and its citizens so that whatever their differences, there was a reason for people to join together and continue their form of government. The state constitutions were similar and in spite of squabbles and power struggles within each state government, there was a desire for the union to continue. This desire did not mean, however, that there was agreement on what measures needed to be taken to correct the problems that were so evident. The deliberations and debates between the representatives of the states were long and tedious

³⁸ Ranney, John C. "The Bases of American nationalism." *William and Mary Quarterly* 3(1946): p.5.

during the Convention, but concessions were made and ultimately the Convention delegates were successful in putting forth a Constitution.

The Convention in Philadelphia convened on Monday, May 14th, 1787. James Madison kept detailed records of each meeting with the understanding these records be kept secret and not released for public viewing until many years in the future.³⁹ It was crucial to the success of the Convention that deliberations be secreted. There was to be much debate, discussion and disagreement. The fear was that unless the delegates appeared united there would be great difficulties in persuading the citizens of the individual states to ratify the results. It is quite fortunate that Madison was adequately able to reconstruct the daily events and record them for the sake of history.

It was of great importance that a system be developed that granted individual liberty to the citizens, freedom of each state to carry out its business and a centralized national government endowed with the necessary power, laws and procedures that would allow it to carry out the protection of the individual and state alike. There were radical and new ideas these remarkable men set out to put in motion.

³⁹ www.constitution.org. *Debates in the Constitutional Convention*. James Madison, 1787, 593 p. This is the location where full texts of *Debates in the Convention* were obtained. Edited by Jon Roland. This is a source of a great deal of primary documentation regarding the history and founding of the United States all available at one single location. Included in the *Debates in the Constitutional Convention* are Madison's introduction and explanation.

The gathering of representatives from most states to realign the government allowed the various ideals of government and society to come together. The intent of the convention was to bring a federal union and much needed stability to the United States. Many of the delegates were members of Congress and were acutely aware of the problems Congress faced when trying to run the loosely tied Confederation. Many of them were complete strangers and had to learn about each other and how to work together. Still others were Founding Fathers who had experienced the American Revolution first hand and were determined to ensure the success of the government and country they had risked and sacrificed so much to establish. It was an odd collection of men to whom the future of the United States was entrusted.

The United States was at a crossroads. The concepts of sovereignty were beginning to lose their definitions and in that absence of clarity the strength of the American union was failing. The convention called by Congress was needed in order to redefine and reassess the limit and strengths of state, popular, individual and national sovereignty. In order to do this it was clear to many that the Articles of Confederation must be discarded and a new Constitution substituted for it. The belief that sovereignty was divisible and must

be defined was strongly held by some at the convention. Other delegates attending the convention, and some that refused to attend were of the opinion that by changing the Articles of Confederation their sovereignty was threatened and would be diminished.

CHAPTER IV

Absolute Sovereignty

The resistance to absolute sovereignty began festering in the Colonies in the years before the Declaration of Independence and the Revolutionary War.

Absolute sovereignty was the prevailing political concept in Europe during the Eighteenth-Century. It was believed the king had divine rights over his subjects. These divine rights were given by God and like God, the king was required to follow the laws he commanded to his subjects. All English people were his subjects, including those who were members of the Parliament. Technically this included the subjects living in the colonies established on the North American continent.

The North American colonists were allowed to settle only by order of the king and continued to be under his authority. They were not treated as full British citizens, were not represented by Parliament and were not allowed to participate in the decisions of Parliament. The colonies were simply under the direct rule of the king. The king continued to give new colonial charters to his friends and favorites in

his court. They were responsible for setting up governing bodies and overseeing the communities and peoples involved in the charter.

At the same time the advisors of the Court were beginning to covet the wealth being generated by the American colonies, and were looking for ways to protect and enrich the economic interests of British merchants and England. This was when Great Britain began trying to control and dominate the colonies and their policies.⁴⁰

The royal court was so far removed from the colonies that the pomp and circumstance surrounding royalty was not visible to the colonists. They were engaged with the business of every day colonial life and not overly concerned with English politics. England and king were far removed from their sight. The day to day reminders of the king as well as his influence and power were not as visible in the colonies as it was in England. Although the colonists believed themselves to be British subjects, many of them had never been outside the North American continent. Their loyalty was divided between their home community and England. Their understanding of the sovereign came from his dealings with them. They had very little knowledge of the working of the Parliament or the king as it affected the daily lives of the British citizens. The colonists determined that the

⁴⁰ Morgan, Edmund S. *Inventing the People: The Rise of Popular Sovereignty in England and America*. New York: W.W. Norton & Company, 1988.

king dealt with them in a tyrannical manner. They accepted the British right to tax them externally in order to support the Empire; however, the internal taxation was another matter. The British viewed the colonies as being dependent upon them and therefore under British rule. The colonists were looked down upon by the British as rejects from their society and not fitting to be British citizens. In the British way of seeing things, those who left for the colonies were second class citizens. The colonies saw themselves as equals in sovereignty to the United Kingdom. It was the belief of the North American colonists that Great Britain needed them and their resources in order to maintain her economic and military status in the world. Their opinion was that Great Britain would founder and lose its place as a world power if separated from the colonies. The colonies also believed that Great Britain did not have the strength to invade and subdue them.⁴¹ The British concept was that king and Parliament were absolute sovereigns, and sovereignty was indivisible so that it was not possible for the North American colonies to be independent of British rule.

It was by royal decree that many of the state assemblies began in the North American colonies. The king originally required the Governors of the colonies to call the assemblies to keep them under

⁴¹ Hutson, James H. "The Partition Treaty and the Declaration of American Independence." *Journal of American History* 58 (1972): p. 886.

control. This was an ironic twist of circumstance as it ultimately led to the revolution and the Constitutional Government of the United States. Ultimately, it was to cause untold trouble to the sovereign of England and the loss of a very important colony to the British Empire.

As the colonies grew in population and wealth, the monarchy became more interested in ruling them. The colonists had been accustomed to limited interference by England. One of the first groups in the colonies to object to the absolute monarchy was the Protestant ministers. There were many sermons given as well as prayers said over the objection to anyone but God being Divine. As with other kinds of pamphlets, these sermons were printed and distributed in many forms during the history of America. They are commonly referred to as political sermons and reflect the ideology and temperament of the time. Most, if not all of these sermons, in this printed format, were published by New Englanders.⁴² These religious political writings were the basis of the American consciousness and were vastly important. The combination of religion and political liberty were woven together and inseparable.

These men of the cloth were lay political theorists of the American Founding Era, and their importance and influence cannot be

⁴² Sandoz, Ellis. *Political Sermons of the American Founding Era, 1730-1805 Volume 1.* Ed. Ellis Sandoz. Indianapolis: Liberty Press, 1998, xi.

underestimated. The word of God and the sovereignty of God guaranteed the "law of liberty" to those who believed. In large part, these two genre's, political and religious, merged because of the need of many colonists or their ancestors to flee England to avoid the religious persecutions to which they were subjected. In this way political theory and religion, as well as contempt of the sovereignty involved in the divine rights of kings were merged.

The Great Awakening furthered the politically oriented sermons of the clergy. The Great Awakening swept the entire country from the years 1739-1742. It affected every "stratum of society."⁴³

The great political events of the American founding, thus, have a backdrop of resurgent religion whose calls for repentance and faith plainly complement the calls to resist tyranny and constitutional corruption, so as to live virtuously as God-fearing Christians, and, eventually, as responsible republican citizens.⁴⁴

Benjamin Coleman delivered a sermon in 1730 that was often repeated throughout the next decade. This sermon was instrumental in influencing the Great Awakening. It was entitled "Government *the*

⁴³ Ibid. xv.

⁴⁴ Ibid. xvi.

Pillar of the Earth," delivered August 13, 1730 in Boston.⁴⁵ Coleman metaphorically refers to God as being the pillar of the earth. He states he is certain there are no real pillars that surround the earth. Indeed, neither the "natural earth" nor the "moral earth" has pillars except in a conceptual sense. The real pillars of the earth are the rulers and governments of the earth.⁴⁶ The pillar of government is religion. If government and religion go hand in hand, moral virtue is present and alive. If not, government degenerates into tyranny.

Many pastors in their pulpits became the political theorists and political motivators of the times. They were in a position to communicate with and influence a great many people with their weekly sermons. In many places, the only occasion people had to leave their homes and make a trip to town was on Sunday to visit their local church for services. The Reverends were very influential in spreading the word of liberty, freedom and civic virtue, as well as furthering the resistance to tyranny.

