Scene on Radio

"The Excess of Democracy" (Season 4, Episode 2): Transcript

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John Biewen: In the fall of 1786, George Washington got a letter that, I imagine, messed up his whole day.

[MUSIC]

John Biewen: I picture him in his study, out there at Mount Vernon. Outside his French-paned windows, several hundred captive black people are toiling away on his vast farmlands. Washington is fifty-four but feeling older. His rheumatism is acting up. It's been three years since the Treaty of Paris ended the Revolutionary War, with the British recognizing the United States. Washington spent eight years away from home leading the Continental Army, so he's written that he wants to live quietly from now on, "under the shadow of my own vine and my own fig tree." There at his desk he opens the letter from his friend and former military officer, Henry Knox, writing from New York.

> **Henry Knox:** My dear sir. I have long intended myself the pleasure of visiting you at Mount Vernon, and although I have not given up that hope….

John Biewen: Knox gets past the pleasantries and to his point. He tells Washington about the “commotions in Massachusetts”—farmers protesting high taxes and showing up with guns, by the hundreds, to shut down county courts.

> **Henry Knox:** This dreadful situation has alarmed every man of principle and property in New England. They start as from a dream and ask, what has been the cause of our delusion?...

John Biewen: Wealthy people in New England wanted these protests to stop. But the Articles of Confederation, the nation’s first federal agreement created after the Revolution, gave the national government no power to tax, make federal laws, or keep a standing army. The Articles tied together, loosely, what were essentially thirteen independent republics. The Confederation Congress could sign treaties, print money, and declare war, but couldn’t put down uprisings like the one in Massachusetts. So, Knox is telling Washington, the current arrangement just doesn’t work.

> **Henry Knox:** Our government must be braced, changed, or altered to secure our lives and property.

John Biewen: When Washington writes back, he expresses alarm about the civil disobedience in western Massachusetts—the resistance movement led by, among other people, a farmer named Daniel Shays.

> **George Washington:** Good God! Who besides a tory could have foreseen….

John Biewen: Washington worries that if that “disorder” isn’t resolved, it could spread. And in fact, farmers and other working people are protesting high taxes in other parts of the new nation.

> **George Washington:** There are combustibles in every State, which a spark may set fire to.

John Biewen: Washington agrees with Knox that leaders of the states should meet, and soon, to construct a stronger federal government, at a constitutional convention.

> **George Washington:** What are the prevailing sentiments of the one now proposed to be held at Philadelphia, in May next? And how will it be attended?

John Biewen: These are real questions. Leaders of several states oppose changes to the Articles of Confederation, and are refusing to go to the constitutional convention. Washington knows he’s the most widely respected man in the country and that if he attends he’ll be asked to preside over the meetings. But he doesn’t want to come out of retirement and says he doesn’t plan to attend. In January 1787, Henry Knox writes again, pleading with Washington, saying the success or failure of the meetings in Philadelphia may rest on his shoulders.

Henry Knox: I am persuaded, if you were determined to attend the convention, and it should be generally known, it would induce the eastern states to send delegates to it. I should therefore be much obliged for information of your decision on this subject—

John Biewen: Washington is already being called “The Father of [his] Country.” His sense of duty, and concern for his reputation, finally win out. Just weeks before the convention is to open, in late March, he writes to Governor Edmund Randolph, who’s putting together the Virginia delegation.

George Washington, voiceover: …as my friends, with a degree of sollicitude [sic] which is unusual, seem to wish my attendance on this occasion, I have come to a resolution to go if my health will permit….

[**MUSIC]**

Woody Holton: And he made it very clear -- you can read his letters from the spring of 1787. He made it very clear that the reason he changed his mind was Shays' Rebellion. That *that* convinced him that the crisis was that great.

John Biewen: Historian Woody Holton of the University of South Carolina. Shays' Rebellion is the name that eventually got attached to those "commotions" in Massachusetts. In retrospect, what follows can seem inevitable if not pre-ordained. Washington presides over the Constitutional Convention. The men there, the framers, construct a powerful new federal government with a president and a bicameral congress and a court system, and Washington will eventually be named the first president. The Constitution is ratified by the states in 1788, but only after a contentious, nine-month debate. Woody Holton says the American people, and their state governments, could have rejected the new blueprint for the nation, and almost did.

Woody Holton: It was a *very* near thing. Most historians think that roughly half, maybe a majority of Americans, opposed the Constitution, and a few things finally got enough votes to squeeze it past. And one of the crucial things that got people to accept the constitution was, A: George Washington has given it his seal of approval, and B: If we create this powerful new national government and we're really terrified that this president is going to be a king because he's so powerful, but, we don't have to worry about it because the first president's gonna be Washington. So if you take him out of the equation, which, you have to take him out of the equation if there's no Shays' Rebellion, then I don't think the Constitution would have been adopted.

