

# Armstrong Undergraduate Journal of History

---

Volume 8 | Issue 1

Article 4

---

4-2018

## Division and Unity: The History and Historiography of the Pennsylvania Constitution

Wen Li Teng  
*University of Chicago*

Follow this and additional works at: <https://digitalcommons.georgiasouthern.edu/aujh>



Part of the [History Commons](#)

---

### Recommended Citation

Teng, Wen Li (2018) "Division and Unity: The History and Historiography of the Pennsylvania Constitution," *Armstrong Undergraduate Journal of History*: Vol. 8 : Iss. 1 , Article 4.

DOI: 10.20429/aujh.2018.080104

Available at: <https://digitalcommons.georgiasouthern.edu/aujh/vol8/iss1/4>

This article is brought to you for free and open access by the Journals at Digital Commons@Georgia Southern. It has been accepted for inclusion in Armstrong Undergraduate Journal of History by an authorized administrator of Digital Commons@Georgia Southern. For more information, please contact [digitalcommons@georgiasouthern.edu](mailto:digitalcommons@georgiasouthern.edu).

**Division and Unity:**

**The History and Historiography of the Pennsylvania Constitution**

Wen Li Teng

University of Chicago

The Pennsylvania State Constitution of 1776 was controversial not only for eighteenth-century Pennsylvanians, but also for the scholars who have written about it since the late nineteenth century. A direct response to the Declaration of Independence and the demand by the Second Continental Congress for colonies to reject British rule, the creation of the 1776 constitution evinces the tensions felt by Americans during the revolutionary period. Issues concerning the franchise, religious beliefs, and balance of government in the country have continued to divide the historians who assess the state of fractiousness which characterized Pennsylvania for much of the revolutionary period and beyond. Nonetheless, these historians are in fact united in their stance that Pennsylvania's constitution was exceptional. As such, their studies may be synthesized to provide a brief survey of how the controversies which occurred before, during, and after the 1776 Constitutional Convention brought together and separated different Pennsylvanians. More importantly, the works of these scholars demonstrate that the divisions within the state were constantly shifting. Pennsylvanian identities had for decades been in a state of flux, and Pennsylvanians had a certain degree of openness to experimentation.

The historiography on Pennsylvania mirrors its subject in its divisiveness. As Douglas McNeil Arnold describes in his doctoral thesis “Political Ideology and the Internal Revolution in Pennsylvania, 1776-1790” (1976), historians have approached, from highly contrasting angles, the question of how divisive the constitution was. One group, which includes Charles H. Lincoln, J. Paul Selsam, and Robert L. Brunhouse, wrote under the influence of the “Progressive” history popularized by Frederick Jackson Turner, Carl L. Becker, Charles A. Beard, and Vernon L. Parrington.<sup>1</sup> According to this view, the main belligerents in the internal conflict in Pennsylvania consisted of an eastern commercial elite and an alliance of western farmers and Philadelphia working people.<sup>2</sup> Other historians, including Theodore Thayer, David F. Hawke, William S. Hanna, and Owen S. Ireland, have disagreed with this Progressive-inspired view. These revisionists, some of whom belong to the “consensus” school, have challenged the idea that broad class and sectional alliances were responsible for the political alignments of the Revolutionary era.<sup>3</sup> Owen S. Ireland, for example, suggests that there was an undercurrent of ethnic-religious polarization in the Pennsylvanian legislature.<sup>4</sup> Ireland recognizes that revolutionary Pennsylvanians may have been divided along regional, vocational, and economic lines, but asserts that the party competition between Republicans and Constitutionals was based on religious difference.<sup>5</sup> Furthermore, there have been others such as Gordon S. Wood who have proposed alternatives to the Progressive and revisionist viewpoints.<sup>6</sup> One recent scholar has even borrowed the methods of political scientists and legal scholars, assessing the

<sup>1</sup> Douglas McNeil Arnold, “Political Ideology and the Internal Revolution in Pennsylvania, 1776-1790.” (Princeton University, 1976), 2.

<sup>2</sup> Arnold, 2.