In March of 1766, the British Parliament passed "The Declaratory Act," declaring any laws, statutes, resolutions, orders and proceedings made in the North American colonies were null and void. The Act stated that the colonies were "...subordinate unto, and dependent upon

⁴⁵ Ibid. p.11-24

⁴⁶ Ibid. 13

the imperial crown and parliament of Great Britain..."⁴⁷ It continued to assert that only the king and Parliament had the power and authority to "...make laws and statutes of sufficient force and validity to bind the colonies and people of America, subjects of the crown of Great Britain, in all cases whatsoever."⁴⁸ The king was demonstrating to the colonists they were his subjects and that he, being sovereign, was in control of their lives and their destiny. This brought awareness to the colonists that indeed they were not in control of their own fate and that their customs, laws, and society were at the whim of one who was unfamiliar with them and their lifestyle. This was a totally unforeseen event to many and caused a great deal of stress and upheaval to the population of the colonies.

The Continental Congress, on October 14, 1774 submitted the "Declarations and Resolves" in response to the British sovereign and Parliament. This document outlined the offenses the colonists believed were committed by them. These included assessing taxes on the colonists and establishing courts of admiralty in order to enforce the collection of taxes. Included was the protestation that American colonists were being removed to England to be tried "...for treasons and misprisions, or concealments of treasons committed in the

⁴⁷ <http://www.ushistory.org/declaration/related/declaratory.htm>. 05/15.2003. The Declaratory Act.

⁴⁸ Ibid.

colonies..."⁴⁹ Outlined in this document were what the colonists believed to be their rights as British citizens and how these rights and liberties continued to be abrogated by Parliament and the sovereign. They also expressed their wish that these issues would be resolved so that the colonies would be treated fairly wherein harmony and trust could be re-established between them.

In 1776 the Continental Congress wrote a declaration "...setting forth the causes and necessity of their taking up arms."⁵⁰ This document enumerated the grievances and injustices the colonists had experienced at the hands of the king and Parliament. "We are reduced to the alternative of choosing an unconditional submission to the tyranny of irritated ministers, or resistance by force. The later is our choice."⁵¹ This document also stated their honor forbade them from surrendering the freedoms they had been granted in the past and were accustomed to, and they would not submit their subsequent generations to "...hereditary bondage..."⁵²

One further situation had a real and possibly dramatic effect on the colonists' determination to shake off the rule and domination of the English sovereign in a more urgently and timely manner. Word that

⁴⁹ www.founding.com/library/lbody.cfm?id=99&parent=47. Declaration and Resolves.

⁵⁰ <http://www.founding.com/library/lbody.cfm?id=101&parent=47>. The Causes and Necessity of Taking Up Arms.

⁵¹ Ibid.

⁵² Ibid.

England and France were conspiring to partition and divide the colonies between themselves arrived in North America in February 1776. The colonists knew this as The Partition Treaty.⁵³ The fear was that Great Britain offered this option to the French in return for helping suppress the rebellion brewing in the colonies. There was no basis in reality to The Partition Treaty. The Treaty was a rumor started by a defrocked French priest, believed by the French ambassador in London, and then spread quickly to the Founding Fathers in the colonies. The British were only too happy to allow this rumor to spread as they hoped it would cause the colonists to reconsider their actions. The word of the Partition Treaty arrived within the colonies at several different places at about the same time. This led the colonists to believe the information was genuine and true. This rumor was one of the reasons the Declaration of Independence was published July 4, 1776. The Founding Fathers were afraid to wait until this partnership was formed between Great Britain and France. It was another instance that fuelled the resistance and the rejection of the monarchies and the divine rights of kings.

At the same time, the French were beginning to be concerned that the English and Americans were going to reconcile their

⁵³ Hutson, James H. "The Partition Treaty and the Declaration of American Independence." *Journal of American History* 58 (1972): p.877.

differences. The French had committed to the cause of the American Revolution in order to contain the British and made a treaty with America to help them in their efforts to break away from Great Britain. It is interesting that Benjamin Franklin, being the representative in France from the United States was instrumental in the French perceptions. He had the habit of not securing any information he had access to, leaving it on his desk for all to see. There was a British spy in the American delegation who was forwarding great amounts of information to the British. The French learned of this and began thinking it was a plot by the Americans and Dr. Franklin. The French came to believe that the massive amounts of information were not accidentally leaked to the British, but were being used in order to come to an agreement with them. This increased the French determination to ally with America in order to keep the British at bay.

Following the successful conclusion of the revolution, the United States instituted the Articles of Confederation as the governing document.

Once it became obvious that the Articles of Confederation, instituted at the conclusion of the revolutionary War were not working, Congress allowed the calling of a Convention to amend them. In the guise of amending the Articles of Confederation, a new Constitution

was drafted, the American Union was solidified and the proposal for a national system of government was put to the citizens of the United States to ratify.

There was great debate during the Convention regarding the office of Executive, or President, as we know the office today. The debate centered on who would elect this official, what the powers of the Executive would be, and whether or not the Executive would be a panel of three or more or a solitary person. The debate continued to discuss the possibility of a single Executive but with a Cabinet who would advise him and control his final actions. Would this Executive have the authority to submit laws; would he have the power to negate legislative acts; would he have the power to declare war? Some delegates wished the term of office of the Executive to be for life, others believed the term should be seven years without the option of re-election. One of the more interesting thoughts expressed was that a single Executive would be worse than a monarch; he would be an elected monarch. This was a very important matter to the members of the Convention. Absolute sovereignty had previously caused great difficulties for the colonies, and it was of utmost importance that no vestiges of sovereign rule be even hinted at within the new Constitution.

The delegates realized it was of great importance to have a strong, powerful, capable leader at the helm of the government. They were aware that George Washington would be the first President of the United States, but were worried about who would come to govern after Washington left office.

Alexander Hamilton, writing in the *Federalist* Number Sixty-nine stated that while the Executive would be in the form of a single person it did not mean there would be any comparison between him and the king of England. In order to persuade the people of New York it would be in their best interest to ratify the Constitution, Alexander used comparisons of the powers of the Governor of New York in a positive way and the king of Great Britain in a negative way. He gave examples of how the Governor of New York had more power in conducting the business of New York than the single Executive would be granted in governing the United States.

This expose by Hamilton was very important. The citizens of the United States were very leery of the consolidation of power in the hands of one man. They remembered the injustices dealt them while under the tyranny of the British sovereign. The average American's life was mostly unaffected by the ruler of Great Britain until reminded by the Declaratory Act that they were indeed subjects of the king and

under his command and control. The people of the ratifying states had to be convinced that the single Executive would be effective, efficient, powerful and yet not able to rule and dominate them. The President would need to be powerful; however, his power must be limited and controlled. Such a control was achieved through the process of impeachment and removal from office; however, constitutionally it is very difficult to impeach and remove a president from office. The legislature has the right to override a Presidential veto, but this is also a very difficult action to complete. The President and the legislature are powerful but balance each other's power. This is a very ingenious system of governing, as it allows a great deal of power to be spread among the President, the legislature, and the Judiciary. Each of these branches is sovereign in their own arena, but is overseen by the other branches so that no one of them has the ability to overtake the other and upset the balance of power. Although many of the governing ideas of the United States did come from the English, the American style of government is reflective of the reaction to absolute sovereignty and the abuses of which it was guilty. In the American system, it was intentionally made very difficult for any branch of the government to work without "gridlock." This was instituted because of the fear of one element of the government taking over the other

branches which might result in tyranny. Today Americans' complain about the slow movement of the different branches of the government and of the difficulty of accomplishments because of the divisions and partisan politics that bog the system down. This was in effect written into the Constitution in order to cause just such problems and to make it very difficult for factions to control or take over the government.

The concept of absolute sovereignty weighed heavily on the minds of the revolutionaries and continued to be a central issue as the Constitution of the United States was being debated, written, and put forward for ratification to the citizens of America. The long association between the people of United States with the monarchs of Europe was stormy, albeit with times of peace and indifference. Once the United States had broken away from Great Britain, they were extremely hesitant to invest themselves in any kind of government that was perceived as having any possibility of limiting their freedoms. The main objective was to restrict the power of government so that it would be very difficult for the government to consolidate power and return to the tyranny the American people saw in the British monarchy and Parliament in the years prior to the revolution and their separation from the United Kingdom.

The idea was to protect the people from the government as well as the government from the people. It was the intention of the founders to form a strong national government that would glue the states together. This government was to be a new and innovative experiment.

CHAPTER V

STATE SOVEREIGNTY

Established following the revolution, the Articles of Confederation gave the majority of governmental power to the states. The states were loosely joined together in a Confederacy with the national government being weak and ineffective by design. This was because the domination by a central authority was feared and rejected by the people of the individual states following the revolution. They had revolted against a sovereign king and wanted to assure themselves of the freedoms they had struggled so long and hard and painfully to acquire.