[MUSIC: Theme]

John Biewen: I'm John Biewen. From the Center for Documentary Studies at Duke University, this is Season Four of *Scene on Radio*, part two of our series, *The Land That Never Has Been Yet*. It's a fresh retelling of the story of democracy in the United States, in all its glories *and* its deep flaws and limitations.

Shays' Rebellion. If you grew up in the U.S., you may have heard about it in high school History class, and your textbook might have said that it helped move the framers to write the Constitution. But if you're like me, you couldn't say much more about it than that. What was this protest movement by Massachusetts farmers really about, and what does it tell us about the U.S. Constitution and the problems it was designed to solve? For that matter, what did the original Constitution have to say about democracy? Coming eleven years after the Declaration of Independence, was the Constitution the next big step toward a great, democratic America, as we're taught to think of it? Or were the framers up to … something else?

> **Bruce Klotz:** Yeah, so how do you want to begin? I mean….

John Biewen: I'm in western Massachusetts, in the village of Pelham. Bruce Klotz, who's a volunteer with the Pelham Historical Association, is one of several men showing me around.

> **Bruce Klotz:** So this is the Pelham historic town hall. This is the center of Pelham. It was built, what, 1743. So this happens to be the oldest town hall in continual use in the United States…..

John Biewen: These days the town only holds about one meeting a year in the old building, in order to keep making that claim about continual use. **[sound: unlocking door, going inside]** But in 1786, the town hall was the central gathering place for the village. Daniel Shays and his large family lived on a farm nearby. The son of poor Irish immigrants, Shays had fought heroically during the revolutionary war, at Lexington, Bunker Hill, Saratoga, and he rose to captain. So here in Pelham, the respected former officer sometimes led the local militia in drills outside the meeting hall.

> **Dan Bullen:** And this was one of the places where the crisis was, you know, that gathered people. The other place was just down the hill from here, which was Conkey's tavern.

John Biewen: Dan Bullen is my main guide here. He's a writer based in western Mass. He's getting ready to publish a book about what he prefers to call the "resistance" that Daniel Shays eventually came to lead. The crisis Bullen is talking about?

> **Dan Bullen:** All the states, all 13 of the states were suffering the same economic problems after the war.

John Biewen: The new country was in a bad economic slump in the 1780s, and the states had another big problem. To pay for the Revolutionary War, the colonies and the Continental Congress had essentially borrowed money by issuing bonds. Now the bondholders, mostly well-off people, were demanding payment. To get the money to pay off the bonds, some of the new state governments chose harsh austerity, raising taxes on their citizens. At that time, most free people were farmers getting by with little to spare. Massachusetts, under Governor James Bowdoin, raised farmers' taxes drastically, up to four or five times the tax rates under British rule. In some other states, the people protested high taxes and the legislatures responded or got voted out.

> **Dan Bullen:** All the other states made compromises, or, in Rhode Island they voted in the farmers' party and they issued reforms, they issued paper money, they let the debts depreciate…

John Biewen: That is, Rhode Island made it easier for farmers to pay, and the bondholders just wouldn’t get the full face value of their bonds.

> **Dan Bullen:** They let people off the hook. Everybody took their losses together and they moved on. But in Massachusetts, the elites in Boston said, we're gonna get dollar for dollar, we're going to pay off these war bonds, and we're gonna tax the people to do it. And the injustice of that was too much to suffer.

John Biewen: Governor Bowdoin was a rich landlord and merchant, and he had a personal stake in the crisis. He personally held war bonds worth more than three thousand, two hundred pounds.

> **Dan Bullen:** Which is, people were buying farms for 70 pounds. So thirty two hundred pounds is a huge windfall.

John Biewen: Out in western Mass, Daniel Shays was in danger of losing his farm, along with many of his neighbors. He had those big tax payments due, and it didn’t help that he’d never been paid for his years in the

Continental Army. A lot of other soldiers were paid in paper currency that had lost most of its value. But the state was demanding that the people pay their taxes in full, in gold and silver coin. Which a lot of farmers just didn’t have and couldn’t get. So they faced having to sell their land—or having courts take it from them. Judges were also throwing men in jail for failure to pay.

> **Dan Bullen:** So now, if you're a farmer who's at risk of losing his land after fighting for eight years, and it's being taken away from you because you don't have the right kind of currency, and you're angry about it, you're a lazy moocher who deserves to lose it and you should be taught the value of hard work.