<sup>3</sup> Arnold, 3–5.

<sup>4</sup> Owen S. Ireland, “The Ethnic-Religious Dimension of Pennsylvania Politics, 1778-1779,” *The William and Mary Quarterly* 30, no. 3 (July 1973): 425.

<sup>5</sup> Owen S. Ireland, “The Crux of Politics: Religion and Party in Pennsylvania, 1778-1789,” *The William and Mary Quarterly* 42, no. 4 (October 1985): 454.

<sup>6</sup> Arnold, “Political Ideology,” 6.

tumult in Pennsylvanian politics through the lens of “constitutional politics” developed by Bruce A. Ackerman and Akhil Reed Amar, as well as through a “dualist” model of democratic structure.<sup>7</sup>

If there is to be a broad scholarly consensus on the Pennsylvania Constitution of 1776, it is that there is something special about what was produced by the delegates who had gathered in Philadelphia from July 15, 1776 to September 1776. Granted, Pennsylvania was one of eight states in the single year 1776 to draft and adopt constitutions, and like the rest of the states, Pennsylvania was steeped in discussions of the ideal nature of government.<sup>8</sup> Moreover, the Pennsylvania Constitution had similar features to the other early state constitutions, such as limits on the number of years that a magistrate could hold office.<sup>9</sup> Nonetheless, the historians who have written about revolutionary Pennsylvania have often approached the constitution with the language of exceptionalism. In his influential work *The Creation of the American Republic, 1776-1787* (originally published 1969), Gordon S. Wood observes that the constitution of the Keystone State was the “most radical and most democratic of the Revolutionary constitutions.”<sup>10</sup> Similarly, in *Colonial Pennsylvania* (1976) Joseph E. Illick describes how the colony “was at once more radical and more conservative than its siblings.”<sup>11</sup> Such descriptions might lead the novice student of revolutionary America to conclude that these Pennsylvanians, arrayed against the chaos of war against the British, united along similar radical lines. After all, there were

<sup>7</sup> Matthew J. Herrington, “Popular Sovereignty in Pennsylvania 1776-1791,” *Temple Law Review* 67 (July 1, 1994): 2.

<sup>8</sup> Bernard Bailyn, *The Ideological Origins of the American Revolution*, Enlarged ed. (Cambridge, MA: Belknap Press of Harvard University Press, 1992), 231.

<sup>9</sup> Gordon S. Wood, *The Creation of the American Republic, 1776-1787* (Chapel Hill: Published for the Institute of Early American History and Culture at Williamsburg, Virginia, by the University of North Carolina Press, 1998), 140.

<sup>10</sup> Wood, 438.

<sup>11</sup> Joseph E. Illick, *Colonial Pennsylvania: A History* (New York: Scribner, 1976), 303.

important issues that the members of the Constitutional Convention converged on. J. William Frost offers such a perspective in *A Perfect Freedom: Religious Liberty in Pennsylvania* (1990). According to Frost, the revolutionaries viewed the convention as an opportunity to rethink traditional liberty, including those on religious liberty, and virtually all the members of the convention opposed the colony's Quaker political heritage.<sup>12</sup>

A closer examination of the secondary literature reveals that if Pennsylvanians were united in their radicalism, they were often united against one another, as opposed to the external enemy they were waging war against or to the internal political traditions that they rejected collectively. At the most basic level, the creation of the Pennsylvania Constitution of 1776 was so divisive that it encouraged and deepened personal animosities between individuals. David Hawke's *In the Midst of a Revolution* (1961) illustrates this using the diaries of Christopher Marshall (1708-1797), who was involved in the Constitutional Convention and its preceding Provincial Conference (held from June 18 to 25, 1776). In one amusing anecdote dated June 30, 1776, Marshall describes how the bickering between Colonel James Smith of York County and the members of Chester County, who had gathered for the Provincial Conference, escalated to the point where "Elisha Price of Chester got beside himself so farr that he run in the yard, jump'd over the fence so into the Street where he was pursued [,] took to his Lodgings & Continued so, as not to be Capable to attend again."<sup>13</sup>

Months later, Marshall would himself be embroiled in a bitter personal dispute over the developments of the constitution. He had been friends with James Cannon, 1740-1782), a fellow

<sup>12</sup> J. William Frost, *A Perfect Freedom: Religious Liberty in Pennsylvania* (Cambridge, UK: Cambridge University Press, 1990), 64.