The Articles of Confederation guaranteed state "...sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this Confederation expressly delegated to the United States, in Congress assembled."⁵⁴ This was Article II and followed the naming of the Confederation the United States of America. The importance of state sovereignty was known to the Founding Fathers as well as to the people of the United States. Benjamin Franklin originally penned the Articles of Confederation, and his designs were used to draw up the Articles that became effective in 1781.⁵⁵ The Articles were ratified by the state legislatures of every state; there were some

⁵⁴ Ketcham, Ralph. *The Anti-Federalist Papers and the Convention Debates*. New York, Penguin Books: 1986, p. 357.

⁵⁵ <http://www.constitution.org>. p. 3.

difficulties involved in ratification but eventually each individual state agreed. The Articles of Confederation went into effect on March 1, 1781.

It was difficult, however, for the states to adjust to the Articles of Confederation and to being free of the bonds of Great Britain. Although they had resisted the rule of the British and eventually revolted against it, they had been a part of a union for many years. They were joined together as colonies, and then as states in their battle for freedom. Once they gained their freedom from the mother country they were then on their own. The revolution had bound them together; now their freedom threatened to tear the nation apart. This caused a weakening of the United States and ultimately put her survival in jeopardy. Each state began seeing itself as a separate entity from the other states. They were jealous of each other and suspicious of the motives of the other states.

The legislative state representatives in Congress under the Articles of Confederation did not gather in sufficient numbers to form a quorum and were unable to resolve the many issues confronting them. It was at this point the Congress called a "...General Convention to remodel the Confederacy..."⁵⁶ This Convention was to expand and define the powers of the Articles of Confederation. Governor Morris' opening speech at the convention quickly raised the question of the need to establish a national government in order to deal with the jealousies and problems inherent in the Articles of Confederation regarding the sovereignty of the individual states⁵⁷. Many delegates were adamant that their states remain sovereign and unfettered by

⁵⁶ <http://www.constitution.org>.

⁵⁷ www.constitution.org. *Debates in the Constitutional Convention*. James Madison, 1787: p.23.

government interference. After Governor Morris was finished and before the delegates retired to reflect on the proposal put forward by him, Mr. Pinckney put forward his proposal "to be agreed upon between the free and independent states of America."⁵⁸ This was an indication of the division among the delegates. Many of the states were determined to retain their independence and their sovereignty. The large states did not believe the smaller states should have as much power or influence as they. The smaller states guarded their sovereign independence vigorously, to the point of threatening to withdraw and form a relationship with European nations if necessary. It was at this point the delegates came to realize that compromise was necessary if they were to be successful in forming a national government. State sovereignty was of utmost importance to all the delegates present with all insisting upon their sovereignty, even if it was the detriment of the other states.

James Madison, in the introduction to his *Debates in the Convention of 1787*, discussed the problems the United States experienced while being governed by the Articles of Confederation. Madison described the difficulties in ratifying the Articles of Confederation as the states not wanting to lose any of their power and the worry of "abuse in other hands than their own."⁵⁹ Equal representation of the individual states was a sticking point in ratifying the Articles of Confederation as well as the Constitution.

The small states, although unequal in size believed they were equal in sovereignty, just as the colonies had considered themselves equal to England before the revolution.

⁵⁸ Ibid. p. 27.

⁵⁹ <http://www.constitution.org>.

In Madison's opinion, the biggest problem with the Articles of Confederation lay in the fact that Congress was dependent upon the states' charity for support and funding. All of the individual states considered what they believed were in their best interest first and were reluctant to work with Congress or cooperate with the other states. The states doubted each other's compliance in most matters relating to the Articles of Confederation.

The states relieved from the pressure of foreign danger, and flushed with the satisfaction of independent and sovereign power; [instead of a diminished disposition to part with it,] persevered in omissions and in measures incompatible with their relations to the national Govt and with those among themselves...⁶⁰

Congress did attempt to expand their national powers, but the states resisted interference into what they saw as their sovereign realm. Congress continued to try and collect from the states the funds necessary to pay the debts from the revolution, but promises were made and broken by the states. Congress attempted to bring some uniformity into the laws of the states to regulate commerce and settle some of the disputes between them. This was also impossible, as the states would not allow it.

The states violated many of the Articles of Confederation. They raised state militias in order to fight Indians, and were printing and issuing paper money. They also instituted taxes and interfered with other state's rights. The states were acting as little fiefdoms and

⁶⁰<http://www.constitution.org>. This is quoted directly from James Madison's notes about the constitutional convention which preceded his actual notes taken during the convention. Neither the wording nor the abbreviations have been changed.

fighting each other trying gain power and advantage over each other. Corruption was rampant in the governments and many of those in the government were using their position to further their personal wealth and prosperity.

There was a real concern that Great Britain was fully aware of the trouble brewing in the United States. The belief was that as things deteriorated in the United States, Britain would try and reassert her influence and retake the United States back into her Empire. This led to real concerns that the liberties so dearly earned were in jeopardy. There was also speculation that the Confederation would be further split into smaller Confederations dividing the states into more factions. This indicated that there might be another monarchy in the future and the Founding Fathers and many American citizens were not at all comfortable with that possibility.

The sovereignty claimed by the individual states under the Articles of Confederation was both a blessing and a curse. They had the freedom they were looking for, and each state was in control of its own destiny. Unfortunately, they were lacking the controls that had previously been in place so that things spiraled out of control in many ways. Each state closely guarded its own sovereignty, and began a struggle to safeguard its own interests. Those who were involved in the political system took advantage of the lack of discipline and the defects in the state constitutions in order to fill their own coffers.

Land disputes began, as the landlocked states were dependent on their neighbors for goods and supplies as well as a way to distribute the goods they produced. One of things that did continue to hold the Confederation of the states together was that there were lands on the North American continent that were still colonized by other countries in

Europe. The Spanish and the French still had land holdings. The Americans coveted those lands for the state expansion they envisioned. There was also the worry that those who lived in the "Western Lands" would pledge allegiance to those countries who had claimed them against the United States.⁶¹

The idea of a confederation was reactionary, and a hastily constructed as a way of governing after the states were freed from the United Kingdom's dominance. The reactionary forces wanted total state sovereignty unfettered by interference of any other entities. The states did not conform to the rules of the confederation and the central government had not power nor the ability to force the states to comply.

The Continental Army was dissolved following the revolutionary War. This meant that there was no national guarantee of safety within the state or with regard to outside factors that might threaten the United States as a whole. One of the more hotly contested debates during the constitutional ratification process involved the institution of a standing army under national control. The Anti-Federalists saw this as an aggressive move that gave the government the power to dominate the states with physical violence if the state did not conform to the authority of the national government. This was perceived as a major threat to state rights and state sovereignty.

The judiciary was also seen as a significant threat to the sovereignty of the states. The judiciary was to have the right of judicial review over the Congress as well as over the laws of the state governments. This also appeared to undermine the sovereignty the

⁶¹ William T. Hutchinson. "Unite to Divide; Divide to Unite: The Shaping of American nationalism." Mississippi Valley Historical Review 46 (1959), p. 10.

states perceived belonged to them. It did not seem appropriate to the individual states for their laws to be overturned by a national judiciary. The states saw this as another effort to take away their power of self-determination. James Madison wanted the national government to have the right of veto over any state law. On this point, he was voted down by the other representatives of the states attending the Convention. Judicial Review was believed adequate to control the state laws that were deemed to violate the Constitution.

The role of the national government was hotly contested and argued during the convention. Most of the delegates of the states understood the need for the national government to have power over the states and the individuals who lived within them. There were some delegates who preferred that the states be dissolved entirely and all the power placed in the hands of a single national government. This sent up alarm bells to the delegates. There was talk of monarchy and tyranny so the dissolving of the states was never considered. Many of the delegates sent to the convention were there with specific instructions not to surrender their particular state's rights under any circumstances.

The convention was attended by state representatives from small and large states. The small states were not necessarily those who were "small" in size and population. Many of the small states voted and sided with the "large" states because they believed they would grow and their population would increase. They assumed at some point be they would counted with the large states and their power would increase. The notion of "small" states included some of the larger states at the time. These states knew they would not be able to expand in size in the future because of their state boundaries.

The question of state boundaries and land available to some states and not others was another matter that had to be resolved before the Constitution was ratified.

One of the most contentious and defining arguments during the debates during the Convention regarded the representation of the small and the large states in the proposed Congress. It was obvious that the large states preferred proportional representation, while the small states were more interested in equal representation. The debate was long and considerable, however, the small states were determined they would be represented in an equal manner or they would leave the Convention and it would fail in its purpose. The ensuing debate was a matter of the larger states trying to induce the smaller states to bend and accept proportional representation. James Madison believed the small states would bend to the will of the large states when it came to the issue of representation. In this, Madison made a very large miscalculation.

