emphasizing a lesson to be learned from the Founding that continues to be important throughout American history. The lesson is that politics, as James Madison said in the Federalist Papers, generally involves struggles among conflicting interests. In 1776, the main conflict was between pro-Revolutionary and anti-Revolutionary forces. In 1787, the major struggle was between the Federalists and the Antifederalists. Today the struggle is between the Democratic and Republican parties, each representing competing economic, social, and sectional interests. Often political ideas are the weapons developed by competing interests to further their own causes. The New England merchants who cried “no taxation without representation” cared more about lower taxes than expanded representation. Yet today representation is one of the foundations of American democracy.

As we try to understand American politics, we see that institutions matter a good deal. In fact, institutions matter in two ways. First, the institution principle tells us that institutions shape politics and affect the results of political conflicts—who wins and who loses. Second, the policy principle tells us that institutional procedures (coupled with individual preferences) help to determine policy outcomes—what the government can and cannot do. In the United States, no set of institutions is more important than the Constitution. What are the basic rules embodied in the Constitution? What significance have constitutional precepts had for American life? These are key questions addressed in this chapter. Of course, the history principle suggests that the Constitution itself was affected by the events of the colonial and founding periods. So, let us first turn to the events that preceded and shaped America’s basic law.

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THE FIRST FOUNDING: INTERESTS AND CONFLICTS

Competing ideals often reflect competing interests, and so it was in Revolutionary America. The American Revolution and the Constitution were outgrowths and expressions of a struggle among economic and political forces within the colonies. Five sectors of society had interests that were important in colonial politics: (1) the New England merchants; (2) the southern planters; (3) the “royalists”—holders of royal lands, offices, and patents (licenses to engage in a profession or business activity); (4) shopkeepers, artisans, and laborers; and (5) small farmers. Throughout the eighteenth century, these groups were in conflict over issues of taxation, trade, and commerce. For the most part, however, the southern planters, the New England merchants, and the royal officeholders and patent holders—groups that together made up the colonial elite—were able to maintain a political alliance that held in check the more radical forces representing shopkeepers, laborers, and small farmers. After 1750, however, by seriously threatening the interests of New England merchants and southern planters, British tax and trade policies split the colonial elite. This split permitted radical
forces to expand their political influence and set into motion a chain of events that culminated in the American Revolution.¹

British Taxes and Colonial Interests

Beginning in the 1750s, the debts and other financial problems faced by the British government forced it to search for new revenue sources. This search rather quickly led to the Crown’s North American colonies, which on the whole paid remarkably little in taxes to the mother country. The British government reasoned that a sizable fraction of its debt was, in fact, attributable to the expenses it had incurred in defense of the colonies during the recent French and Indian War, as well as to the continuing protection from Indian attacks that British forces were giving the colonists and to the protection that the British navy was providing for colonial shipping. Thus, during the 1760s, Britain sought to impose new, though relatively modest, taxes on the colonists.

Like most governments of the period, the British regime had at its disposal only limited ways to collect revenues. The income tax, which in the twentieth century became the single most important source of government revenue, had not yet been developed. For the most part in the mid-eighteenth century, governments relied on tariffs, duties, and other taxes on commerce, and it was to such taxes, including the Stamp Act, that the British turned during the 1760s. British interests (revenue) and institutions (Parliament and colonial administration) combined to produce a plausible solution to an existing problem, as suggested by the policy principle.²

The colonists were accustomed to managing their own affairs and were resentful of British meddling. Moreover, the Stamp Act and other taxes on commerce, such as the Sugar Act of 1764, which taxed sugar, molasses, and other commodities, most heavily affected the two groups in colonial society whose commercial interests and activities were most extensive: the New England merchants and southern planters. Because their interests coincided, these two groups were able to quickly engage in collective action to address these problems. Under the famous slogan “no taxation without representation,” the merchants and planters together purposefully organized opposition to the new taxes. In the course of the struggle against British tax measures, the planters and merchants

¹ The social makeup of colonial America and some of the social conflicts that divided colonial society are discussed in Jackson Turner Main, The Social Structure of Revolutionary America (Princeton, NJ: Princeton University Press, 1965).

