

ELECTING THE HOUSE

THE ADOPTION AND
PERFORMANCE OF THE US
SINGLE-MEMBER DISTRICT
ELECTORAL SYSTEM

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3 The Founding-Era House of Representatives and the SMD System

The aim of every political constitution is, or ought to be, first, to obtain for rulers men who possess most wisdom to discern, and most virtue to pursue, the common good of society.

James Madison, *Federalist* No. 57

It is deceiving a people to tell them they are electors, and can choose their legislators, if they cannot, in the nature of things, choose men from among themselves, and genuinely like themselves.

The Federal Farmer, *Essay* No. 7

In George Mason's memorable words, the House of Representatives is "to be the grand depository of the democratic principles of the government."¹ The House is the democratic chamber: it is where the people are represented. Compared to the Senate, where states are represented and selection was driven by the desire to obtain the most distinguished members and to foster harmony between the national government and the states, the proper selection method for the House is both simpler and significantly more complex. It is simpler in the sense that the people are represented in the House and are entitled to choose their own representatives. It is more complex because the constitutional objectives fulfilled by the House are more extensive than those for the Senate, and this must be reflected in its selection method. This chapter outlines the purpose of the House of Representatives, the corresponding model of representation recommended by this understanding, and how this is incorporated into the selection method for the chamber. In doing so, it presents competing Federalist and Anti-Federalist visions of the House and its election that still

resonate today. Contemporary discussions about electoral processes and representation are often poorly distilled versions of the founding-era debates, and would benefit immensely from being reminded of their antecedents and the terrain that has already been covered.

It is fitting to begin this chapter with George Mason's words because in many ways Mason straddled the boundaries that separated the Founders. He contributed greatly to the Constitutional Convention only to decline to sign the document, instead devoting his energies to opposing its ratification in his native Virginia. Mason opposed ratification because he believed that the proposed government would eventually devolve into a "tyrannical aristocracy."² Federalist representation, which he described as the "shadow only of representation," ranked high on his list of constitutional defects that would eventually promulgate tyranny because the laws would be "made by men little concerned in, and unacquainted with, their effects and consequences."³ Mason's critique still resonates today. Like all of the Founders, Mason struggled with the complexities and nuances of democratic assemblies, representation, and elections. His enthusiasm for popular sovereignty was tempered by a recognition that "much had been said against democratic elections" and that "much might be said."⁴

Those interested in congressional government are generally acquainted with the Federalist and Anti-Federalist differences over the House of Representatives. The Federalists sought representatives drawn from the "natural aristocracy" of virtuous and wise citizens who would govern for the greater good. Madison famously advocated a system of representation to "refine and enlarge" the public's views by passing them through these "enlightened" representatives.⁵ To obtain such representatives, the Federalists sought to elect members of the House from relatively large, heterogeneous districts, using the plurality rule, and to have them serve for what was then considered the fairly lengthy term of two years. Further, representatives should have the discretion to pursue the public good unencumbered by excessive restraints imposed by their constituents. The Federalists believed the candidates most likely to emerge and win such elections would be those "men who possess the most attractive merit, and the most diffusive and established characters." These were precisely the men in whom constituents could place their trust to secure great national objects.⁶ Such representatives would serve the country well because they were not like their constituents; they would be citizens of superior ability, wisdom, and virtue.

The Anti-Federalists also sought virtuous representatives to govern for

the greater good, but believed that citizens would find such representatives from among themselves and those with whom they were most closely acquainted. The Anti-Federalists thought the House of Representatives should mirror society and that representatives should "think, feel, reason and act" like those on whose behalf they legislated.⁷ In his third letter, Brutus provides one of many Anti-Federalist statements to this effect: "The very term, representative, implies, that the person or body chosen for this purpose, would resemble those who appoint them—a representation of the people of America, if it be a true one, must be like the people." The Anti-Federalists placed an especially high premium on holding representatives accountable for their performance in office and fidelity to constituents. To fulfill these objectives the Anti-Federalists believed representatives should be elected by majorities from small, homogeneous districts. Legislative accountability was enhanced by this correspondence and annual election, and because citizens were deeply familiar with their representatives and their actions in office. Representatives would serve their constituents well precisely because they were indistinguishable from them.

Like any simplification, this summary is a caricature. Federalist and Anti-Federalist thought and the ensuing debate was much deeper and centered on the purpose of the House of Representatives, and from this follows proper representation, how to select representatives with desirable qualities, and how much autonomy representatives should enjoy. The two positions were irreconcilable. The Federalists could not imagine a more poorly constructed government than one that established a large legislative chamber comprised of members who "think, feel, reason and act" like the citizens on whose behalf they legislate. For many Anti-Federalists, the thought of being governed by "the most diffusive and established characters" smacked of returning to the subjugation they endured as subjects of the British Empire.⁸ The Federalists won the constitutional battle, but the Anti-Federalists arguably won the hearts and minds of the Americans. Popular rhetoric says that we want representatives to be typical citizens and responsive to our preferences. Still, we lament their difficulty in pursuing great national objects.

The SMD plurality system is a necessary and integral, although unwritten, part of the Constitution. I make this argument by first discussing the purpose of the House of Representatives. It is impossible to construct a compelling argument about how best to elect a representative assembly unless one has a clear understanding of the purpose of that assembly. From this follows the proper model of representation, by which I mean the qualities that define

good representation and how these contribute positively to governance. Next I consider more deeply what it means to "choose" one's representative or, more accurately, what it means to be represented by a representative of one's choice. Since contemporary critics argue that SMD plurality elections inhibit citizens from being represented by those of their own choosing, it is instructive to remind ourselves of how the Framers thought about this question. For the Framers whether one was represented by a legislator of one's choice encompassed three key elements. The first is popular sovereignty reflected in the right to vote for a representative. Here it is important to understand the conflict between virtual and actual representation that was at the heart of the revolutionary generation's basis for separation from Great Britain. This section highlights those aspects of virtual representation that positively influenced the Framers' thinking about proper government. This section also discusses the relationship between enfranchisement and electoral institutions. Second, I review the distinctions between plurality and majority electoral systems. Plurality is essential to the Federalist vision, while it is antithetical to that of the Anti-Federalists, who required that elections generate majorities. The third element explores period understandings of whether representatives should enjoy extensive autonomy from their constituents, or whether representatives should be responsive to constituents' demands. In many ways, accountability is the core of the constituent and representative relationship. These three elements—popular sovereignty, electoral thresholds, and the extent of legislative autonomy—form the period foundation for whether one was represented by a legislator of one's choice.