The small states were determined and resolute that all states would have equal sovereignty or they would leave the Convention. The small states were adamant in this because they believed the large states would come to dominate them, and their sovereignty would become nonexistent. Ultimately, the large states came to realize the small states were not going to change their attitude about representation, so a compromise was drawn up. This "Great Compromise" would set the tone for the rest of the Convention.

The small states were satisfied and knew their security would be protected if one branch of the government was set up so that all states had equal representation. They would not compromise on this issue. They were realistically concerned that they must protect themselves

from the exploitation of the larger states. If the larger states had the majority of the power, they would be able to elect politicians that would protect their interests to the detriment of the smaller states.

The Virginia Plan and the New Jersey Plan were hotly debated and resulted in what has become called the "Great Compromise." The smaller states approved of the New Jersey plan because it protected the sovereignty of the states. The Virginia plan would create a new Constitution rather than being limited to amending the Articles of Confederation. The smaller states objected to the national government because it was unlikely that a large government would be able to serve all the people it represented in an equal and equitable manner. The worry was that the collective as well as individual civil liberties or rights would be curtailed by a powerful government which exerted control over both.

On June 21, 1787, Dr. Johnson took the floor during the debate to speak about the New Jersey Plan. He noted that the New Jersey plan had been constructed in order to "...preserve the individuality of the states," but that the plan from Virginia did not propose to totally destroy state individuality.⁶² In his speech, he acknowledged the supporters of the Virginia plan stated they only wished to see the states power in "... possession off a considerable, though a subordinate jurisdiction. They had not yet however shown how this could consist with, or be secured against the general sovereignty and jurisdiction, which they proposed to give to the national government."⁶³ Dr. Johnson believed if the delegates for the Virginia plan could

⁶² Ketcham, Ralph. *The Anti-Federalist Papers and the Convention Debates*. New York, Penguin Books: 1986, p.86.

⁶³ <http://www.constitution.org>.

demonstrate that state sovereignty would not be threatened the objections to it would cease.

James Wilson explained that the solution to such a problem was that one branch of the legislature would be elected by the state legislatures, this being the Senate. In this way, the states would be able to defend its rights from the national government. James Wilson believed that it would be in the national government's best interest, as well as those collective and individual citizens of the states to preserve states rights. He also made note that he was more concerned about the encroachment of the state governments on the national government than the other way around. James Madison declared the need for a centralized government was quite necessary. He believed that confederations often dissolved into "...anarchy than to tyranny: to a disobedience of the members than to the usurpations of the national head."⁶⁴

Alexander Hamilton, a supporter of strong centralized national government, was of the opinion that the states and state's governments must to be abolished all together in favor of a national government. The majority of the delegates representing the states at the convention realized that a central national government was necessary, but that did not mean consolidation was necessary. State government was necessary because it was needed to continue to bring law and order to large geographic area and growing population.

The accepted definition of republic had long held that only a small area with limited population could be a successful republic. This was the belief that most held by the delegates attending the convention. By incorporating state governmental powers and

⁶⁴ Ketcham, Ralph. p.88

sovereignty into the national scheme, the root of government would be local and invested in smaller physical areas and with less population. In this way there could be many small republics representing the various interests of their individual states in a larger scheme of government that had its own powers and responsibilities to those states and communities.

James Madison's theory was that national government was a necessity. He wanted to curb the abuses of power that had been rampant when the Articles of Confederation loosely joined the states. The national government would be the protector of civil rights and liberties and offer protection of the people against the state. In Madison's opinion, this would be controlled by the national governments "negative" over the states. This concept was not acceptable because it interfered with states rights. Instead, there were regulations that curbed the actions of the states written into the constitution in lieu of the "negative."⁶⁵ This meant that certain items were denied to the states in the form of the Supremacy Clause as well as others enumerated in the Constitution. The veto of state laws and regulations was not acceptable to the delegates. It would have severely limited the sovereignty of the states and compromised the successful outcome of the convention.

The curbing of the power of the national government was another leveling factor in the necessity of granting states a part of the governance of the United States. The states would be able to shield themselves and their citizens from the abuse of national power. The Congressional veto of state laws would have taken the majority of the states power away. This was vetoed by the delegates in spite of the

⁶⁵ Wolfe, Christopher. "On Understanding the Convention of 1787." *Journal of Politics* 39 (1977).

fact that James Madison pushed for it and believed it to be very important.

Madison believed that the separation of powers was the force that would keep the government from encroaching on liberties. This was an important part of his plan. In European countries, the aristocracy and class divisions were what divided the government and tried to check or curb the encroachment of governmental powers. This is one situation that the United States never sanctioned. The Constitution forbade such designations and titles. Madison's separation of powers was to work in America as the divisions among the classes did in other countries to control governmental power against the citizens.

In the American communities, the very rich and the very poor were likely to live right next door to each other, drink in the same pub as well as attend the same church. One of the worries many had about the Constitution and the large government was that it would not be as representative of the people. With the smaller state governments, the people knew each other and the person who represented them. If a large government meeting far away were to be decided upon, would those who represented the citizens become distant and unaware or uncaring of what was going on in the homes of the peoples who elected them? The very fact that these representatives would have to stand for re-election was thought to be the cure for an inattentative member of Congress. The member would necessarily need to care for his local community and state or he would be replaced by someone who did. This was more of a concern in the eighteenth-century because communication and transportation was limited and slow.

There were objections to the signing of the Constitution by Mr. Randolph, Mr. Morris and Mr. Gerry. It was Mr. Randolph's opinion that the people should be offered the opportunity to be present their opinions and suggestions in another Convention. His opinion was the idea of either accepting the Constitution or rejecting it would cause "anarchy and civil convulsions."⁶⁶ Mr. Gerry was convinced that Massachusetts would erupt in Civil War because of the factions in his state and the projected reactions each would have to the Constitution. Mr. Morris declared that there must be some kind of government instituted or else there would be "general anarchy."⁶⁷ He was also a delegate who declined to sign the final draft of the Constitution when the convention concluded. The rest of the delegates signed the document and "...the Convention dissolved itself by and Adjournment sine de---."⁶⁸

The Ratification of the Constitution continued to put forth many political documents. James Madison, John Jay and Alexander Hamilton wrote the *Federalist Papers*. There were also The *Anti-Federalist* papers written by John DeWitt, Patrick Henry and other anonymous writers.

John DeWitt, an unidentified writer from Massachusetts, wrote two essays, one October 22, 1787 and another October 27, 1787. He was to write five essays total. He put forth the idea that a centralized government with increased power was not necessary. He stated that the United States was blessed with none of the misfortunes of other countries; those being "...usurped power, unequal justice and despotic

⁶⁶ Ibid. 180.

⁶⁷ Ibid. 179.

⁶⁸ Ibid. 180.

tyranny."⁶⁹ The government that the citizens live under is one of their choosing and design and the problems were an aberration borne out of boredom and misunderstandings regarding finances. The main point made in his writing of October 22, 1787 was his question, what is the big hurry? Why is there such a big rush to ratify this document when it is obvious that the whole system of government has been changed and restructured? He was asking the people to study it and take their time deliberating upon what form of government they wanted, what they presently have, and where the new government would take them. He was also asking the people to discuss the new Constitution with their friends and neighbors and be sure it was what they wanted for themselves and future generations.

Patrick Henry spoke before the Virginia Ratifying Convention in June 1788. He stated that what had been proposed was not a Confederation but a "consolidated government."⁷⁰ He pointedly asked the question "Is this a monarchy, like England—a compact between Prince and people; with checks on the former, to secure the liberty of the former?" His second point was that the Constitution was as radical a change as the revolution, especially considering that the sovereignty of the states was to be relinquished. This to Patrick Henry amounted to a loss of liberty.

Sovereignty and liberty were closely associated during the deliberations of the Convention as well as during the Constitutional ratification process. The turmoil of the revolution was still fresh in the minds of many in the United States and the sting of the tyranny put forth against the colonies by George III and Parliament were not old

⁶⁹ Ibid. 190.

⁷⁰ Ibid. p.199.

memories. The economy was good and the people of the United States were complacent and happy with the Articles of Confederation. Many did not appreciate or even know of the problems that were brewing between the states. They were unaware or uninterested in the problems the Founding Fathers were so concerned about regarding the British looking toward the United States and waiting until the time was right for them to re-establish their control. The Americans were still celebrating their freedom and the release from the sovereignty of the British king and empire. The Convention seemed to them a very suspicious undertaking. It took a lot of work in order for the Federalists to convince the people that this new form of government was necessary.