John Biewen: Elites were saying things like that about the protesting farmers. Henry Knox, in his letter to George Washington that October, said the real cause of the unrest in Massachusetts was not high taxes, as it appeared to be. No, he said. The problem was the farmers—their greed and envy.

Henry Knox: They feel at once their own poverty, compared with the opulent, and their own force, and they are determined to make use of the latter, in order to remedy the former.

Dan Bullen: You can see how a class of people would start to look at each other and say, you guys, this isn't fair. How did they set this up?

John Biewen: The farmers tried peaceful ways of voicing their distress. For months, groups of farmers in western Massachusetts sent petitions to the state capital appealing for lower taxes or leniency. But they got no response. So on August 29th, 1786, hundreds of farmers, including Daniel Shays, went to the Hampshire County Court in Northampton, which was scheduled to deal with tax debtors that day. Dan Bullen.

Dan Bullen: They surrounded the court. They wouldn't let the judges in. The judges huddled in the taverns. They tried to negotiate for terms under which they could open the court. There was an impasse.

John Biewen: The court did not open that day. The Shays-ites, as they would come to be called, then did similar actions in other counties, shutting down all the debtor courts west of Boston over the next few weeks. In Boston, the government led by James Bowdoin took a hard line.

> **Dan Bullen:** And the way that they tried to solve it was by the middle of, end of October, they're circulating a riot law, a riot act, that will arrest – so, if you gather in a group of armed men and you don't disperse within an hour after being told, you are liable to being arrested, transported to Boston, whipped thirty-nine stripes every three months during your incarceration. You forfeit your land and property to the state, and sheriffs are indemnified against liability if they kill or injure protesters. And that sounds a lot like British law again. You're not proud people living on your own land, you are subjects, and you will be subject to our authority.

[MUSIC]

John Biewen: Through the Fall of 1786, things got more and more tense. Farmers, led by Shays and a few other men, kept showing up in force, not allowing the debtor courts to open. Then, the first bloodshed. In November, the state government sent men on horseback to arrest some leaders of the resistance, including a man named Job Shattuck. He was the largest landowner in Groton, Massachusetts and the leader of several protests. When they caught up with Shattuck and he resisted arrest, one of the government's men slashed his leg with a sword, crippling him. Still, as Dan Bullen says, no actual violence came from the Shaysites.

> **Dan Bullen:** You can turn this into whatever you want and spin it up into, "Ah, the people rose up in arms!" I don't find that that's an accurate description of what I see in the accounts. They didn't rise up in arms. They made proud displays of opposition to their government. Disobedience.

John Biewen: Until January, 1787.

[Sound: Springfield Armory clocktower bell …]

John Biewen: To tell this climactic part of the story, Dan Bullen and I go to Springfield, Massachusetts.

> **Dan Bullen:** Yeah, right behind us is the Springfield Armory.
>
> **Biewen:** Okay….

John Biewen: The Armory is a red-brick building with a clocktower in the center. It's now a museum and historic site, part of a community college campus. Men are at work out on the big lawn where we're standing.

> **John Biewen:** Lawn mowers and leaf blowers….

John Biewen: During and after the Revolutionary War, this was a major weapons arsenal for the U.S. Army. It was here that things turned lethal.

Governor Bowdoin, in Boston, had had enough of the farmers' insurrection in the west. He raised money from Boston merchants to create a private army of more than four thousand men. On January 19th, Bowdoin sent the mercenaries out from Boston, marching west through the snow, to subdue the Shays-ites once and for all. Daniel Shays and the other resistance leaders decided to seize the arsenal before the governor's army could get to it. On January 25th, about twelve hundred farmers marched up to the Springfield arsenal.

> **Dan Bullen:** So Shays arrives from the east toward the arsenal grounds, in, reports say, knee-deep snow, late in the day. Imagine a cold January day that these guys are all on foot, but they showed up in lines, eight abreast, their weapons at their shoulders.

John Biewen: The governor's army hadn't arrived yet, but the arsenal was protected by the Springfield militia, commanded by William Shepard. Bullen says all the evidence suggests the Shays-ites did not want or expect a violent confrontation. They hoped a show of resolve might lead to one more chance for negotiation. But then:

> **Dan Bullen:** They received cannon fire. The first shots went over their heads as a warning shot. Those shots had the effect of making

them bunch up and go faster. And when they didn't stop at about 100 yards out, the general in charge of the grounds, William Shepard, who was a Revolutionary War general from Westfield, ordered his men to lower the cannons to waistband height. [Pauses, choking up.] And they fired grape shot … steel balls bigger than thumb knuckles ripped through the first three lines.