These competing visions of the House of Representatives produce a corpus of ideas that argue that the Federalist conception is primarily realized by SMD plurality elections. The Anti-Federalist model can be realized by an SMD system creating either natural or manufactured majorities. The preferred Federalist and Anti-Federalists electoral processes are predicated on different assumptions and democratic values. It is these democratic values, reflected in a particular constitution and applied to a given society, that drive electoral methods. The Framers' arguments provide the intellectual foundation for the adoption and institutionalization of the SMD plurality system in the United States and the basis for assessing its performance and continued use. I believe that if critics of the House of Representatives and its elections better understood these foundations, they would question their own assessments and preferred remedies for perceived deficiencies in US elections and representation. Eventually one has to decide whether the SMD

plurality system is beneficial or harmful to US representative government. I leave that discussion for later in the book; for now it will suffice to better understand the Framers' arguments as they understood these arguments.

The Purpose of the House of Representatives

Today the purpose of the House of Representatives seems clear: its purpose is to legislate. The public disdain for Congress as reflected in low levels of approval for both the institution and its members provides ample evidence that Congress's inability to legislate efficiently as exemplified by "gridlock" and claims that "Washington is broken" demonstrates that we think legislative inaction is a defect in our government. The Framers would be appalled. To them, legislative inaction is as much an indication of the chamber functioning properly as is legislative action. This is because the Congress, like the entire constitutional structure, was intended to balance the objectives of republicanism and liberalism. Congress is charged with securing "the public good and private rights."⁹ Both objectives privilege inaction over action. The discovery of an unambiguous public good is a rare thing indeed, and the protection of citizens from a potentially tyrannical government more often than not involves slowing, rather than expediting, the legislative process.¹⁰

To the Founders, the House of Representatives was the institution primarily responsible for fulfilling the republican objective of discovering and advancing the public good. Founding-era writings distinguish the House from the other branches of government in this respect. No framer of significance discusses the presidency, the judiciary, or even the Senate as the chief institutional platform for the discovery and advancement of the collective good. These branches certainly contribute to the collective welfare by bringing different perspectives of the good into the governing process and by exercising their respective responsibilities, but their principal contribution is to slow the House so that time and the reflection that delay affords enables the public and their representatives to more clearly see the good uncorrupted by momentary passion and transient impulse.¹¹

The Federalists and Anti-Federalists differed immensely in their understandings of how republican government advances the good. As a consequence, the House of Representatives serves a different purpose for each group. For the Federalists the primary purpose of the House is to provide a forum for deliberation and discovery of the good. The House of Representatives is first and foremost a venue for the articulation and scrutiny of ideas.

It is the peoples' representatives who discover and pursue the good, not the people themselves. The Anti-Federalists also thought the chamber advances the good, but it does so by bringing well-defined notions of the good into the House, which serves as a location for finding compromise among the distinct interests brought forward by representatives of the various constituencies.¹² Deliberation to discover the good, Anti-Federalists believed, should primarily take place in the constituency among citizens, not in the chamber. The received good is then conveyed to representatives, whose responsibility it is to enact the will of the people through the legislative process.¹³ They do so by reconciling these distinct interests into something that approximates the general good.

The Federalists and Anti-Federalists also thought that a properly designed and elected House could contribute to protecting against tyranny. Both groups agreed the key was balancing interests so that no single interest dominates the political processes. However, they differed over whether such balance is best achieved in the constituency or within the chamber—that is, should the narrow interests of citizens be primarily balanced and rendered harmless in constituencies constructed for that purpose, or should they be balanced within the legislative chamber itself? The Federalists sought to keep interests out of government and consequently emphasized balancing and reconciling these within constituencies. District heterogeneity was intended to ensure that no single interest dominated the constituency and to make sure that representatives were sensitive to many perspectives. The Anti-Federalists thought that constituent interests should be brought into government and balanced in the chamber. This works only if representatives are informed about and responsible to well-defined interests and advocate these against other such interests in the chamber.

These distinct understandings motivated different assemblies and different election processes to populate these assemblies. A House of Representatives intended to discover the good through deliberation is properly staffed by members who have been exposed to a variety of interests and views in their constituency and have latitude to use this knowledge to pursue the good. A House of Representatives that serves as a venue for reconciling competing interests is properly staffed by representatives who have clear understandings of their constituents' interests and are held to account in advocating them against the interests brought into the chamber by other representatives. These respective purposes impose prerequisites that constituencies and representatives must fulfill. Each perspective presents a

complete vision of the House of Representatives and how to best elect it. Exploring these visions more deeply allows us to more clearly see the relationship between competing democratic values and how distinct electoral arrangements furthered these values.

The Federalists

The Federalists justify republican government on the grounds that only a representative assembly chosen by the people can "discern the true interest of their country" and act for the public good as "proper guardians of the public weal."¹⁴ In this view, the purpose of the House of Representatives is to discover and legislate toward a broadly national and permanent good. Their belief that "the public voice, pronounced by the representatives of the people, will be more consonant to the public good than if pronounced by the people themselves" summarizes an important aspect of their political thought, and also says much about period understandings about the usefulness of direct democracy for advancing the public good.¹⁵ This implies nothing about the Framers' view of citizen competency. It is irrelevant whether the people are enlightened. Had "every Athenian citizen been a Socrates," Madison says about ancient Greece, "every Athenian assembly would still have been a mob."¹⁶ The problem was to find electoral processes that encouraged directly elected legislators tied to local constituencies to pursue a national good.

The Federalist solution begins with Madison's observation that while representatives must be "acquainted with all their local circumstances," they must also "comprehend and pursue great and national objectives."¹⁷ To do so, representatives must be capable of transcending parochial and temporal interests. Election from large, heterogeneous districts helps representatives comprehend great national objectives in two ways. The first is that such districts are conducive to the election of the most virtuous men, and these are precisely the representatives most capable of valuing, understanding, and pursuing a broadly defined national good. The Federalists believed that the greater public good was not the primary concern of most citizens, who neither understand it nor privilege it over local or immediate interests. Rather, as Epstein argues, in the founding era the public good was thought to be "the concern of a kind of elite; wise representatives" who shared "this concern with . . . the most considerate and virtuous citizens."¹⁸ To "pursue great and national objectives," representatives must be those "whose wisdom may best discern the true interest of their country, and whose patriotism

and love of justice will be least likely to sacrifice it to temporary or partial considerations."¹⁹ Only the natural aristocracy fits this description.