The Anti-Federalists played a very important part in founding our new nation during the revolution and with their loud objections to the Constitution as it was written. Because of the Anti-Federalists, the Constitution has the Bill of Rights, which is one of the most cherished parts of the Constitution today. The sovereignty is split between the national government and the states, albeit the national government is supreme over the states. The Constitution enables the Supreme Court to balance the Legislature and to follow the guidelines written into it in order to keep our country moving forward and current with the times. The sovereignty the people were so afraid of losing still lay in the states, with the United States being sovereign as a nation among nations in the world. It is likely the experiment in government would have failed without the men who spent those days in Philadelphia hammering out what they determined to be a suitable form of government.

The Articles of Confederation were failing and the states were unable or unwilling to keep the bonds tied that kept them together. The Constitution bound the states together into a sovereign entity while allowing the states to retain a large portion of their sovereignty.

CHAPTER VI

Popular Sovereignty and Individual Sovereignty

The idea of popular sovereignty has a long history in the United States. Suffrage, however, was not originally offered to everyone. Originally, the colonial constitutions allowed freedmen, who were members of the church, the right to vote. Later came the requirement that one must own land before being allowed to vote. Not only were there requirements to own land, in addition, the land must be of sufficient value for a person to have a stake in the outcome of the election. This meant that woman, slaves, the landless, criminals, and immigrants did not have a say in the government or the policies practiced. It would be a very long time before popular sovereignty was extended to everyone.

During the Convention, representation of the citizens of the United States was hotly debated. There were many delegates who believed the average citizen were not capable of directly electing members of the House, Senate, or the chief Executive. It was thought by electing the state legislatures; citizens were authorizing them to elect the best candidates to serve in the national government. In this way, popular sovereignty would indirectly be a matter of fact. The

belief was that the average citizen was not sophisticated or educated well enough to make informed voting choices. The prevailing feeling was that the voters would be too easily influenced by unscrupulous men running for office to make an informed choice. The voter would be conned into voting for someone not appropriate to serve in Congress.

Many of the delegates to the Convention were elitists. It was the prevailing belief in the United States that men who were in the upper class had the talent and intelligence to design and be in charge of governance. This was an accepted fact by both the upper classes and the common people. It was a time in history when people believed that they should look to those who were successful and powerful as their natural leaders. In the days of the Convention and ratification process, this was known as Fame.⁷¹

Those who were looked to as leaders by the people were individuals who had achieved fame. Men such as George Washington, James Madison and Benjamin Franklin had achieved such status; however, they continued seeking avenues to add to their fame. These were just a few of the men who brought legitimacy to the Convention. Fame in the Eighteenth-century had an entirely different meaning than

⁷¹ Adair, Douglas. *Fame and the Founding Fathers*. Indianapolis: Liberty Fund, 1974. p. 3-36. This was the last paper Adair was to deliver before his death in 1968.

it does today. Fame to the Founding Fathers was something they were actively seeking. It meant they had contributed something very significant to the well being of their constituents in a governmental sense. None could be more famous than those who had developed a new system of government or written a constitution. This meant that they were exceptional men who cared about the country and its governance. They were men with great amounts of civic virtue and they aspired throughout their lifetimes to accumulate and increase their fame among the American people. These were the kind of men the people naturally demurred to and desired to lead them through troubled times. John Adams was another such man; he sought fame throughout his lifetime. John Adams was not present at the Convention but he heartily supported it and was to write *A Defense of the Constitutions of Government of the United States of America*, published in London in 1787-1789. This was a very influential document and often referred to throughout the Convention.

James Madison stated that both houses of the legislature should be filled by popular elections. Others insisted that the House of Representatives be elected directly by the people while the state Legislatures were to elect the Senate members. The belief was that the Senate should be populated by the upper class, elite, and famous

men of the country who were educated and would be able to level and control the House of Representatives. The delegates had really little faith in the type of men they believed would be elected to the House of Representatives by the voters. The belief was that even though the Senate was elected by the state legislatures, the members were still indirectly elected by the people as the people elected their own state legislatures. Some delegates demanded the President be elected by the Legislature. The debate was long and hard on these subjects. Those who wanted a strong Executive felt that if the National Legislature were to elect the President he would merely be their puppet in order to be re-elected. These were very basic arguments and a very significant way showed the lack of faith many delegates placed in the population of the common person in the United States. Madison had great faith that the people of America must be involved in all segments of the government. He was among the minority in this belief. He was never able to convince the majority of the other delegates that the people must have direct participation in elections and that they were wise judges of character and ability. Again, this shows the dab of elitist sentiments that prevailed at the time the delegates were debating these issues.

There was debate based on popular sovereignty and the liberty of the citizens of the United States during the ratification process. As the debates for ratification were continuing in New York, it was learned that the requisite number of nine states had ratified and accepted the Constitution. That left to those in New York with a very difficult decision. New York could either ratify the Constitution or become separate and apart from the United States. That caused the delegates pause, however, there continued to be debates about the liberty of the people of New York. Melancton Smith rose and spoke to those assembled in New York in June of 1788. He was a devoted Anti-Federalist. He objected to the way the House of Representatives allotments were to be designated. He stated it was folly to allow the House the decision as to how many representatives there would be to speak for the people. He said it was not logical to leave such a decision to them and to assume they would be worthy conscientious people who would guard the rights of those they were sent to represent. He stated that in a free society, people should be able to make the laws they were to live under or else they would be living as slaves to the country. The number of thirty thousand people being the number each official would represent was unacceptable. With this representation, the will of the people truly would not govern. It was

Smith's belief that the Confederation represented the will of the people better than any government had any people anytime in history. The consolidated government would not do so nearly as well as the Confederacy. It was his opinion that "...the great interest and liberties of the people could only be secured by the state Governments."⁷² Following this reasoning Smith rationalized people should have the right to decide how many representatives there would be in Congress and for how many each of representative's voice would speak. He determined the Constitution was assuming too much by putting an arbitrary number on these representatives. The states were better representatives of the people because the districts were smaller and the citizens had greater control over those who made the laws and regulations under which they would live.

Smith spoke of what he called natural aristocracy. He acknowledged that officially there was not a class system in the United States; however, it was only natural that there be class distinction. He wondered aloud if those of the upper classes would be able to relate to and comprehend the worries and needs of the common people. In addition to that, he conjectured that only the people of wealth and prestige would be able to gather the necessary support from the

⁷² Ketcham, Ralph. p. 341.

people to be elected. The common people would break into factions because they did not support the same person. Those who would be elected to office would become too powerful and quite likely corrupt. He feared they would take advantage of the opportunities open to governmental officials to the detriment of the people. This was what Smith believed would happen if there were too few representatives in Congress.

James Madison addressed factions in *The Federalist*, Number Ten. Factionalism was one of his great concerns and why he felt it absolutely necessary to put checks and balances in the government of the United States.⁴ It was in this way that the government would be balanced and the factions would be unable to combine a majority at the expense of the minority. In *The Federalist*, Number Nine Alexander Hamilton also spoke to the problem of factions and the solutions that had been composed into the Constitution. He stated that the field of political science had advanced since the times of the Roman Empire and that a better understanding of the problems of the Roman republic had led to a new solution to the problems they encountered. The separation of powers and the judiciary would assure that factionalism would not send the new government into anarchy. It was Hamilton's opinion that the only other alternative to the

Republican form of government as invested in the Constitution would be to either return to the rule of monarchy or for each state to dissolve into its own solitary independent state.

The arbitrary setting of the numbers of members of the separate houses in the Congress was defended by James Madison in Federalist Number Fifty-two. "The right of suffrage is very justly regarded as a fundamental article of republican government. It was incumbent on the convention, therefore to define and establish this right in the Constitution."⁷³ Madison continued to say that for the state legislatures to decide how many delegates were proper to attend to their peoples business was inappropriate. This would have made the legislature more dependent on the state than on the people of the state. While under the Articles of Confederation, the central government was dependent entirely on the states. The Constitution changed this situation and made the national government answerable to the people of the states. Madison continued that the fixed number of representative in the Congress would guarantee security to the citizens because the national constitution would guarantee that their right to popular sovereignty would be guaranteed and the states would not be able to abridge them.

⁷³ Ibid. 336.

This line of thought represents the constant and underlying concern the people of the United States had about any one person or group of persons consolidating too much power. The need for the liberty of the people and the denial of a sovereign power holding power over them was still deep in their consciousness. The Parliament of Great Britain had power over them and caused no end of trouble for the colonists.

The people were conflicted greatly. They understood the need for a consolidated government. They wanted their new country to be safe and secure in its own right, and understood that safety began with the power of the government to protect them and their civil rights as well as their commercial entities. They also understood and feared what could happen if they were to give away the power and freedoms they had struggled so hard to gain. The Framers of the Constitution were asking them to give up some of their freedoms to the government. They were asking them to believe that by the releasing of some of the liberties they had just gained they would gain additional security and comfort albeit in a different setting and with different rules and regulations.