<sup>13</sup> David Freeman Hawke, *In the Midst of a Revolution* (Philadelphia: University of Pennsylvania Press, 1961), 173.

Independent who was later elected to the Constitutional Convention. However, their relationship began to sour during the Provincial Conference, where they diverged on the issue of the religious test oath.<sup>14</sup> The ill feelings which existed between the two men since the conference simmered till September 1776, when they broke into the open during a casual conversation. Cannon accused Marshall “of affronting him last night at my house & also now,” and then proceeded to “rally [Marshall] pritty severely & I think not friendly.”<sup>15</sup> The strain of Convention duties and his concerns about the Constitution in the making, so Hawke asserts, probably frayed Cannon’s nerves.<sup>16</sup> It is possible that the Constitution had similarly disastrous effects on the relationships between other Pennsylvanians.

One may take these personal disputes as a starting point for a broader discussion on the factional disputes which characterized the proceedings before, during, and after the Constitutional Convention. The arguments that broke out between individual Pennsylvanians were always to do with broader issues.

One of these broader issues was about how the Constitution was framed. Dissent against whoever was in control of the constitutional developments seemed almost an inevitable outcome of the way that the leaders of the state had organized the proceedings, as J. Paul Selsam proposes in the early but comprehensive monograph *The Pennsylvania Constitution of 1776: A Study in Revolutionary Democracy* (1936): “From the very nature of the situation – the extra-legal call of the Provincial Conference to hold a Convention; the election of its members by a small majority of the voters; the usurpation of power by the Convention in transacting legislative, executive, and

<sup>14</sup> Hawke, 175.

<sup>15</sup> Hawke, 192.

<sup>16</sup> Hawke, 192.

judicial business; and finally the Constitution itself – it was apparent that opposition would be aroused.”<sup>17</sup>

This opposition would in turn elicit a response from those who were satisfied with the progress of the making of the Constitution. It seems that procedural grievances at each stage encouraged factions divided between defenders and protesters.

Nevertheless, the conflicts that arose were always more than just the hostility that a particular majority had towards a dominant minority, or the animosity that a minority had towards the tyranny of any majority. Put differently, the divides that emerged were not simply about politicians jostling for power, but about distinct and emerging beliefs regarding the policies that the new state should have.

Opposition to the constitution began even before the Convention proper had been called. A Provincial Conference was convened to determine the rules for the upcoming Constitutional Convention.<sup>18</sup> There had been some degree of agreement regarding several issues. The conference readily approved of – in the delegates’ words: “*Resolved, unanimously*” – the Resolve of Congress of May 15.<sup>19</sup> The convention also declared that the present government of the province was inadequate, and affirmed the need for a provincial convention.<sup>20</sup> Additionally, the delegates decided on who could be allowed to vote in the election for convention delegates – any member of a military organization who was at least twenty-one years old, who had resided in Pennsylvania for at least a year, and who had paid either provincial or county taxes, as well as

<sup>17</sup> J. Paul Selsam, *The Pennsylvania Constitution of 1776: A Study in Revolutionary Democracy* (Philadelphia: University of Pennsylvania Press, 1936), 165.

<sup>18</sup> David Freeman Hawke, *Benjamin Rush: Revolutionary Gadfly* (Indianapolis: Bobbs-Merrill, 1971), 159.

<sup>19</sup> Selsam, *The Pennsylvania Constitution of 1776*, 137.

<sup>20</sup> Selsam, 137–38.

anyone who favored and was not opposed to independence.<sup>21</sup> These were the few issues where there was more unity than divisiveness.