² Parliament also enacted the Proclamation of 1763 as part of the British settlement with the Native Americans. This withdrew the right of colonists to settle lands west of the Allegheny Mountains, preserving them for native populations. Among others, the families of George Washington and Benjamin Franklin had speculated on these lands and thus faced serious financial loss. See Norman Schofield, Architect of Political Change: Constitutional Quandaries and Social Choice Theory (New York: Cambridge University Press, 2006), chap. 3. A compact version is found in Norman Schofield, “Evolution of the Constitution,” British Journal of Political Science 32 (2002): 1–23.
broke with their royalist allies and turned to their former adversaries—the shopkeepers, small farmers, laborers, and artisans—for help. With the assistance of these groups, the merchants and planters organized demonstrations and boycotts of British goods that ultimately forced the Crown to rescind most of its new taxes. It was in the context of this unrest that a confrontation between colonists and British soldiers in front of the Boston customs house on the night of March 5, 1770, resulted in what came to be known as the Boston Massacre. Nervous British soldiers opened fire on the mob surrounding them, killing five colonists and wounding eight others. News of this event quickly spread throughout the colonies and was used by radicals to fan anti-British sentiment.

From the perspective of the merchants and planters, however, the British government’s decision to eliminate most of the hated taxes meant a victorious end to their struggle with the mother country. They were eager to end the unrest they had helped arouse, and they supported the British government’s efforts to restore order. Indeed, most respectable Bostonians supported the actions of the British soldiers involved in the Boston Massacre. In their subsequent trial, the soldiers were defended by John Adams, a pillar of Boston society and a future president of the United States. Adams asserted that the soldiers’ actions were entirely justified, provoked by a “motley rabble of saucy boys, negroes and mulattoes, Irish tories and outlandish jack tars.” All but two of the soldiers were acquitted.3

Despite the efforts of the British government and the better-to-do strata of colonial society, it proved difficult to bring an end to the political strife. The more radical forces representing shopkeepers, artisans, laborers, and small farmers, who had been mobilized and energized by the struggle over taxes, continued to agitate for political and social change within the colonies. These “radicals” were generally individuals from the middling classes who had some education and often an intellectual skill but little political influence. Their radicalism consisted of the idea that people like themselves were just as fit to govern as members of the colonial elite. Led by individuals such as Samuel Adams, a cousin of John Adams, these radicals asserted that British power supported an unjust political and social structure within the colonies, and they began to advocate an end to British rule.4 That the British revenue-raising policies backfired so dramatically was a result of their greatly underestimating colonial resistance. Although the policies seemed rational and sensible before the fact, they appeared mistaken after the fact and were rescinded. The rationality principle only requires people to do the best they can at the time they act. There are bound to be uncertainties that can only imperfectly be taken into account, and thus necessitate subsequent adaptation. So the British attempts to raise revenue and then to adapt this strategy in the face of the resulting unrest were rational, but it proved difficult to undo the damage caused by their initial misreading of the situation.

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Organizing resistance to the British authorities required widespread support. Collective action, as noted, may emerge spontaneously in certain circumstances, but the colonists' campaign against the British imperial power in late eighteenth-century America was a series of encounters, maneuvers, and ultimately, confrontations that required planning, coalition building, bargaining, compromising, and coordinating—all elements of the give-and-take of politics. Conflicts among the colonists had to be resolved by bargaining, persuasion, and even force. Cooperation needed cultivation and encouragement. Leadership was clearly a necessary ingredient.

Political Strife and the Radicalizing of the Colonists

The political strife within the colonies was the background for the events of 1773-74. In 1773, the British government granted the politically powerful East India Company a monopoly on the export of tea from Britain, eliminating a lucrative form of trade for colonial merchants. To add to the injury, the East India Company sought to sell the tea directly in the colonies instead of working through the colonial merchants. Tea was an extremely important commodity in the 1770s, and these British actions posed a mortal threat to the New England merchants. The merchants once again called on their radical adversaries for support. The most dramatic result was the Boston Tea Party of 1773, led by Samuel Adams. Today's "Tea Party" protesters are generally conservatives opposing taxes and regulation. The Tea Party protesters of 1773 were radicals hoping to undermine the authority of the British government.

The Boston Tea Party was of decisive importance in American history. The merchants had hoped to force the British government to rescind the Tea Act, but they did not support any demands beyond this one. They certainly did not seek independence from Britain. Samuel Adams and the other radicals, however, hoped to provoke the British government to take actions that would alienate its colonial supporters and pave the way for a rebellion. This was precisely the purpose of the Boston Tea Party, and it succeeded. By dumping the East India Company's tea into Boston Harbor, Adams and his followers goaded the British into enacting a number of harsh reprisals. Within five months of the incident in Boston, the British Parliament had passed a series of acts that closed the port of Boston to commerce, changed the provincial government of Massachusetts, provided for the removal of accused persons to Britain for trial, and added new restrictions upon movement to the West from the southern colonies—further alienating the southern planters who depended on access to new western lands. These acts of retaliation confirmed the worst criticisms of England and helped radicalize Americans and move them toward collective resistance to British rule.5