There is no guarantee, however, that citizens will elect such "fit characters." The Federalists were keenly aware that men of "local prejudices" and "sinister designs" are regularly elected to office. The second Federalist argument for large, heterogeneous districts is that these facilitate the election of representatives with desirable qualities, in part because such districts provide greater numbers of "fit characters" who might seek office, and "consequently, a greater probability of a fit choice."²⁰ Large districts also reduce the ability of unworthy candidates to "practice with success the vicious arts, by which elections are too often carried."²¹ In particular, such districts reduce the efficacy of appeals by demagogues and make it harder for the unworthy to bribe or scheme their way into office.

To understand how locally elected representatives could pursue the national good, first recall that for the Federalists the major impediment to securing the public good is the "spirit of party" and interested factions.²² Madison laments that differences among citizens have "divided mankind into parties, inflamed them with mutual animosity, and rendered them much more disposed to vex and oppress each other, than to co-operate for their common good."²³ These differences, which the Framers believed resulted from immutable characteristics, are "sown into the nature of man." As long as we are free to differ in our political and social preferences, such differences will exist. For the Federalists, the only remedy is to elect the most distinguished men possible and then place them in a constitutional framework that makes best use of their virtue and directs their interested ambition into socially beneficial directions. Such virtuous and civic-minded men were expected to be the most capable of overcoming and minimizing the spirit of party and faction in the legislature. Virtue, however, is a thin thread on which to hang attainment of the public good.²⁴ The Framers recognized that even the best, most enlightened representatives will fall well short of the classical republican ideals. Madison maintains that "enlightened statesmen will not always be at the helm" and further that "it is in vain to say that enlightened statesmen . . . will be able to render [clashing interests] . . . subservient to the public good."²⁵ Legislators will not be brilliant altruists, nor would it help if they were. The problem is how to elect the best possible representatives—those with the most virtue and wisdom—recognizing that these traits will still be found wanting relative to our aspirations and that while these traits

will make recognition and pursuit of the greater good more likely they will not guarantee it.

Large districts, even if they elect virtuous representatives, are insufficient for securing the public good; districts must also encompass multiple and distinct interests. For the founders, district heterogeneity largely followed from size: the larger the district, the greater number of interests contained within it. For the Federalists, constituencies could not be "communities of interest."²⁶ It is only when districts encompass multiple communities of interest that virtuous representatives can potentially comprehend the public good. Drawing electoral districts to encompass multiple interests ensures that legislators are exposed to a variety of perspectives. In contrast, the Federalists thought legislators drawn from small districts, which by their very nature are homogeneous, would be "unduly attached" to "local circumstances and lesser interests" and "too little fit to comprehend and pursue great and national objects."²⁷

Large, heterogeneous districts also prepare representatives to contribute to legislative discussion because their arguments are informed and challenged by a greater number of perspectives. Importantly, this preparation occurs in the constituency at the electoral stage. To gain election in the first place, legislators must be exposed to and address and win the confidence of many different interests. When representatives enter the chamber they will not be the proverbial villagers who have never crossed the hill to visit the village on the other side. Similarly, such districts contribute to republican ideals of good citizenship by encouraging residents who are presumptively divided by interests and values to discuss and debate these among themselves. In such districts one has the opportunity to participate in political discourse with neighbors and fellow residents of different political mind, with corresponding benefits for civic education and engagement.²⁸

Finally, large, heterogeneous districts also advance the liberal objectives of the House of Representatives by making it more difficult for majority factions to form and enter the House of Representatives. Echoing Hanna Pitkin, Andrew Rehfeld argues that the Federalists embraced "a vision of political representation that kept interests out of the legislature in service to the public good."²⁹ While both the Federalists and the Anti-Federalists advocated balancing interests in the legislature to prevent tyranny, the Federalists believed that balancing interests in the constituency, not in the legislature, was the more effective way to prevent tyranny and to keep any one or few groups from becoming too powerful. In large districts, narrowly

defined interests primarily check and balance themselves in the constituency, not in the House of Representatives.

Electoral districts, of course, can be too large, with detrimental effects on legislator knowledge and understanding of constituent needs and interests. Madison expresses the concern that in overly large districts representatives would be "too little acquainted with all their local circumstances and lesser interests" and that a proper balance between these extremes must be found.³⁰ In obtaining this mean, the Federalist preference is clearly for larger districts. Still, even properly sized districts may admit specific interests to reach the Congress, but these will be fewer and farther between, and more easily balanced and "rendered harmless" in the chamber, and if not, externally checked. In contrast, small districts increase the likelihood that a single interest will dominate the constituency and enter the chamber. From the Federalists' perspective, tyranny of the majority becomes more probable. "The smaller the society, the fewer probably will be the distinct parties and interests composing it; the fewer the distinct parties and interests, the more frequently will a majority be found of the same party; and the smaller the number of individuals composing a majority, and the smaller the compass within which they are placed, the more easily will they concert and execute their plans of oppression."³¹ In homogeneous districts minority voices are lost; even if there is no absolute majority interest it is easier for a small number of powerful interests to coordinate to the detriment of others in the political community. For the Federalists, small political societies, whether small republics or small legislative districts within great republics, are tyrannical political societies.

The Anti-Federalists

The Anti-Federalists thought the purpose of a House of Representatives was to enact the will of the people. It exists to legislate the good as expressed by the people, albeit a good that is more limited and local than the Federalists' good. Melancton Smith, speaking before the New York ratifying convention, makes this the center of his speech: "It [is] the fundamental principle of a free government, that the people should make the laws by which they were to be governed. He who is controlled by another is a slave; and that government which is directed by the will of . . . any number less than the will of the community, is a government for slaves."³² The Anti-Federalists define the will of the people as synonymous with the good, while the Federalists thought that the will of the people, assuming it could somehow

be determined, was typically an impediment to securing the public good. More importantly, the Anti-Federalists primarily thought of representative government as a practical alternative to direct democracy in discovering and advancing the public will. Smith continues, "Experience has taught mankind that legislation by representatives is the most eligible and the only practicable mode in which the people of any country can exercise this right."³³ This distinguishes the Anti-Federalists from the Federalists in a very important respect. The Federalists wrote of the theoretical benefits of representative democracy relative to direct democracy, and certainly did not think of representative government as a pragmatic necessity for governing on a national scale. By thinking of the national good as the will of the community, and representative government as a practical way to execute this will, the Anti-Federalists embraced a different understanding of the House of Representatives and its proper election.