The people were familiar with the theories of John Locke and Thomas Hobbes. They understood the concept of natural law. Locke

and Hobbes theorized that people must give up some of their rights and liberties to a government in order for society to not prey on the weak as well as for order and security to exist for all people. At the same time, they also knew that civic humanism in John Locke's theory stressed the importance of property and individualism.

Popular sovereignty was to be the supreme will of the people as put forth through the representatives they elected to speak for them. This may be translated to mean the supreme will of the people is the Rule of Law. The delegates at the Convention deemed it important for the Constitution to be ratified by

...popularly elected conventions, with the approval of nine states required for its ratification. That would make the Constitution a true expression of popular sovereignty, converting the abstract notion of an original compact of government into an explicit act of popular consent.⁷⁴

People felt loyalty to their state "...as an impersonal entity maintaining the entire social structure by which the individual enjoyed

⁷⁴ Rakove, Jack N. *Declaring Rights: A Brief History with Documents*. Indianapolis: Liberty Fund, 1998, p. 112.

the good things of life."⁷⁵ It is a logical step to surrender some rights to the government to ensure the safety and comfortable life man desires.

Constitutional Democracy came to be known as the will of the people. In the age of the revolution and throughout the writing of the Constitution, democracy had a different meaning than it does today. The United States was called a Republic by the political thinkers of the era. Tomas Paine, in *Common Sense*, said a republic represented sovereignty of justice in contrast to a sovereignty of will. Plato and Aristotle agreed that a democracy was not necessarily a good thing because everyone was engaged and that meant the influence of undesirable people might be felt in government. Today Republic and Democracy have come to mean the same thing. The meaning is that the people participate together with the government in the process of government. Freedom exists in the understanding by the people that they have political self-determination in the choosing of the representatives they send to the national government.

Individual sovereignty is also an important notion, albeit the choice of the title is the authors. The Anti-Federalists often used the term individual rights when speaking of the sovereignty of an

⁷⁵ Cole, Kenneth C. "The Theory of the state as a Sovereign Juristic Person." *American Political Science Review* 42 (1948): p.18.

individual. Individual sovereignty would compare to the implied rights in the Constitution as opposed to an enumerated right, not specifically named but the meaning being implied.

During the debates in the Convention and ratification process individual sovereignty was present, if not expressed in those terms. The terms liberty, justice and the right to property were mentioned many times. This is important in the American scheme of society and has been present from early on in the colonization process. The individual is the basis of a Republican government and Social Contract Theory upon which the American government has been built. The people in America believed in their individuality and rights. In the early days, this began as a right of the freedom of people to exercise the religion of their choice. The governments the colonists chose unquestionably reflected their religious beliefs. A strong and definite moral was code threaded through the laws that governed their communities. These laws not only enforced the moral activities of the people who lived in the community but also defined property rights as well. It was up to the individual in a community to behave in a moral and law abiding manner and thus extend the courtesy of individuality to the other citizens in the community. It was this idea, combined

with a sense of public and private sanctity that was an important factor in individual sovereignty.

What are known as property rights extend far beyond the actual ownership of land. Property rights are physical as well as non-physical assets. John Locke stated property included the right to benefit from a man's work. It might be a concept or idea that culminated in the writing of a book, or a work of art. It included the talents that enabled one to earn a living within a specialized industry. A saddle maker, carriage maker, or even those who ran cottage industries considered their products property. Many things are considered property that would not be as obvious as the physical land a man owns, lives on and earns his livelihood from.

John Locke theorized that in order for man to live in safety he would need to band with other men. This would increase the freedom, safety and happiness of humankind. In order for this joining of men it was necessary for them to agree on what tack their society would take, and what laws would serve the most of them and allow them to also retain their individuality and liberties. Locke also recognized a divine presence and the need for following Christian morality in order for a society to be just. John Locke also stated that it was allowable for man to leave the community and return to the "state of nature" if

he chose to do so. This would mean that he would live independently without the safeguards afforded within the community.

At the time of the Convention, many of the delegates tended to think of "the people" in philosophical terms, not in practical terms. The delegates for the most part did not think the average American citizens were capable of governing themselves. The exception to this was James Wilson. "He saw the people as the ultimate repository of sovereignty."⁷⁶ As James Wilson expressed his opinions and ideas, many of the delegates began considering his thoughts. They began understanding that government did not have to totally be a Social Contract between rulers and those ruled. They began to discuss and believe that government did belong to the people and the people could decide how much authority they wanted to delegate to it and how much they wanted to reserve for themselves.

The Constitution, thus, was not a bargain between the people and whoever ran the new government, but a delegation of certain powers to the new government, which the people could revise whenever they wanted.⁷⁷

⁷⁶ Collier, C., Collier, J. *The Decision in Philadelphia*. New York: Ballantine Books, 1986. p.285.

⁷⁷ *Ibid.* p. 285

It is obvious that James Wilson played a very large part in the framing of the Constitution and in a sense was instrumental in bringing the government to the people by influencing the delegates at the convention and causing them to rethink and discuss the sovereignty of the people and the part they would play in the government. A slight shift in the theory of government was evolving. The government and the people became one. Those who governed became responsible to those they governed. The people could change the government; the government could not change itself. This is one of the ideas that made the Constitution and the Constitutional Democracy new and innovative. James Wilson believed the people should be involved in the election of as many governmental officials as possible, including the election of the President. He was the one who is responsible for the Electoral College.⁷⁸

Beyond the philosophical roots of individual sovereignty, practicality played a large part in individual sovereignty. Since the beginning of the colonies of North America, the people realized they were on their own and needed to be able to rely on themselves in

⁷⁸ Ibid. 286. James Wilson died a bankrupt and forgotten man. He had signed the Declaration of Independence, the Articles of Confederation and was an active participant in the Convention as well as a Justice of the Supreme Court appointed by George Washington. His influence was great and he believed strongly that government belonged to the people. Very little has been written or is known about James Wilson. Those who knew him were ashamed of their association with him, as he was disgraced financially, partially because of circumstances beyond his control and partly because of his own decisions. His contribution to the formation of the United States cannot be underestimated.

order to survive in this New World. While they did live in groupings, they still needed to be self-reliant in their everyday lives. As the people spread out into the countryside that sense of self-reliance grew. Many people lived many miles from each other.

Communication was slow and unreliable, and roads were non-existent in the rural areas. These people learned to live on their land and to make what they needed to survive. If they were sick or hurt they had to rely on their common sense or experience in order to survive. They learned to garner the supplies they would need in order to survive the weather, make their own clothing, supply their own food, and work hard in order to survive. In this they did things their own way and did not require instruction or aid from government. The people of this time were aware of the moral virtue required of them by God. They were aware of right and wrong, good and evil, and believed that hard work and a virtuous life was their assurance of a life after they died. They chose to help their neighbors when they could and to allow that help to be reciprocated when needed. This was as much out of a need for community and contact with others as any other reason. This self-reliance and civic dedication to their community was instrumental in their view of their own individuality and its importance to their lives.

Ambition also influenced the need for individual sovereignty within the people of the United States. Property played a large part in the psyche of the American citizen. Ambition drove many men to seek to enlarge their fortunes. In order for them to do so, they needed the freedom to conduct their lives without interference from outside influences. This ambition also was categorized in the need for "fame." The acquiring of property was one of the inroads that allowed a man to be associated with those who had already acquired the fame. Along with fame, however, came Honor. An individual who desired the opportunity to acquire an association with men of honor must also have their own sense of honor and the interest to turn the need for it into the desire to do well by the citizens of the country. Douglas Adair defines honor as "...the goal of character formation and an instrument of social control...a sense of due self-esteem, of proper pride, of dignity appropriate to his station—acts like conscience for a practicing Christian."⁷⁹

The best indicator of the importance of individual sovereignty was the insistence by those of the Anti-Federalist cause regarding the creation of a Bill of Rights. This was to protect the individual from incursions of the national government. James Madison felt a Bill of

⁷⁹ Adair, Douglas, p. 13.

Rights was not a necessary addition to the Constitution because the Constitution put sufficient restrictions on the government that it was not necessary. Those in the Anti-Federalist camp continued to insist that ratification of the Constitution not be completed until such time the rights of the individual citizens were placed in writing. Madison's reasons for concern were justified; he suspected that if individual rights were enumerated they would be limited in scope whereas if government was limited in power all other liberties would be understood to belong to the people.

Jack Rakove wrote

A right⁸⁴ was something more than a liberty or privilege that the state could offer or revoke. It was literally something that individuals owned. And this ownership was not merely a matter of casual purchase...⁸⁰

In the eighteenth-century, right and liberty had come to hold the same meaning, so that liberty was something that naturally and rightfully belonged to a human being. Thomas Hobbes defined the one right allowed any person was the right to defend oneself from death or in other words the right to self-preservation. John Locke's rights were

⁸⁰ Rakove, Jack N. p. 20.

of another sort. They were invested in the private rights to autonomous thought, originally put forth by his wish that religious tolerance would prevail.