John Biewen: The grape shot mowed down the first three rows of men, killing four and wounding twenty. The Shays-ites did not return fire.

Dan Bullen: They turned around immediately to cries of ‘Murder, murder!’ And they retreated back to Ludlow. They did not make another attempt to take anything over after that.

[**MUSIC]**

John Biewen: The protest movement was over, but you could say the Shays-ites won. In the next election, just a few months after the shooting at the arsenal, Massachusetts voters threw out Governor Bowdoin, and elected his predecessor, John Hancock. Yes, that John Hancock, famous for his big signature on the Declaration of Independence. Hancock was a rich guy like Bowdoin, but his politics were very different. He dramatically lowered taxes on the people, and pardoned several Shays-ites who'd been sentenced to hang – though he didn't yet pardon Shays himself. Shays fled to Vermont, which was then beyond the borders of the United States. He was pardoned the following year, and he lived as a struggling farmer in western New York state until his death in 1825.

Dan Bullen says most Americans who've heard the story at all have a vague understanding: Some farmers launched an insurrection for some reason, demonstrating the need for a stronger federal government. That helped lead to the writing of our cherished Constitution. Dan says these accounts often gloss over the class conflict at the heart of the farmers' movement.

> **Dan Bullen:** In 1787, after the dust settled out here, it quickly became unfashionable to tell stories about people who had *risen against the government*. I'm putting up the scare quotes about that,

because really they were staging a defensive anti-austerity campaign, in my understanding. But we can't tell that story because then it would sound like rich Americans were oppressing poor Americans, and we would have to try to explain how that happened. But we pretended to be a classless society and we don't want to hear that story. So we just tell the story about drunken rabble-rousers who stirred up popular resentment. They wanted stuff that wasn’t theirs.

[MUSIC]

John Biewen: Chenjerai, let’s—can we just bring you in here for a minute? I really I want to ask you, did you learn about Shays’ Rebellion in school? What do you remember, if anything?

Chenjerai Kumanyika: Aw, man, I don't remember learning about it in school.

John Biewen: And honestly, I got to tell you, I don't either.

Chenjerai Kumanyika: Yeah, I mean, but I was, to be fair, I was not a good student. And I didn't really think history was really important. So the teacher might have been trying but, you know, I wasn't getting it. But my takeaway certainly wasn't anything to do with like those kind of class struggles that you see in Shays' Rebellion. I just felt like, okay, on one hand, you have black people who were enslaved, and we just aren't really, in a way we're almost like not a part of history, right, certainly as agents. And then all the white people were sort of together. There weren't classes. They were just together on the same side, like the Avengers, against the evil British.

John Biewen: Yeah. Well, let's introduce you. Chenjerai Kumanyika, journalism and communications professor at Rutgers University, podcaster, activist, artist, and our regular collaborating conversationalist in this series. Yes, and I think that's really one thing to take away from the story so far, is that even white U.S. society has always been deeply stratified, and that there have always been upheavals, labor strife, you know, class divisions, going back to the colonial era. Remember, in *Seeing White*, we talked about Bacon's Rebellion, which was way back in the 1670s, and there were many, many incidents like that throughout U.S. history and colonial history.

Chenjerai Kumanyika: And what I think Shay's rebellion really starts to make clear is something that's still missing from the way we talk about class today. Which was that poor folks, poor farmers, weren't poor for no reason. You know, they were poor basically because of rich people, like rich folks are exploiting them through taxes and unfair laws and ultimately violence. So there's a way we think about class, back then and now, where we talk about rich and poor folks but we don't talk about the relationships of the riches to the poverty.

John Biewen: That they actually are related and part of the same system. But okay, I think, you know, the next question then is going to be, what does all this have to do with the U.S. Constitution, and what that document tells us about American democracy?

Chenjerai Kumanyika: Well I'm offended that you would even ask that. Because clearly the Constitution is about freedom.

John Biewen: Yes.

Chenjerai Kumanyika: And those kinds of things, right?

John Biewen: Yeah, exactly.

Chenjerai Kumanyika: But I mean, I think that's, in a way that's how people respond, right? And it's kind of like, it shouldn't be controversial to talk about this. Because now in the age of political lobbying, it's pretty clear that wealthy people and corporations are always working to shape the law to their advantage. It's not a conspiracy. I mean, they are lobbying for less regulation, lower taxes, real estate developers lobby for zoning laws and things like that. And of course, they say it benefits everyone. And regardless of who you think it benefits, though, I think it's, what's clear is, the political process is entangled with economics. But then when we talk about the Constitution, way back then, it's like somehow it floats above all of that,

John Biewen: That the constitution just kind of gave us a bunch of freedoms.