For Melancton Smith and other Anti-Federalists the community possesses a will; the question is, how is it expressed?³⁴ The answer is that legislators have to press local and particular interests that are then brokered and reconciled into something approaching the community will.³⁵ The likelihood of reconciling interests is, as one might expect, inversely related to the disparity of these interests. In a small, relatively homogeneous nation, where the government has few responsibilities, the brokering and compromise necessary to reach mutually acceptable accommodation and something approximating the popular will presents few obstacles. In a large, heterogeneous nation, where government has extensive responsibilities, it likely no such reconciliation is possible. The Anti-Federalists idealized the former society and government, and in such it is only possible to achieve the good if representatives advocate the interests of their constituents in the legislature. The Federal Farmer, perhaps the most extensive Anti-Federalist commentator on the legislature and its election, makes this point when he informs us that he is "fully convinced that we must organize the national government [to] . . . secure . . . more effectually the different interests in the community." Interests must be collected, brought into the chamber, and advocated.

The Anti-Federalists believed interests were closely tied to the "orders of men" in the community. For these writers, the "what" to be represented are "orders of men" defined by interests and their standing among the many or the few. Federal Farmer speaks to this when he emphasizes the importance of achieving balance in the legislature. "I advanced the idea of balancing the

several orders of men in a community, in forming a general representation. . . . Each order must have a share in the business of legislation actually and efficiently."³⁶ Here the term "orders" does not mean the traditional hereditary distinction of the commons, the aristocracy, and the monarchy familiar from the old world, but rather "balance of the different parts of the community, their different interests, and their different claims to rule," whether these parts "be the many and the few or any other fundamental differentiation."³⁷ The Anti-Federalists believed that the natural aristocracy should be represented, but in proportion to their numbers just like any other well-defined order or community of interest.³⁸ Federal Farmer continues: "I contend for uniting and balancing their interests, feelings, opinions, and views in the legislature; we may not only so unite and balance these as to prevent a change in the government by the gradual exaltation of one part to the depression of others, but we may derive many other advantages from the combination and full representation."³⁹ The House of Representatives provides a forum in which the interests affiliated with these orders are balanced and reconciled.

For the Anti-Federalists, the House of Representatives functions properly only when local interests are introduced and advanced in the chamber. This is possible only if representatives represent well-defined local interests. As Allen and Lloyd put it, "the heart of their method was to arrange representation in such a manner as to safeguard interests."⁴⁰ The Anti-Federalists believed that a good government is not one in which interests simply inform debate over the public good, but rather their amalgamation and reconciliation is the public good. This recommends majority election from small, homogeneous constituencies. Federal Farmer's advocacy of balancing the distinct interests of different orders of men expresses the view that men's respective interests are often, perhaps more often than not, different and antagonistic. The assembly is where these distinct interests are articulated and advanced, and the legislative process is to find mutual accommodation among them through negotiation and reconciliation. One cannot escape the view that these writers largely viewed politics as an arena in which there are winners and losers, and the best that can be achieved is mutually acceptable compromise.⁴¹

Representation

It is difficult to provide an exact analogue to the contemporary use of the phrase "to be represented by a representative of one's choice" in the founding era. In the Framers' minds there were at least three components

to representation, and these could be disentangled so that people whom we would reasonably consider democrats in modern usage, could disagree about the extent of applicability of these to the Americans. The first and by far the most important component is popular sovereignty, meaning citizens have the right to vote for their representatives. This discussion centered first and foremost on the relationship between virtual and actual representation, but also on the implications of broad electoral franchise. Second is the distinction between plurality and majority electoral systems. While this may seem to be splitting fine hairs, the subject's underpinnings are applicable and inform the implications of a variety of voting procedures and processes. The final component is the extent of legislative autonomy enjoyed by representatives. Should representatives be trustees afforded extensive latitude to do as they see fit, or should they be delegates from constituencies and subject to their control while in office? At some level, the extent of "choice" one has in representation depends on whether that "choice" exists only at the moment of election or implies a certain amount of fidelity after the ballots are counted. The Federalist and Anti-Federalist differences over these considerations explain much about their preferred method for electing the House of Representatives, and also inform us about the underpinnings of a variety of electoral processes.

Virtual Representation and Actual Representation

Every school child knows that while the American Revolution had many sources, its genesis is most firmly grounded in the dispute with Great Britain over representation. The rallying cry "No taxation without representation" was more than a slogan; it pointed to a deep division between an older understanding of the relationship between parliamentarians and citizens and a competing understanding emerging in political thought.⁴² In the older tradition one's lack of franchise or parliamentary representation was not necessarily a disservice because parliamentarians governed for the common good of all. Under "virtual" representation "those elected by a few are presumed to represent all."⁴³ This is normatively defensible so long as "there is a communion of interest and sympathy in feelings and desires between" the representatives and "the people in whose name they act."⁴⁴ However, virtual representation in the English tradition is representation of a very particular kind; it is the representation of interests, not of people. It is trading or agitating cultural or other interests that are represented and given voice in parliament, and so long as some representative speaks for a particular interest it is of

little concern whether a particular constituency defined by that interest is represented; rather, what matters is that some constituency defined by that interest is represented.⁴⁵ The representative drawn from the latter speaks for all similarly situated constituencies. Despite having no representatives of their own in parliament, the Americans, so English proponents of virtual representation argued, had suffered no injury and had no just cause for rebellion because others spoke on their behalf. Of course, the American position, momentarily setting aside the viability of virtual representation in the New World, was that no parliamentarian shared a "communion of interest and sympathy in feelings and desires" with the colonists, and thus virtual representation failed the Americans on its own terms.⁴⁶

The founders rejected virtual representation as we do now. Nothing less than popular sovereignty through actual representation was a normatively defensible basis for government legitimacy.⁴⁷ Citizens must vote for their representatives. This is correct, but it is also incomplete. It is correct in that the Framers entertained nothing other than popular sovereignty as reflected in the right of the people to vote for their own representatives. However, several important aspects of the normative foundations of virtual representation migrated quite successfully to this side of the Atlantic.⁴⁸ The Federalists were deeply influenced by the premium that virtual representation placed on identifying and advancing the collective good. The purpose of the legislature for both English defenders of virtual representation and the Federalists was to discover and legislate to the common good. Both groups rejected the idea that legislators represented and pressed local interests; rather, to the extent to which representatives conveyed local sentiments and desires, these were useful primarily for informing broader discussions of the national good. Madison's invocation of the "permanent and aggregate good" borrows heavily from this line of thinking, and does not distinguish him and many other proponents of American popular sovereignty from those English parliamentarians who still thought virtual representation a viable means to republican objectives.⁴⁹