But controversies over other matters soon emerged as the delegates delved deeper into the specifics of the convention. One contentious proposal was that an oath of religious conformity should be required of all who would stand for election to the Constitutional Convention.<sup>22</sup> Benjamin Rush, for one, became “the chief and zealous oppose” to this religious oath on the grounds that many good men did not believe in the divinity of the Son of God.<sup>23</sup> Another troubling development was the emergence of a radical form of republicanism which discomfited Rush and other delegates who adopted a more cautious posture. The day after the conference ended, a broadside published by James Cannon appeared on the streets warning that the constitution “should be framed by men who can have no interest besides the common interest of mankind,” and that “great and overgrown rich men” should not be trusted<sup>24</sup> Years later, Rush would write of the shame and indignation he felt when Pennsylvanians “reject[ed] men of learning” in this way.<sup>25</sup> The seeds for future discord between the revolutionaries were thus sown.

True enough, further schisms developed when the Constitutional Convention opened. From the start, the actions of some delegates subverted the expectations of their colleagues. Some were caught off-guard by the sudden usurpation of power by the Convention which took all authority out of the hands of the old agents and continued with the executive, judicial, and legislative functions.<sup>26</sup> The Convention resolved this matter somewhat by appointing a

<sup>21</sup> Hawke, *Benjamin Rush*, 159.

<sup>22</sup> Hawke, 159.

<sup>23</sup> Hawke, 160.

<sup>24</sup> Hawke, 161.

<sup>25</sup> Hawke, 161.

<sup>26</sup> Selsam, *The Pennsylvania Constitution of 1776*, 151.



committee to compose an address to the public, with the aim of allaying their fears about and reducing their opposition to the ordinances and resolves passed by the Convention.<sup>27</sup> Even so, not all differences could be swept under the carpet. The unicameral feature of the Constitution, which Thomas Paine and his numerous supporters advocated, attracted much opposition from such delegates as George Ross and George Clymer.<sup>28</sup>

Indeed, the most significant divide that the constitution was to have on the new state was arguably the split between the Constitutionals and the anti-Constitutionals, who called themselves the Republicans. The main bone of contention between both camps remained the problem over the fundamental structure of government. As Arnold summarizes, the Constitutionals “advocated a simple government dominated by a single representative assembly directly dependent on the people, while their opponents called for the establishment of a balanced constitutional structure,” which in their view had to include a second legislative house and a more independent executive and judiciary to safeguard Pennsylvanians from governmental tyranny.<sup>29</sup> The debate between the factions engulfed political, social, and economic issues which affected large segments of the elite and electorate, culminating in a Republican victory and the writing in 1790 of a new constitution which incorporated a balanced government.<sup>30</sup>

However, until the new constitution was promulgated, the existing one continued to attract much opposition. Writing to different periodicals under pseudonyms, various writers continued to voice their opposition to, or defense of the constitution and its clauses on unicameral legislature and religion. Oaths, which were required of officials, legislators, and

<sup>27</sup> Selsam, 155.

<sup>28</sup> Selsam, 185.

<sup>29</sup> Arnold, “Political Ideology,” iv.

<sup>30</sup> Arnold, iv–v.

voters, garnered much anger because they were found to be either too liberal or too restrictive.<sup>31</sup> Selsam, who appears to offer the most thorough explanation, asserts that much discontent emerged because the Constitution “brought into power a class of people hitherto denied political privileges.”<sup>32</sup> Critics leveled their bitter invective against the members of the Convention, “plain country folks” with little experience in public affairs whose “damned simplicity” will turn all Pennsylvanians into “simple freemen.”<sup>33</sup> Those who leapt to the defense of the delegates pointed to the erudition of Cannon, Benjamin Franklin, and David Rittenhouse.<sup>34</sup> Other detractors, particularly the moderates, were unhappy that the Constitution had created an entirely new body of voters. Franklin, for one, lamented “that the Irish emigrants and their children are now in possession of the government of Pennsylvania.”<sup>35</sup> These are just some of the numerous examples of the more significant tensions that arose in Pennsylvanian society.