In America individual sovereignty meant it was important for the people be allowed to live their lives without unreasonable interference, or under tyranny. This meant that they were to actively be involved in government and those who represented them. It also afforded the opportunity to live their lives where they wanted, and in the best circumstances available to them. They chose to pay taxes in order to support the government, until those taxes became unreasonable and impossible to pay.⁴⁴ Their homes were inviolate from government intervention unless the authorities could prove there was a reason for them to enter. A person's freedom was of great importance so that unless proven otherwise habeas corpus was a very important concept that spoke to individual sovereignty. The fact that a person could not be snatched up off the street and put into confinement without the process of being charged with a crime; or held indefinitely without being charged is a very fundamental aspect of individual sovereignty.

Many of the writers who penned objections to the Constitution were very concerned about the proposed judicial system. Their objection was that individuals would not be entitled to justice if a court

of judges was allowed to overturn a decision made by the jury of their peers. It was their opinion that civil law belonged strictly in the hands of local judges and juries. One of the concerns was that the judges would be beholden to the legislature who confirmed them, and would therefore be influenced by those in Congress. This would remove any sense of fairness to the individuals who were in the judicial system. The courts would be the finder of fact and law; this undermined the principle of civil law, which the Anti-Federalists believed should be the basis for any judicial system.

The Bill of Rights was instrumental to guaranteeing the sovereignty of the individual. The lack of such a Bill of Rights was the basis of the objection to the Constitution expressed in most of the Anti-Federalist writings. The Bill of Rights has become one of the most treasured parts of the constitution. The first ten amendments to the Constitution satisfied the Anti-Federalists and they came to accept the Constitution, as did the majority of people in the United States. Basic individual rights and sovereignty were assured and people were comfortable that they would continue to hold on to their liberty in the United States.

Ironically, the Bill of Rights applied only to the national government and not the state governments. Most state governments

also included a Bill of Rights in their constitutions. The protections offered by the national Bill of Rights were rarely dusted off and used even following the Civil War when the Fourteenth Amendment was added. It was later in the history of the United States that the Supreme Court incorporated the Bill of Rights and the Fourteenth Amendment and began applying them to both national and state legal situations. Nevertheless, the Bill of Rights were a measure of reassurance to the people of the United States that they would retain their independence and sovereignty.

CHAPTER VII

Sovereignty of the National Government

Following the breakdown of the Articles of Confederation, it became apparent that the national government of the United States must be reorganized and allotted a greater amount of power over the affairs of the nation.

The Articles of Confederation affirmed the sovereignty of each individual state while giving little power to the central government, namely Congress. The United States of America were bound together with only a promise and tie of friendship among themselves.

Each state took their sovereignty quite seriously. The Congress of the United States was ignored and not adequately financially supported. Some states did pay their financial obligations, some paid a portion and some ignored all pleas from Congress and paid nothing. There was a great deal of resentment toward states such as New Hampshire who did not contribute toward the national debt from the states like Virginia, who did honor their debt to Congress.⁸¹ The states had become as little medieval fiefdoms and jealously guarded their territory and individual status.

⁸¹ Bowen, Catherine D. *Miracle at Philadelphia* Boston: Little, Brown and Company, 1966. p.8.

There were many different types of money coined by each state. None of the states would accept the money of the other state. There was the issuance of paper money which was forbidden by the Articles of Confederation. The states were resisting fervently the attempts of Congress to regulate commerce between them. The Union was dissolving all around them.

There were no mutual state agreements for the protection of the United States; there were worries that the monarchies in Europe were looking toward re-establishing their dominance in North America. The individual states were charging each other tariffs, some of them had even signed treaties with other nations. No foreign country could settle a treaty with the United States as a whole but must make a treaty between themselves and each of the thirteen separate states. There were bitter disagreements over the state borders between some states. Virginia had her own navy. The states were failing to pay their debts, the United States was unable to pay her debts and it appeared to be only a matter of time before the experiment in the government of the United States of America would fail.

The states considered themselves to be the dominant party with the national Congress only required to do their bidding. State sovereignty was not working without a centralized government or

steadying force to control it. It was as a last resort that the national Congress called for a Convention of the individual states. Originally called to modify the Articles of Confederation it became apparent during the convention that actually a new Constitution was being written. This became a necessity in actuality because Rhode Island did not participate. If operating under the Articles of Confederation each state had to agree before anything was amended or changed. If Rhode Island did not choose to be represented at the convention there could be nothing accomplished.

At the opening of the convention, after George Washington had accepted "the chair" of chairperson of the convention, Georgia announced her attendance with these words "...Sovereign and Independent." "Certain members of the convention were already heartily sick of the word sovereign. The monster sovereignty, Washington had called it."⁸² George Washington acknowledged the fact that the states were so enamored with their sovereignty that they were fighting among themselves and Congress and he believed that would be the ruin of the United States.⁸³

George Washington, Alexander Hamilton and James Madison were the men that were the most enthusiastic about the Convention.

⁸² Bowen, Catherine. p. 32.

⁸³ Ibid. p. 33.

Washington had struggled long and hard with Congress over the matter of caring for the men of his army during the revolution. He knew that Congress had not the funds to help because the tithes from the individual states were not forthcoming. Alexander Hamilton, being Washington's aide, was also aware of the problems caused by the weak central Government. James Madison was a member of the national Congress and was equally and personally aware of its inability to function because of its inherent weaknesses. These men were fervent in their desire to consolidate the states into a coherent government and were determined the United States would not fail.

James Madison may have been the best prepared representative at the convention. He made the decision to study the histories of past confederacies to see if he could use their successes and failures in adapting a new government for the United States. He wrote to Thomas Jefferson in France and asked him to send books on ancient confederacies as well as books that would discuss constitutions. Thomas Jefferson complied and sent hundreds of books to Madison. By the time the convention convened, Madison had read and mapped out his study of confederacies and had a plan of what he believed to be the necessary elements that must be incorporated into the new government of the United States. This ultimately became the fifteen

points of the Virginia Plan. This plan surprised many of the delegates. It put forth an outline for a new form of government rather than revising the Articles of Confederation. This was the beginning of the national government's advancing to the position of sovereignty over the state government. This ultimately ended in the Great Compromise which then became the Constitution as we know it today, along with the later addition of the Bill of Rights.

The Supremacy Clause of the Constitution, Article VI, Section 2 states "This Constitution and the laws of the United States which shall be made in pursuance thereof...shall be the supreme law of the land..." This alone verifies the sovereignty of the national government in relation to the state governments.

Even though the United States is a federal system with both the state and the national government sharing sovereignty, it was absolutely necessary for the national government to come to the forefront in order for the Union to survive.

The regulation of trade was an important problem during the time of the Articles of Confederation. The states were engaged in intense competition with each other, to detriment of all. The landlocked states were at the mercy of the states who had access to shipping in order to send their goods abroad. The states with their

borders defined were unhappy because they no longer had the opportunity to expand their territory and spread out and grow.

In *The Federalist* Number Eleven, Hamilton discusses commerce as it relates to Great Britain and the other European states and the need of a strong vigorous government in order to protect trade with them. He stated with a weak and disjointed government such as provided by the Articles of Confederation, the Europeans would have no reason to respect the United States. There would be no neutrality with the United States if she were not in a position of strength. With the United States being in a strong position, it would be possible to raise and outfit a Navy. The Navy would be capable of protecting the commercial interests of the United States. With strength, the United States would be an active participant in trade and not be forced to accept whatever payment was offered for goods, but would be able to negotiate and receive a fair price for those goods.

Hamilton continues in *The Federalist* Number Twelve to advance his opinion on commerce and taxes as revenue for the United States. Commerce in Hamilton's opinion was a reasonable and effective means of raising funds, thus avoiding direct taxation of the people. Indirect taxes are a responsibility that would be of great benefit to the people indirectly and directly. Only a consolidated government would have

the power to act as representative of the states, to make treaties as well as collect duties and tariffs from other countries. This would make it possible to fund the national treasury and thus establish the United States as a credit worthy nation. As long as the United States was deeply in debt and unable to pay that debt she would never take her rightful place in the international community nor command the respect she was due. The United States would also be in a stronger position to protect herself against smugglers from Europe who were unloading their merchandise off shore and bringing it inward secretly to avoid paying duties to the states. With a central government, all of the states would be equally guarded so that each state would benefit from stopping illicit and deceitful trade practices and evasion of taxation of imported goods. A centralized government would be capable of guarding the coastline and assuring the payment of duties in a much more cost effective way. This would relieve the strain and conflict resulting in the direct taxation of the farmers and landholders and be a much more efficient and equitable manner of supporting the nation.