The choice of this course of action by British politicians looks puzzling in retrospect, but at the time it appeared reasonable to those who prevailed in

5 For an intriguing take on the role of dense population networks in cities that promoted collective action against the British, see Edward L. Glaeser, "Revolution of Urban Rebels," Boston Globe, July 4, 2008, Section A.
Parliament that a show of force was required. The toleration of lawlessness and the making of concessions, they felt, would only egg on the more radical elements in the colonies to take additional liberties and demand further concessions. The British, in effect, drew a line in the sand. Their repressive reactions became a clear point around which dissatisfied colonists could rally. Radicals such as Samuel Adams had been agitating for more violent measures to deal with Britain. But ultimately they needed Britain's political repression to create widespread support for independence.  

Thus the Boston Tea Party set into motion a cycle of provocations and retaliations that in 1774 resulted in the convening of the First Continental Congress, an assembly consisting of delegates from all parts of the colonies, which called for a total boycott of British goods and, under the prodding of the radicals, began to consider the possibility of independence from British rule. The eventual result was the Declaration of Independence.

The Declaration of Independence

In 1776, the Second Continental Congress appointed a committee consisting of Thomas Jefferson of Virginia, Benjamin Franklin of Pennsylvania, Roger Sherman of Connecticut, John Adams of Massachusetts, and Robert Livingston of New York to draft a statement of American independence from British rule. The Declaration of Independence was written by Jefferson, who drew many of his ideas from the thoughts of the British philosopher John Locke, whose work was widely read in the colonies. Adopted by the Second Continental Congress, the Declaration was an extraordinary document in both philosophical and political terms. Philosophically, the Declaration was remarkable for its assertion—derived from Locke—that certain rights, called “unalienable rights”—including life, liberty, and the pursuit of happiness—could not be abridged by governments. In the world of 1776, a world in which some kings still claimed to rule by divine right, this was a dramatic statement. Politically, the Declaration was remarkable because, despite the different interests that divided the colonists along economic, regional, and philosophical lines, it identified and focused on problems, grievances, aspirations, and principles that might unify the various colonial groups. The Declaration was an attempt to identify and articulate a history and a set of principles that might help to forge national unity.

The Declaration of Independence, however, was not a blueprint for governance. Often, scholars compare and contrast the Declaration and the Constitution and call the former a more radical or even libertarian document and

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7 A "biography" of the Declaration is found in Pauline Maier, American Scripture: Making the Declaration of Independence (New York: Knopf, 1997).
the latter a more conservative text. Both the Declaration and the Constitution, however, share some common philosophical underpinnings. Both derive from John Locke the idea that the purpose of government is the protection of life, liberty, and property. The Declaration uses these ideas as a justification for overthrowing a monarchical government. The Constitution, on the other hand, seeks to create a government that will guarantee the achievement of these goals. Thus, America's founding documents share philosophical underpinnings but apply these to different purposes.

**The Revolutionary War**

In 1775, even before formally declaring their independence, the colonies had begun to fight the British, most notably at Lexington and Concord, Massachusetts, where colonial militias acquitted themselves against trained British soldiers. Nevertheless, the task of defeating Britain, then the world's premier military power, seemed impossible. To maintain their hold on the colonies, the British sent a huge expeditionary force composed of British regulars and German mercenaries along with artillery and equipment. To face this force, the colonists relied on inexperienced and lightly armed militias. To make matters worse, the colonists were hardly united in their opposition to British rule. Many colonists saw themselves as loyal British subjects and refused to take up arms against the king. Thousands, indeed, took up arms for the king and joined pro-British militia forces.

The war was brutal and bloody with tens of thousands of casualties among the colonists, among British troops, and among the Native Americans who fought on both sides of the conflict. Eventually the revolutionary armies prevailed mainly because the cost to England of fighting a war thousands of miles from home became too great. Colonial militias prevented British forces from acquiring enough food and supplies locally. As a result, these had to be brought from Europe at enormous expense. As is often the case in asymmetric conflicts today, colonial forces did not have to defeat the British—they needed only to prevent the British from defeating them until Britain's will and ability to fight waned. Thus, with the eventual help of Britain’s enemy, France, the colonists fought until Britain decided it had had enough of a seemingly endless colonial war. The war ended with the signing of the Treaty of Paris, which officially granted the 13 American colonies their independence.

**The Articles of Confederation**

Having declared their independence, the colonies needed to establish a governmental structure—a set of institutions through which to govern. In November 1777, the Continental Congress adopted the Articles of Confederation and Perpetual Union—the United States’ first written constitution. Although it was not ratified by all the states until 1781, it was the country’s operative constitution for almost 12 years, until March 1789.