Chenjerai Kumanyika: Right.

John Biewen: And it didn't have anything to say about economics--except that we're free to buy and sell stuff.

Chenjerai Kumanyika: Exactly.

John Biewen: I think that's kind of what we think?

Chenjerai Kumanyika: Yeah. And, but when you zoom in a little closer, you get a different picture.

John Biewen: And it just so happens that's what we're gonna do next. And really the question is, what kind of document was the Constitution, really? What was it designed to do, when that group of men got together in the summer of 1787 to write it?

[**Music]**

[BREAK]

> **Car sound, John Biewen:** Driving this winding road. Through trees, rolling hills, just beautiful countryside here in, kind of, north central Virginia. Horse farms….

John Biewen: I'm off to see the estate of another Founding Father. This one's about 70 miles from Washington's Mount Vernon. And, by the way, only about thirty miles from Thomas Jefferson's Monticello.

> **John Biewen, Driving:** Just turned on to Constitution Highway, as it's named. **[driving sound fades out]**

> **Price Thomas:** Madison suffers a little bit from being a little bit more of a behind-the-scenes guy, and I think historically that's been his vibe….

John Biewen: Price Thomas, director of marketing and communications at Montpelier. It's the onetime home of James and Dolly Madison, and their one hundred or so enslaved workers at any given time. Madison was rich but not as rich as Washington, and he was almost two decades younger.

He would become the fourth president. He stood about five-foot-three, and in the American popular imagination, he doesn’t seem to stand as tall as some other Founders.

> **Price Thomas:** You know, it’s kind of a running joke but we’re like, you know, we’ve got Jefferson, and Washington, and Madison kind of behind the scenes, then Hamilton gets a musical. So, some people call him, you know, I think they call him the forgotten founder for that reason, is that his name’s not really ever out there.

John Biewen: And yet, for better or worse, no one person—no one—did more to shape the United States we live in today than James Madison. Just thirty-five years old in 1786, he leads the call for the Constitutional Convention – the one Henry Knox is bugging George Washington to attend. Then Madison spends the winter and spring studying up, and writing what becomes known as the Virginia Plan, a template for the discussions in Philadelphia.

Price Thomas: He does a bunch of reading, and he's fluent in seven languages and is, you know, poring over all things historical governments. And so that goes into the Virginia plan which becomes the topic of conversation at the convention. And so that's how he earns that moniker, Father of the Constitution. It's not that he got everything that he wanted, it's not that he wrote the entire thing. It's that his foundational ideas and the Virginia plan became kind of the nucleus of that, that other guys built on and, you know, that they talked about, and that eventually becomes the Constitution.

[**MUSIC]**

John Biewen: It's also thanks to Madison that we know much at all about what happened during those three and a half months in Philadelphia. Fifty-five white men, most of them rich, almost half of them slaveholders, attended the convention at the Pennsylvania State House. They represented each of the states in small delegations. Even though it was hot and humid, they kept the windows closed and covered so no one could peer in. The men made a vow of secrecy, and any notes they took were collected at the door. Except Madison’s, and some less extensive notes by a couple other delegates, which did survive.

> **Michael Dickens:** He’s one of the very few delegates to actually attend every session of the convention, a lot of them are coming and going…

John Biewen: Michael Dickens leading a Constitution tour at Montpelier. He talks about Madison’s role as the chronicler of the convention – alone in his room every night, writing out highlights from the day, paraphrasing key debates and speeches.

> **Michael Dickens:** At one point he said he was staying up ‘til midnight to transcribe what everybody was saying, he said the effort almost killed him. He stored those minutes in this house for over fifty years. So nobody ever saw these, except Dolly, until Madison’s death at which point they were transferred to the Library of Congress where they reside today.

> **James Madison, voiceover:** Resolution 4, first clause, ‘that the members of the national legislature ought to be elected by the people of the several states,’ being taken up.

John Biewen: On May 31st, 1787, the delegates debated this fundamental idea of the new republic: Would members of the House of Representatives be directly elected by the people? The state legislatures under the Articles of Confederation were radically democratic for the 18th century. Many states had lowered their property requirements, so up to 80 percent of white male voters could cast ballots. By comparison, Britain’s parliamentary system allowed just a small fraction of land-owning men to vote. Many American states held legislative elections annually. These governments were more accountable to the people than any in the world at the time. Of course, full citizens of the new nation did not include the vast majority of the people: women, Native Americans, or enslaved black people. Still, some delegates at the convention looked at this picture and saw too much democracy.