The problem faced by the founders, especially the Federalists, was how to elect the best people to Congress—those most inclined to understand, discover, and value the greater public good—stipulating popular sovereignty. Herein lies one of the most important facts about the United States for understanding the adoption of the single-member district plurality system: franchise in the late colonial and early republic eras was quite broad. The revolutionary experience undermined arguments for limited

franchise and, according to estimates by Alexander Keyser, at the founding upward of 60 to 70 percent of adult white men could vote.⁵⁰ To place this figure in context, in Great Britain well under 25 percent of men could vote.⁵¹ The eventual right to vote, at least for white males, was largely a foregone conclusion.⁵² Consequently, the founders anticipated that elections would be contested under something approaching universal white male suffrage. The problem was how to elect the natural aristocracy to the House, given that the electorate would not be limited to this class.⁵³

The Federalists' solution was election from large, heterogeneous electoral districts under plurality rule. In their view, this system increased the likelihood of filling the chamber with the natural aristocracy when elections were contested under broad franchise. As Jean Yarbrough argues, "Hamilton and Madison defend the large electoral district . . . because it makes the principle of popular election safe. The expanded district solves the problem of how to select the best men without restricting the right to vote."⁵⁴ Large districts promote large numbers of candidates, and these candidates are unlikely to have the ability to sway voters based on any sort of personal connection—say, economic dependence on the candidate—with members of the electorate. Candidates likely to win such elections are those who display superior personal qualities and are able to bridge the disparate interests in the constituency. The important and often overlooked point is that the SMD plurality system was in part motivated by the desire to obtain the most virtuous and enlightened representatives under a nearly universal right to vote. Under a restrictive franchise, as was the case in Europe well into the late nineteenth and twentieth centuries, there is no reason to believe SMD plurality elections were necessary for electing the most worthy to office. If only those on the top rung of the class ladder can vote, then any electoral system will work satisfactorily in this regard.

Pluralities and Majorities

Given that the people will elect their own representatives, the question turns to what vote threshold is appropriate for the election of a representative. Should a representative enjoy the majority support of his or her constituency, or is plurality support sufficient? A central critique of SMD plurality elections is that those who do not vote for the winner are "disenfranchised" or that their vote "does not count" in some sense. Commonsensically, we think there is a considerable difference in the normative legitimacy enjoyed by a legislator elected with the overwhelming support of his or her

constituency relative to a legislator elected with a modest plurality of the vote. That said, we also lament the uncompetitiveness of House of Representatives elections, and seem to think that significant electoral majorities say less about the correspondence between representatives and their constituents than about the possibility that elections are less pristine than portrayed by Norman Rockwell. The Framers thought carefully about the differences between plurality and majority election, and each of the two founding-era visions of republican government requires a distinct electoral threshold as a component of its design. To achieve its objectives, the Federalist model demands that representatives be elected under the plurality rule, while the Anti-Federalist vision compels natural or constructed majorities.

The Federalists require that representatives be knowledgeable about the various interests that comprise the constituency and that no single interest dominate the views held by the representative. For the Federalists, plurality in conjunction with constituency heterogeneity provides incentives for legislators to appeal to coalitions of minorities, and district heterogeneity makes it more likely that these coalitions will be fluid. Legislators cannot easily establish a base of support built on one or two interests and expect to remain in office. This system also furthers the Federalist goal of selecting the natural aristocracy because this class of men most clearly possesses the ability to span and engage disparate groups and interests. Equally important, while plurality election guarantees that candidates can win with less than a majority of the vote, it also guarantees that incumbents can be defeated with less than an electoral majority. Plurality rule better enables coalitions of minorities to unseat incumbent representatives, providing additional incentives for representatives to be sensitive to the views of the various groups composing their constituencies.

This line of reasoning also helps explain why districts cannot be "communities of interest" and, if using district elections, why they must elect a single representative. If a district is sufficiently large to encompass distinct interests, it would defeat the Federalist purpose if it elected multiple representatives because each representative would likely be responsive to one or a few of the interests that define the district.⁵⁵ To the extent to which this is true, one would not expect representatives to see beyond their "local prejudices" and pursue a greater and transcendent good. In the Federalist view, representatives must hear and be responsive to many voices.

In contrast, the Anti-Federalist vision imposed majority rule. The Federal Farmer describes the choice between majority and plurality elections as

"the most important question in the business of elections."⁶⁶ He objects to plurality rule on several grounds, the first of which is his agreement with Madison that this method will select for office "men of influence," his less than charitable moniker for the natural aristocracy. Melancton Smith, speaking at the New York ratifying convention, echoes this objection, arguing that "if the elections be by plurality . . . none but the great will be chosen—for they easily unite their interest—The common people will divide, and their divisions will be promoted by the others. There will be scarcely a chance of their uniting, in any other but some great man. A substantial yeoman of sense and discernment, will hardly ever be chosen. It appears that the government will fall into the hands of the few and the great. This will be a government of oppression."⁶⁷ The Federalists and Anti-Federalists agree that plurality elections tip the electoral scales in favor of the natural aristocracy at the expense of the natural democracy, but to good or ill effect depending on one's perspective. In contrast, majority elections make it much more likely that elections will be "tolerably equal" and foster the election of members of the yeomanry. If a candidate requires the support of a majority, he must have the confidence of the broad body of citizens, and these citizens will be in a better position to judge the virtue and character of candidates. Since in the Anti-Federalist mind civic virtue principally resides in the great middle, members of this class will secure election, and virtue will be brought into government.

