

## **The Constituent Assembly for the New Constitution: The Vast Majority Disenfranchised**

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By Arnold August, October 2011

Given the type of polarized economic system and the political thinking of the future constitution's framers, as far as franchise and the right to elect and be elected to the Constituent Assembly, the die was cast. This result had a long-term and important effect on the evolution of democracy in the U.S.

In an examination of the structure of U.S. society in 1787, we first encounter four groups whose economic status had a definite legal expression: the slaves, the indentured servants, the mass of men who could not qualify for voting under the property tests imposed by the state constitutions and laws, and women, disenfranchised and subjected to the discriminations of the common law. These were, therefore, not represented in the Convention which drafted the Constitution.<sup>1</sup>

Not only was there widespread disenfranchisement on the basis of class and the social division of society, but the state legislatures were called upon to send delegates to the Constituent Assembly, and not the people directly.

This fact in itself removed the choice of delegates one degree further from the electorate. A further safeguard against the injection of too much popular feeling into the choice of delegates to the Convention was afforded by the property qualifications generally placed on voters and members of the legislatures by the state constitutions and laws in force in 1787.<sup>2</sup>

As a result, the Constituent Convention did not have one single member from small farmers or the industrial class, while "at least five-sixth were immediately, directly and personally interested in the outcome ... of the Convention."<sup>3</sup> George Washington, the first U.S. President after the adoption of the new Constitution, was the richest man in the country and he had a similar view about the majority as Madison and Jefferson. This outlook was reflected in his complaint to Lafayette at the time of the French Revolution, in his own words, that the "tumultuous populace of large cities are ever to be dreaded."<sup>4</sup>

How was the Constitution ratified? It was sent to the states, which had the responsibility to have delegates elected (still with

limited franchise) in order to discuss and approve the draft. Beard concludes that the question as to whether a constitutional convention should be held was not submitted to a popular vote, and we have already seen the limitation imposed in voting for the delegates. Moreover, “the Constitution was not submitted to popular ratification. The referendum was not unknown at the time, but it was not a fixed principle of American politics.”<sup>5</sup> Apathy and ignorance were also factors and, added to property qualifications, led to the “facility with which the personality-interest representatives carried the day.”<sup>6</sup>

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<sup>1</sup> Beard, Charles A. 2004. *An Economic Interpretation of the Constitution of the United States*. NY: Dover Publications, p. 24.

<sup>2</sup> *Ibid.*, p. 65.

<sup>3</sup> *Ibid.*, p. 149.

<sup>4</sup> *Ibid.*, p. 144, 215.

<sup>5</sup> *Ibid.*, p. 217–38, 239.

<sup>6</sup> *Ibid.*, p. 251.