> **Roger Sherman, voiceover:** The people, immediately, should have as little to do as may be about the government. They lack information and are constantly liable to be misled.

John Biewen: That’s Roger Sherman, a delegate from Connecticut. And here’s Elbridge Gerry of Massachusetts—the site of Shays’ Rebellion:

> **Elbridge Gerry:** The evils we experience flow from the excess of democracy.

John Biewen: Madison quotes Gerry as saying he’s become more suspicious of republican government. He’s learned from experience, quote, “the danger of the leveling spirit.” “Leveling” meant efforts toward economic equality.

Men including Madison and George Mason gave speeches in favor of popular election of the House, and the delegates approved that measure. But the deep worry about giving ordinary citizens too much power was a constant theme at the convention. It led to many structural checks on people power in the document: Especially the powerful president and his veto; and the Senate, which many of the delegates explicitly described as a house of elites that would temper the less-disciplined people's house. Often mixed in with the concern about too much democracy were frank remarks about divisions of wealth and class. The elite framers were thoroughly class-conscious.

> **Alexander Hamilton, voiceover:** All communities divide themselves into the few and the many. The first are the rich and well-born, the other the mass of the people.

John Biewen: That's Alexander Hamilton, quoted in the convention notes of another delegate. Here Hamilton is arguing that members of the United States Senate should be appointed … for life.

> **Hamilton:** The people are turbulent and changing; they seldom judge or determine right. Give therefore to the first class a distinct permanent share in the government. … Nothing but a permanent body can check the imprudence of democracy.

John Biewen: Hamilton also thought the president should be appointed for life. He did not want a radical, democratic break from the British system. Not at all. In fact, Madison’s summary of one Hamilton speech at the convention includes this passage:

> **James Madison:** In his private opinion he had no scruple in declaring … that the British government was the best in the world and that he doubted much whether anything short of it would do in America.

John Biewen: Hamilton lost those arguments. The resulting Constitution was somewhat more democratic than he wanted. But the delegates with the most democratic instincts didn’t get their way, either. James Wilson of Pennsylvania said the people should elect their Senators directly, instead of the convention’s more elitist choice to have state legislatures choose members of the Senate. That wouldn’t change until the 17thAmendment in 1913.

Madison argued for proportional representation in the Senate, as in the House. If he'd got his way, it could have meant that today, California would have sixty-some U.S. Senators to one for Wyoming. Today's big-D Democrats would love that; so would a lot of people who cherish the principle of one person, one vote. Instead, of course, the Constitution gave the *states* equal representation, two Senators per state. That was a key compromise demanded by the small states, who likely would have bolted the convention if the big states hadn't buckled.

[**MUSIC]**

John Biewen: Even though they were published 180 years ago, Madison's notes on the Constitution are revelatory – at least, they were for me. One concept that jumped out at me several times: When delegates said things like this:

> **Gouverneur Morris, voiceover:** An accurate view of the matter would prove that property is the main object of society.

John Biewen: That's Gouverneur Morris of Pennsylvania. Pierce Butler and Charles Cotesworth Pinckney, both of South Carolina, also talk about "a government instituted … for the protection of property." At one point James Wilson disagrees, saying the most noble object of government is the "improvement of the human mind." But when you read the conversation among these property-rich men, you can't miss that they're out to protect private property, and the people who have it, in the legal framework they're building for the new nation. Which brings us back to the theme of class division—those who own lots of things and those who don't. And, in particular, the division between people who owe money … and those who are owed. Debtors and creditors.

> **Woody Holton:** The men who wrote the Constitution, if you look at their number one concern, it was to stop the state legislatures from defrauding creditors.

John Biewen: Historian Woody Holton again. To explain what he means: Woody is taking us back to where we started this episode, talking about the Revolutionary War bonds that were held by rich creditors. Remember, the efforts to pay off those bonds were leading to back-breaking state taxes, and austerity, and people's protests like Shays' Rebellion. The Constitution would solve that problem by giving the national government new power to tax. A federal tax on imports paid off the war bonds in full, making those creditors happy -- including some who were delegates to the Constitutional Convention.

One of Woody Holton's many writings is an article called "The Capitalist Constitution." He says the framers, almost all financial elites, were eager to make the United States safe for business, an attractive haven for capital. For example, the Father of the Constitution himself.