The Anti-Federalists also advocated majority rule on the grounds that since the good is discovered in the constituency, representatives must have a very clear idea of what the constituents want. It is nonsensical to speak to the interests and priorities of a heterogeneous constituency characterized by fluidity and the election of representatives by plurality. Such a constituency has no clearly defined idea of the good. This is not the case when majority rule is applied to homogeneous constituencies. Majorities are easier to obtain in homogeneous constituencies, and such majorities send a clearer signal about the good as understood by constituents. If no natural majority is obtained, then majorities should be constructed by runoff or similar election. As the Federal Farmer writes, "if no man have a majority . . . the voters may examine the characters of those brought forward, accommodate, and proceed to repeat their votes till some one shall have that majority."⁶⁸ Constructed majorities ensure that representatives have a clear, unambiguous understanding about the views within the constituency and the agreements and compromises reached by constituents in settling on a representative. Such

constructed majorities, obtained either by runoff elections or by "instant runoff voting" are fully within the Anti-Federalist vision for House elections. Whether these majorities are natural or manufactured, officeholders must have the support of most of their constituents.

The Federalist and Anti-Federalist difference over whether representatives should be elected by plurality or majority follows from their respective understandings of the purpose of the House of Representatives. If one wants to balance and reconcile interests in the constituency rather than in the chamber, and elect representatives most capable of understanding different ideas of the good, then plurality election applied to single-member districts is appropriate. If one seeks to reconcile and broker interests in the chamber, and elect members who "think, feel, reason and act" like those they represent, then majority rule is preferable. The important point is that the rule used to aggregate votes and determine winners follows from the purpose of the chamber. Since the Federalists and Anti-Federalists had very different views of its purpose, they advocated different electoral thresholds.

Trustees and Delegates

In the founding era the final component of what it means to elect a representative of one's choice centered on the nature of the legislator and constituent relationship. To elect a representative implies things about the postelection relationship between the representative and those he represents, in particular legislative responsibility and accountability to their constituents. Specifically, to what extent should legislators exhibit fidelity to the wishes of those who elect them, and how does one best encourage such fidelity? The founders disagreed sharply on both of these questions, with significant implications for proper electoral processes. For the Federalists, giving effect to the legislature's ability to seek and advance the public good requires that representatives have the discretion to pursue the truth wherever it leads. Representatives should enjoy considerable discretion to set aside immediate constituent interests for the greater good. The Federalists certainly believed that this warrant has limits, and that there must be means to ensure that the constituents enjoy a "proper degree of influence" in the conduct of legislative business. That said, the Anti-Federalists placed considerably more weight on legislative fidelity to constituents. In doing so, they required that representatives faithfully advocate and advance the specific interests of their constituents in the chamber, leaving little room for legislative discretion and demanding greater attention to questions

of how best to guide, control, and, if necessary, punish representatives. These differences are reflected in each group's preferences over the length of representatives' terms, the proper restraints and sanctions that can be imposed on representatives, and the electoral processes that facilitate the preferred model of legislative accountability and responsibility.

Madison most clearly discusses the legislator and constituent relationship in *Federalist Paper No. 56*, which emphasizes that each representative "must be acquainted with the interests and circumstances of his constituents."⁵⁹ Being "acquainted" with the "interests and circumstances" of one's constituents is rather tepid language if one expects representatives to press their interests and circumstances in a Congress populated by legislators advocating the interests and circumstances of their constituents. Madison's language is purposeful because the Federalists believed that pressing specific and local interests is antithetical to attainment of the national good.⁶⁰ Legislators must faithfully bring forward their constituents' interests in the chamber for the purpose of informing debate over the national good, but not to advance these for local advantage. Madison then details why one would expect such familiarity and the sources of legislative fidelity to constituents. Familiarity follows from district election, which necessarily requires representatives to know a well-defined geographic location in some detail. If one "divides the largest state into ten or twelve districts," Madison says it "will be found that there will be no particular local interest . . . which will not be within the knowledge of the representative of the district."⁶¹ Legislative fidelity owes primarily to electoral "dependence on the people," but also to representatives' sense of "duty," "honour," "gratitude," and "ambition itself."⁶² Legislators will not ignore their constituents if they wish to be reelected. In addition, the natural aristocracy is especially sensitive to considerations of duty and honor.

For the Federalists, giving effect to the legislature's ability to seek and advance the public good requires that representatives have the discretion to follow their consciences and best judgments. The only way that representatives can find the collective good is by enjoying the freedom to do so without undue interference from constituents. Representatives must be of the "trustee" rather than "delegate" type. While Edmund Burke was chastising his own electors in Bristol for seeking to instruct his actions in the House of Commons, he also deeply influenced the Federalists when he wrote:

Parliament is not a congress of ambassadors from different and hostile interests; which interests each must maintain, as an agent

and advocate, against other agents and advocates; but parliament is a deliberative assembly of one nation, with one interest, that of the whole; where not local purposes, not local prejudices, ought to guide, but the general good, resulting from the general reason of the whole. You choose a member indeed; but when you have chosen him, he is not a member of Bristol, but he is a member of parliament.⁶³

A year before the Constitutional Convention, George Washington, in a letter to his nephew and future Supreme Court justice Bushrod Washington, captured a more nuanced view of the constituent-representative relationship that is close to the received Federalist spirit on the question. "In national matters . . . the sense, but not the law of the district may be given, leaving the delegates to judge from the nature of the case and the evidence before them."⁶⁴ To make such discretion work in practice requires virtuous representatives in the first place, electoral accountability, and, as Hamilton points out in one of the Federalists' canonical passages on legislative accountability, the fact that legislators will be governed by the same laws they promulgate.

Is it not natural that a man who is candidate for the favour of the people, and who is dependent on the suffrages of his fellow citizens for the continuance of his public honours, should take care to inform himself of their disposition and inclinations, and should be willing to allow them their proper degree of influence upon his conduct? This dependence, and the necessity of being bound himself . . . by the laws to which he gives his assent . . . are the strong cords of sympathy between the representative and the constituent.⁶⁵

For the Federalists, such independence for representatives is necessary to discover and pursue the public good. Representatives cannot be agents of their constituents because citizens of even large and heterogeneous constituencies neither know nor advocate the national interest. This is even truer for small constituencies. Two-year terms, rather than the customary one-year term for state representatives, while still brief, also give legislators more latitude to pursue the good while insulated from momentary passions and pressure.

Giving representatives the latitude to discover and implement the public good sets a high bar for the types of citizens who should serve as representatives. In particular, representatives should be knowledgeable, enlightened,

and above all else virtuous. If one elects a trustee, which in Federalist thought is necessary if one's theory of politics places the search for the general good above all else, representatives have to be the most virtuous and enlightened citizens available. As Madison's quote that introduces this chapter argues, "The aim of every political constitution is, or ought to be, first, to obtain for rulers men who possess most wisdom to discern, and most virtue to pursue, the common good of society."⁶⁶ This is not rhetoric; Federalist representation fails unless representatives are of this sort.