Other practical matters were involved in bringing the separate states into a consolidated Union. The national government would be in a position to improve transportation of the whole country by updating

roads and building canals. This would make travel easier as well as contribute to the availability of communication between the states. The protection of each state would be increased and more effective because they would have the aid of the national government's standing army as opposed to having to face internal or external dangers alone. Under a national plan, the United States would be capable of growth. New states and territories would be integrated into the Union as the people spread out into the unexplored lands, increasing the size, power and scope of the United States.

The United States government would also be able to establish post offices which would, along with improving road conditions, increase the communication of people all around the country. This would afford many benefits to the people in the United States.

The United States also needed to become a state entity, with state being defined in an international sense. A state is a well defined territory with like minded people organized around a central government having sovereignty over its lands and peoples. This became increasingly important as the Industrial Revolution swept across Europe and into America. International dealings became more and more important and America as a disorganized state would not be

able to take its place within the international community unless it was a united and strong entity.

National sovereignty then was to follow two routes. One was that the government of the United States must have authority over the individual states. This is known as internal sovereignty. Without this power, the country would have broken up into small states without the power to protect themselves from each other or from outside interference. The result would have chaos and instability for all states and the people who populated them. Quite possibly wars between the individual states would have erupted and it is quite likely that the European nations would have eventually reoccupied the states.

Second, the United States must be represented as a sovereign state when involved with the international community. Termed external sovereignty it is also another important concept of sovereignty. This was important from a trade standpoint as well as from a safety point of view. Only a strong centralized government would be able to ratify treaties and conduct negotiations to further commerce with other nations. Only a united government would be capable of collecting the funds necessary in order to repay the debt from the Revolution and establish the United States as a solvent and powerful nation. In addition, only a national government would be

able to support and train the armed forces necessary to enforce those treaties as well as protect the people of the United States from outside incursions. Without the national consolidation and Constitution, the United States would not have come to be the great power it has become in the years since the revolution. Sovereignty of the United States as a national union was absolute factor in its survival and growth.

CHAPTER VIII

CONCLUSION

Sovereignty as a concept was originally defined by Jean Bodin. He put forth the concept of absolute sovereignty as a solution to the myriad of problems in France during the Seventeenth-century. Sovereignty as a concept has been built upon by succeeding philosophers throughout the ensuing years and eventually came to be of great importance at the founding of the United States.

Long before the revolutionary War, resistance against the rule of the British absolute monarchy began gaining momentum. The North American colonies and people, while considering themselves of British origin and citizenship, saw themselves as individual and sovereign entities, both collectively and individually. The colonists believed themselves equal to Great Britain in sovereignty, although they were seen by the English as inferiors.

Each colony had over time formed assemblies with elected representatives. They wrote constitutions in order to establish a workable government. The citizens believed that with hard work, civil and moral virtue, and belief in God their lives would be enriched and comfortable.

The governments of the colonies were formed by the people and with their consent. They became acquainted with popular sovereignty as well as the sovereignty of each individual colony. When threatened with blatant tyranny by the British monarch, the colonies rebelled; determined to retain what they believed to be their God given right to sovereignty, liberty, and freedom.

Each of the colonies became a state after the successful completion of the Revolutionary War. The states took their sovereignty quite seriously and began governing as if each were a state in the traditional meaning of the word. Each state saw itself as its own country, even if loosely tied to a confederation by the Articles of Confederation. As time passed, it became evident this confederation of states was not adequate to bind the nation together and keep it on an even path toward the prominent position in the international community that they desired. There was jealousy and ever increasing fear that one state was encroaching on another's rights. The states went so far as to impose tariffs upon each other, along with negotiating treaties with other nations.

As a confederation, the United States was unable to repay its loans and was losing respect in the eyes of the European nations. American commerce and trade were suffering because of this lack of

respect and the non-existent continuity necessary to deal as a strong cohesive government. The European nations were taking advantage of the divisions between the states in their trading practices. The United States was not on an even footing with the rest of the European nations.

The states began heavily taxing their citizens. The states resorted to collecting the taxes by demanding payment using the force of arms. The farmers in Massachusetts, believing their individual sovereignty was being unfairly infringed upon revolted. This caused consternation and pause by each governor as they saw signs the same things might occur in their own state. The situation was spiraling out of control, and state sovereignty was playing a large part in the undoing of the nation.

Ultimately, representatives from most of the respective states joined in a Convention to reform and amend the Articles of Confederation. It soon became plain that in reality a new Constitution was being written and a consolidated government was on the brink of coming to life. It was a revolutionary and innovative type of government the delegates were contemplating. They were hoping to prove that sovereignty was not indivisible but could be allotted to various institutions and people with success, ensuring the safety of the

people, the states and the national government. They worked to delegate different responsibilities to the different functions of government and the people who would be elected to office.

By using a system of checks and balances as well as overlapping and delegating duties to each branch of government it was believed the governments and the citizens would be safe from any one segment being able to rule the other and instituting tyranny.

Each state representative had been sent to the convention with instructions not to yield any state sovereignty to a national government. This was a very substantial issue, and finally was resolved by compromise. The states were to retain a great deal of their sovereignty; however, the national government was to become supreme. Each part of the government would have its own niche and authority. In this way, the constitutional government was formed; a small number of people represented by each state legislator in Congress would ensure the stability of the Republic. In this way although the United States was a large and growing nation, the basis of the government would still be representation by local citizens elected by their peers.

The question of popular sovereignty reigned large at the convention. The election of governmental officials was a major point

of contention. Many delegates were determined that elections should be by the people and the representatives of people in the government be the result of popular sovereignty. Again, a bargain was struck and the general public would be responsible directly for the election of members of the House of Representatives and indirectly through the state legislatures for members of the Senate. The leader of the nation would also be indirectly elected with the system known as the Electoral College. In this way, the sovereignty of the people, state, and the national government would be honored.

National sovereignty continues to loom large in current history. The United States has violated the sovereignty of another nation in the recent past by invading Iraq and deposing the absolute sovereign. There has been much turmoil and international fervor caused by this action, much of it negatively reflected toward the actions of the United States. This threat to another state's sovereignty is not to be taken lightly; however justified it appears at the time. In the opinion of the United States government, the sovereignty of America was being threatened and required protection from the state of Iraq.

Another reason given for the invasion of Iraq was given as the liberation of the Iraqi people. The United States stated goal was to

offer popular sovereignty and individual sovereignty to the Iraqi people following the destruction of the dictatorship of Saddam Hussein.

In these times of terrorism and violence around the world, there is a great deal of fear and concern. The United States is loudly and forcefully declaring her national sovereignty in actions taken since September 11, 2001.

The threat to the individual sovereignty of United States citizens is in great danger also. While combating the fear of imported danger, the United States must remember the concept of the sovereign individual and the rights granted to them by the constitution. At the present time, there is an ongoing struggle to balance individual rights with the needs of the government to restrain those who would create havoc and destruction to the American people and country.

As in the founding of the United States when the concept of sovereignty played a crucial and key roll, it continues to be an integral part of foreign policy in the dealings with the rest of the international community as well as within the boundaries of America.

Sovereignty's part in the founding of America can not be underestimated and should continue to be studied. Sovereignty as a concept has not eroded over the centuries and as nationalistic tendencies come to the forefront when there is a perceived threat, the

concept of sovereignty bears further study, consideration and attention.

The American governmental system is unique throughout the world. Many countries have tried to import their own form of the Constitutional Democracy into their government with varying degrees of success. The system of government of the United States occurred slowly over several centuries so that it evolved into something quite different than had been seen before. It is not easy to emulate or institute.

Some of the characteristics of American governance have come from negative reactions to happenstance. The concept of absolute sovereignty was roundly dismissed by the North American colonists with the Revolutionary War. The sovereignty of the states became a very large dilemma during the era of the Articles of Confederation. The states were out of control and the United States was in danger of imploding. It was determined that a national government with limited sovereignty over the states would be a solution to the dissention among the sovereign states. A supreme national government would also ensure the union's place in the international world. The states of Europe would gain new respect for the United States of America once

it represented as a single unit rather than thirteen unpredictable and unreliable states.

Popular sovereignty had been a feature in American government for generations, even though it was many years before it was extended to all, it was deemed the appropriate way for citizens to assure themselves of their importance and involvement in government.

Individual sovereignty is represented in the Bill of Rights. Individual sovereignty is perhaps the cornerstone of the United States. Individual sovereignty is of inestimable value to the founding of the United States. This is the feature of the American government that makes it so unique, flexible, and strong.

The concepts of sovereignty were crucial and undeniably important during the founding of the United States of America. This thesis has attempted to demonstrate why and how sovereignty held such a prominent place in the history of the United States government.

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