> **Woody Holton:** James Madison. In 1787 when he wrote the Constitution, he was 36 years old and he was still living with his parents. Now, not a bad basement to live in if you've ever seen Montpelier. But he wanted to get going on his own, you know, he's 36 years old. So by that time he had set up a land speculation firm with his friend and future successor in the White House, James Monroe, and they wanted to buy a ton of western land and then sell it at a

huge profit and make themselves wealthy, the way Washington had done.

John Biewen: Trouble was, with all that economic upheaval of the 1780s, no one would lend money to the two Virginians for their land speculation company. The Constitution changed that. So yes, it made creditors happy, but at the same time it pleased people like Madison who wanted to *take on* debt by finding investors.

Woody Holton: Because if Madison can borrow money in Europe and set up his enterprise, he can get wealthy. But in fairness to him he's not just thinking about himself. That's going to move the whole economy along. He'll hire other people and he'll spend a lot of money and that will bolster and improve the entire economy. So, the Constitution is a capitalist document in that it's meant to attract capital to the American economy.

John Biewen: The Constitution did that not only by settling the war debt. Other parts of the document gave the federal government power to regulate commerce across state and international lines, and allowed for taxes on imports but not on exports -- that was a huge gift to slaveholders, who made their money by exporting things like tobacco and cotton. Another gift to the owners of *human* property was the fugitive slave clause, complete with its euphemistic language to avoid using the “s” word in the Constitution.

> **U.S. Constitution text:** No Person held to Service or Labour in one State, under the laws thereof, escaping into another, shall….

John Biewen: The clause required that enslaved people who ran away be returned to their owners no matter where in the nation they were caught. The constitution also gave the new national government power to put down mass protests, like Shays’ Rebellion—or any future slave revolt, which was something slaveholders worried about a lot.

Finally, consider all those layers of veto power that the framers built in to check the democratically-elected House of Representatives. The House is often called “the people’s house,” because House districts are proportional;

whether you lived in Philadelphia or rural Georgia, you'd have a Congressperson representing your community and its interests -- about 35-thousand people per district in those early days. And House members had to face the voters every two years. But a law passed in the House has to get through the Senate, the president, and the courts -- an elaborate obstacle course, always there to knock down any troublesome ideas bubbling up from below.

> **Woody Holton:** And that was the whole point, was to create a government that was much less accountable to the people, to make it responsible by making it less responsive.

John Biewen: And many of the framers said it explicitly: under the Articles of Confederation, the states were too democratic, they thought. They were gonna fix that.

> **Woody Holton:** The authors the Constitution believed that in order to make America safe for investment, they had to make America less democratic. They really believed that there's a continuum or spectrum

> between, if you move the needle towards more democracy, you're gonna get less investment of capital, and if you move it towards less democracy, you're going to get more investment capital.
>
> **[Music[**

John Biewen: Hey, Chenjerai.

Chenjerai Kumanyika: Hey, man.

John Biewen: You know, it's not news to me that the United States has always had deep flaws and injustices. But, you know, I will say that I grew up learning that the U.S. Constitution was not part of those problems, mainly. Yes, it allowed slavery, and these days, you know, we talk about the Electoral College and some problems with it. But the message overwhelmingly that I've gotten all my life about the Constitution was that it was this huge step toward democracy--*toward* democracy--not only for this country, but in world history.

Chenjerai Kumanyika: Yeah. I just feel like in my history classes we rushed through everything that happened before, and the Constitution was the real, meaningful beginning. And it was, like, flawed, but everything got better from there.

John Biewen: But that's, it was not the beginning. The beginning was the Articles of Confederation. That was the first governing structure for the United States of America. But it turns out that the Articles of Confederation were too democratic for a lot of powerful people at the time, including most of the men who got together to write the Constitution. So, in fact, the Constitution was more about reining in democracy than it was about expanding or codifying it.

Chenjerai Kumanyika: And, you know, I think for a lot of people who think like me, what’s interesting is, I would have been like, who cares? Because I would have been like, ah, the point is they were all slaveholders to me, there was this genocide, why do these little distinctions about political history matter? But what I realize is when you say it was all bad in the beginning, but then it got better, you become kind of vulnerable to this idea of history where it just, it's an ongoing improvement and it just sort of naturally improves. And, you know, as opposed to really seeing more clearly the designs, the economic designs that were involved.