The Anti-Federalists place a significantly greater premium on legislative fidelity to constituents because representation, in their view, facilitates "the direct expression of the will of the people" in furtherance of the public good.⁶⁷ Representatives must therefore be agents or delegates for their constituents. The key underpinning of this idea of representation was put rather frankly by Cato in his seventh letter, in which he quotes Demosthenes: "There is one common bulwark with which men of prudence are naturally provided, the guard and security of all people, particularly of free states, against the assaults of tyrants . . . distrust," in particular not trusting that the interest of the represented will be the same as the interest of those who represent, and fearing that representatives will be tempted to follow their own interests.⁶⁸ The Anti-Federalists were also especially sensitive to what in the present era we call Lord Acton's Maxim: even good men can be tempted by power to pursue ends harmful to their electors. These considerations motivate the necessity of keeping representatives on a short leash.

Fostering this oversight and control requires that representatives be drawn first and foremost from small homogeneous districts because such districts guarantee that representatives are like their constituents, with a corresponding commonality of interest. This does not mean that representatives can be anybody from the community; even the Anti-Federalists thought that representatives should be among the best and brightest, but the best and brightest or, as Federal Farmer puts it, their "best informed" from among otherwise typical citizens.⁶⁹ According to the Federal Farmer, "the substantial part of the [natural] democracy . . . are a numerous and valuable set of men, who discern and judge well, but from being generally silent in public assemblies are often overlooked; they are the most substantial and best informed men in the several towns."⁷⁰ In addition to commonality of interest, fidelity is fostered foremost by short terms of office, recall, and a latent sympathy for the right of constituents to instruct their representatives. In his fifth essay Cato argues that "if annual elections were to exist in this

government . . . you will never want men to execute whatever you design."⁷¹

With respect to instruction and recall, an Anti-Federalist writing under the pen name Amicus summarizes that "there are, I fear, a few persons among us, so wise in their own eyes, that they would if they could, pursue their own will and inclinations, in opposition to the instructions of their constituents. In doing so, they may perhaps, once in a hundred times, act for the interest of those they represent."⁷² Still, instruction and recall had largely fallen out of favor by the 1780s, and for the Anti-Federalists their purpose could largely be accomplished by the proper selection of representatives in the first place.

Two Visions of American Democracy and Electing the House

The preceding two chapters present two different understandings of United States government and election of the House of Representatives. Their purpose was to detail the normative and positive foundations that underlie the Federalist and Anti-Federalist preferences for electing the House. As Richard Katz argues, electoral systems are manifestations of values and are designed to capture and further those values.⁷³ The Federalists and Anti-Federalists embraced different values, preferences, and understandings of the country for which they sought to form a government, and in doing so they advocated different electoral institutions and processes to further their respective goals. These distinct visions transcend our history and introduce a tension in American politics that is not easily reconciled. The Federalists carried the day, and we are governed under their Constitution. The Anti-Federalists, as will become clearer in subsequent chapters, captured our imagination. Our visions of the legislature and its election are more consonant with Anti-Federalist values, although one has to reconcile this with the place of such values in the extant Constitution.

To understand how this dialogue transcends our history and how it informs election processes, it is useful to summarize these respective visions. Both the Federalists and the Anti-Federalists were deeply influenced by the republican and liberal traditions, and both embraced a systemic understanding of the Constitution, including the electoral processes that give it effect. On balance, it was the Federalists who were more deeply influenced by the republican values that informed the founding era, as reflected in their expansive notion of the public good and understanding that the purpose of the legislative chamber was to provide a forum for deliberation and discovery of a truly national good. The Anti-Federalists were more deeply influenced by the liberal tradition, as reflected in their relatively circumscribed

notion of the national good, their embracing of introducing interests into the chamber, and their insistence on majority rule. For the Federalists the primary purpose of elections was to select the best legislators and educate them so they could effectively pursue the greater good. For the Anti-Federalists the primary purpose of elections was to prevent legislative tyranny and enforce legislative accountability and responsibility. Federalists' and Anti-Federalists' preferences for electoral processes each require a particular constitution. The organizing principle of the Federalist constitution—our extant Constitution—is the dispersion of political power. Where power is dispersed and government action requires the concerted efforts of all three branches, there is a premium placed on deliberation to discover the public good because these ideas have to influence many political actors. The legislative deliberation that informs debate in the chamber also informs the other branches and the public. To govern under such a constitution requires enlightened representatives and a deliberative assembly. The Anti-Federalist constitution, which existed only in the minds of these writers, forms a simpler government in which the legislature provides a forum for the reconciliation and brokering of political interests and is externally checked by a vigilant electorate. Such a political process requires representatives who are focused on the immediate interests of their constituents, and once the will of the people is expressed through the legislative chamber, this process recommends legislative supremacy with little interference from the executive or the judiciary branches.

These distinct underlying principles give rise to the two understandings of House elections presented in the early part of this chapter. These are the Federalist advocacy of electing the natural aristocracy from large, heterogeneous districts using plurality rule and the Anti-Federalist preference for electing representatives from the great middling class using majority rule from small, homogeneous constituencies. What is central is recognition that these Federalist and Anti-Federalist differences are predicated on distinct normative values and understandings of the polity for which the government is formed. For the Framers, if one advocates one or the other one has accepted the complete, systemic vision of the United States, the purpose of its government, and the values that motivate each vision of republican government in a liberal society. The Federalists and Anti-Federalists advanced different visions of the American polity, the proper balance in securing republican and liberal values, the purpose of the House of Representatives, and a host of other considerations. Each vision is a complete whole. As stated

In the opening of this chapter, one cannot get from Federalist values and understandings of the American polity to instant runoff voting, nor can one get from the Anti-Federalist understanding of these considerations to SMD plurality applied to large, heterogeneous congressional districts. Choose we must.

The importance of making these foundations clear is threefold. First, these provide a conceptual way of understanding the principles underlying any discussion of electoral systems. If one advocates this system or that system, one has to engage in the same discussion as occupied these first two chapters. Electoral systems operate in a larger constitutional architecture and embody a host of normative values and assumptions about the polity to which they are applied. In contemporary discussions these primitives are seldom made clear. In the specific case of the United States, this discussion has to explicitly recognize that the Framers did have such a discussion and were fully aware of these underpinnings. This does not mean the Framers were necessarily right; after all, the purpose of this chapter was to make clear these arguments as they understood them. By the same token, these cannot be ignored. If the Framers' assumption that instant runoff voting was incommensurable with advancing a greater public good in the republican sense was wrong, then it is incumbent on advocates of such electoral processes to explain why the Framers were wrong. More generally, discussions of electoral systems, especially those centered on the merits and liability of given systems, must make these foundations clear because nothing is more central than assessing the efficacy and utility of electoral processes.