The picture of revolutionary Pennsylvania described thus far may appear like an ideological battleground of deepening fault lines. However, it is worth noting that the divides which separated Pennsylvanians over the Constitution were not static, but dynamic. It was not uncommon for Pennsylvanians to switch sides in response to changing political situations on various debates. Benjamin Rush may have linked up with the radicals Cannon, Paine, Young, and Matlack, but he later joined the organized campaign against the Constitution.<sup>36</sup> As Hawke proposes, it may have been that the experience of representing Pennsylvania in Congress, where

<sup>31</sup> John N. Shaeffer, “Public Consideration of the 1776 Pennsylvania Constitution,” *The Pennsylvania Magazine of History and Biography* 98, no. 4 (1974): 429.

<sup>32</sup> Selsam, *The Pennsylvania Constitution of 1776*, 206.

<sup>33</sup> Selsam, 206.

<sup>34</sup> Selsam, 207.

<sup>35</sup> Selsam, 208.

<sup>36</sup> Hawke, *In the Midst of a Revolution.*, 194.

he rubbed shoulders with some of the most eminent men in America, toned down his sense of discontent.<sup>37</sup> Put simply, the lines which divided factions were constantly being re-drawn.

Moreover, the degree of the controversy surrounding the Pennsylvania Constitution of 1776 was unsurprising. The constitution which was distilled from the convention, as Illick notes, “reflected not only the very recent course of events but the political experience of the province over past decades.”<sup>38</sup> Competing visions for the political future of Pennsylvania were not unheard of – the agitators of the famous David Lloyd, for one, influenced Penn to make dramatic reforms to the proprietary government by promulgating the Charter of Privileges in 1701.<sup>39</sup> Then the war encouraged yet another split in the visions that Pennsylvanians had for their colony, for the conflict separated the patriots from large numbers of neutrals and loyalists.<sup>40</sup> Thus, the notion of a unified Pennsylvanian political entity was never an uncontested one.

Furthermore, there was the spirit of experimentation that was embraced by everyone involved in the constitutionalist project. The word “experiment” cropped up repeatedly in the arguments used by the defenders of the Constitution, reinforcing the idea that governments were neither sacred nor immune to change, and that they had to be adapted to time and place.<sup>41</sup> This receptive attitude towards innovation might have been a hangover of Penn’s original conception of Pennsylvania as a “holy experiment,” but it would probably be less speculative to suggest that implicit in this attitude of experimentation was a degree of tolerance towards, or even expectation of criticism and opposition.<sup>42</sup> In this way, the revolutionaries were able to, at each

<sup>37</sup> Hawke, 194.

<sup>38</sup> Illick, *Colonial Pennsylvania*, 306.

<sup>39</sup> Herrington, “Popular Sovereignty in Pennsylvania 1776-1791,” 5.

<sup>40</sup> Arnold, “Political Ideology,” 1.

<sup>41</sup> Hawke, *In the Midst of a Revolution.*, 196–97.

<sup>42</sup> Illick, *Colonial Pennsylvania*, 11.

crucial juncture of the development of the Constitution, form different majorities to set in motion “one of the most unique experiments in republicanism during the revolutionary period.”<sup>43</sup>

In conclusion, regardless of whether they may be categorized as Progressive, revisionist, or neither, the histories written about the first Pennsylvania Constitution provide insights which may be used to briefly survey some of the central tensions that the revolutionaries fought or united over. Admittedly, much of the secondary literature does not describe whether these constitutional developments had a unifying or divisive effect on ordinary Pennsylvanians who were not involved in its making. Nevertheless, for the delegates and political leaders involved in this momentous occasion, the Constitution was the very platform which encouraged, paradoxically, the convergence of divergent ideas.

#### About the author

Wen Li Teng is pursuing a double major in History and Political Science at the University of Chicago.

#### Recommended citation

Teng, Wen Li. “Division and Unity: The History and Historiography of the Pennsylvania Constitution.” *Armstrong Undergraduate journal of History* 8, no. 1 (Nov. 2017).

<sup>43</sup> Joseph S. Foster, *In Pursuit of Equal Liberty: George Bryan and the Revolution in Pennsylvania* (University Park, PA: Pennsylvania State University, 1994), 17.