John Biewen: Right. So to say that- that the Constitution reined in democracy, that can sound like a wild, radical statement. Probably does to some people. But actually, my understanding is that *that*, what I just said, is not really a matter of debate among professional historians. They might disagree, or they do disagree, about whether that was a good or bad thing. So, more mainstream historians would say that the Constitution was necessary and a good step for the same reasons that most of the framers thought it was, that it made America safe for investment, a good place to do business. Somebody like Woody Holton would say that wasn't the only way to go, to kind of rein in democracy in order to make the capitalism work better. That it's quite possible the U.S. could have stayed more democratic and still thrived and done fine economically. But we just didn't give that option a chance.

Chenjerai Kumanyika: Yeah. So, I mean, so you see that moving into the Constitutional Convention, right? And it's complex. I don't want to oversimplify it. I mean, there's a lot of things going on. Some are some things that are going to result in more democracy and some in less. But what ultimately emerges is a minority of already powerful people with tremendous veto power over the whole process. Right? And I always heard about those debates about protecting minority power in the abstract, like it might be marginalized people they're protecting. But who actually is the minority whose interests get encoded into the document at the convention? And it's, everybody has to compromise with slaveholders. The slaveholding states.

John Biewen: Yeah, so look again at this Fugitive Slave Act, which we talked about. We would normally look at that as a problem of racism. And it is, right, this law that says that no matter where an enslaved person runs away to, including places that don't allow slavery, they're going to be caught and hauled back to where they came from. So that's a racist law. But it's also a matter of certain people trying to protect their wealth, their property, their human property. And going back to your point about minority rule, the Fugitive Slave Act was a pure power move on the part of Southern slaveholders who, they are a small minority of the overall population of the country and actually a minority of people even at the Constitutional Convention. But they used their leverage to say, you're going to give us stuff like this or we're just going to walk and you're not going to have a country.

Chenjerai Kumanyika: Yeah, I mean, that's just one really important example of how the Constitution encoded forms of minority rule that claim they're going to protect vulnerable people but failed to protect the most vulnerable. And there's lots of other examples.

John Biewen: Yeah, and it's not just slaveholders, either. In Madison's notes, you can find these clear statements by people at the Convention that people like us, those of us in the room, wealthy elites, whether slaveholders or not, we are a minority. And the majority are regular people out there who don't have much. Even just talking about white people, right? Working class people. And we need to protect ourselves from them. If we're going to have just a regular majority rule system, we could be in trouble, it might not work out for us and our property. So they built in structures to ensure their protection. A great example is the U.S. Senate, which was designed to be made up of elite men, who would not even be elected by the people originally. The Constitution had them elected by state legislatures. And sure enough, the Senate became this place where legislation goes to die.

Chenjerai Kumanyika: I mean, one example of that is there were actually eight anti-slavery measures passed by the House before the Civil War, between 1800 and 1860. And all of them got killed in the Senate. But, you know, I'm thinking about something else, right? I mean, we're talking about the U.S. Constitution and we really haven't said much about the Bill of Rights. And I think a lot of people, when they think about the greatness of the Constitution, it's the Bill of Rights.

John Biewen: That's what, often, we're talking about. Freedom of speech! This is important stuff.

Chenjerai Kumanyika: No doubt, man. The Bill of Rights is great. I mean, freedom of religion. Sort of. Freedom of protest, kind of, right? But it is it is really important. But think about it. The Bill of Rights doesn't solve these deeper problems with the Constitution and minority veto that we're talking about here. I mean, it takes almost a century and a massively bloody Civil War *after* the Bill of Rights before black people become citizens. And it also takes one hundred and thirty years for women, white women, to get the right to vote despite the Bill of Rights. So, you know, we brag about the Bill of Rights and the freedom of speech and the right to protest. But what's actually changing laws and transforming the country is people going to jail, breaking the law. And actually, also, people dying and shedding blood.

[Music]

John Biewen: Chenjerai Kumanyika.

A correction: You sharp-eared history buffs will have noticed that I misspoke in talking to Chenjerai when I referred to the Fugitive Slave *Act.* That was a law passed in 1850. I meant to say, and was talking about, the fugitive slave *clause*, which was part of the Constitution.

[Music]

Next time: In the decades after the Constitution took effect, did the United States get better? More just, more democratic? Or did we double down on conquest and exploitation? In Episode Three: The Cotton Empire.

Our editor on the series is Loretta Williams. Our theme song is The Underside of Power by Algiers. Other music this season by John Erik Kaada, Eric Neveux, and Lucas Biewen. Music consulting and production help by Joe Augustine of Narrative Music. Voiceovers this time by Lawrence Baldine, Scott Huler, Dan Partridge, and Bill Bamberger. Thanks to North Carolina Public Radio-WUNC. *Scene on Radio* is distributed by PRX. The show comes to you from the Center for Documentary Studies at Duke University.