Second, this discussion provides us with normative benchmarks by which to assess the efficacy of electoral processes. Do our election methods contribute to or detract from the objectives we seek to fulfill? How do we judge whether our electoral institutions function well or poorly? In either case, one has to articulate those values by which the performance of our electoral system is to be judged. If one believes the argument that the Federalist and Anti-Federalist constitutional preferences formed complete understandings of the government and how to best elect its component branches, then such assessment will invariably be grounded in one of these visions. If one prefers the Federalist conception, then the SMD plurality system is an integral part of it. One might reasonably prefer the Federalist vision and still find the SMD plurality system wanting, but in such cases one then knows to diagnose the poor performance by assessing where in the constitutional system the current manifestation of SMD elections differs from that envisioned at the

founding. Similarly, if one prefers the Anti-Federalist vision of American society and politics, then one can sensibly assess what constitutional changes are necessary for this system to effectively contribute to this different vision of American government. At the end of the day, these are practical questions. Do our political aspirations focus on engaging the diversity of the nation, or are we more inclined to focus on "communities of interest"? Do we want representatives to be drawn from the modern equivalent of the natural aristocracy, or do we prefer representatives to be more like typical citizens and the legislature to more closely approximate the cultural demographics of the United States? Do we believe there are great, national objectives to be obtained, or is the national good best advanced by something more akin to interest group liberalism? Are we prepared to prevent government-promulgated tyranny by hobbling the efficiency of government, or would we rather our government be more efficient and rely on elections to safeguard our liberties? Lastly, if the answers to these questions presuppose a particular constitutional architecture, are we prepared to make changes to that architecture to facilitate preferred electoral processes?

Finally, this discussion prepares the ground for interpreting the modern debate about electing the House that emerged in the first third of the nineteenth century. Attempts to mandate the SMD system began very early after the founding, but gained considerable momentum with the rise of modern party politics in the 1820s and 1830s. The Federalist and Anti-Federalist arguments and assumptions were adapted for the rise of modern party politics, but the underlying founding-era arguments provide continuity that transcends our political history. As is well known, the Federalists ceased to be a major electoral force in the early years of the nineteenth century, but the Whigs and Jacksonians returned to these arguments, albeit in a manner consistent with the emergence of modern political parties and electoral campaigning, ultimately appealing directly to the founding arguments and underlying assumptions and values when Congress finally mandated SMD elections in 1842. I explore in depth the politics of the SMD mandate in the fifth chapter, but in the next chapter it is useful to turn to a descriptive survey of the election processes of the early years of the republic.

In the first few years of the republic the states were faced with the task of simply figuring out how to elect representatives for a new government, and the relationship between practices that were useful for populating statehouses and colonial assemblies and those useful for filling a national representative assembly with powers that were yet to be clearly defined. In

doing so, they balanced many things: popular preference for districts or at-large elections, the desire to increase state influence in the new national congress, practical politics centered on the protoparty Federalist and Anti-Federalist split, and simple historical inertia. The following chapter provides an overview of this electoral landscape. The most striking feature of the early republic was how much discretion states exercised in adopting and changing electoral processes. In hindsight, this is not too surprising for a new nation, but even those well versed in American political history may not have appreciated the fluidity in electoral processes in the early republic.

4 House of Representatives Elections in the Early Republic, 1788-1824

A law has also passed in [Pennsylvania] providing for the election of members of the House of Representatives. . . . The act proposes that every citizen throughout the state shall vote for the whole number of members allotted to the state. This mode of elections will confine the choice of characters of general notoriety, and so far be favorable to merit. It is however liable to some popular objections urged against the tendency of the new system. In Virginia I am inclined to think the state will be divided into as many districts as there are to be members. In others . . . a middle course be taken. It is perhaps to be desired that various modes should be tried, as by that means only the best model can be ascertained.

James Madison letter to Thomas Jefferson,
October 8, 1788

One of the most significant events in US government, now all but lost to history, occurred on September 13, 1788. On that day the Confederation Congress, which had governed the United States under the Articles of Confederation since 1781, passed a brief resolution that read in part: "Whereas the convention assembled in Philadelphia . . . did, on the 17th of September [1787] report to the United States Congress assembled, a constitution for the people of the United States . . . and whereas the constitution so reported . . . has been ratified . . . RESOLVED . . . that the first Wednesday in March next, be the time, and the present seat of congress the place for commencing proceedings under the said constitution."¹ The Confederation

Congress directed the states to elect their representatives and in doing so ordered its own demise. One species of government passed peacefully to another. The Election Ordinance of 1788, as the above resolution is known, initiated the most intense and focused period of discussion and planning of elections witnessed before or since in any democratic nation. Each of the thirteen states had full autonomy to elect their share of the first class of sixty-five representatives as they saw fit and, while not working completely with a *tabula rasa*, had the discretion to adopt nearly any means to select their delegations. They had six months to do so.

The methods proposed to elect representatives can largely be consolidated into three basic questions: Should representatives be elected in districts or at large? Should citizens be allowed to vote for all of a state's representatives or just one? Should candidate election require a plurality or majority of the vote? These considerations presented many ways to elect representatives. For example, New Hampshire opted to use the general ticket to elect its three-member delegation and adopted a process intended to ensure that only candidates who enjoyed majority support were elected. States that districted were obligated to draw boundaries, and this raised the question of whether districts should contain an equal population, as much as practicable, and also introduced the possibility that legislators would draw districts for political advantage. Massachusetts's election law mandated that its eight districts contain roughly equal population, but the Federalist-dominated legislature led them to underrepresent citizens in the western part of the state, which was sympathetic to Anti-Federalists.² In what is perhaps the best-known early example of gerrymandering, the Anti-Federalist-controlled Virginia legislature led by Patrick Henry drew James Madison's district specifically to thwart his election to the government he had done so much to craft. Madison won anyway.³

This chapter reviews the ways the House of Representatives was elected from the founding to the early Jacksonian era. It presents the menu of election methods adopted by the Americans. In doing so, it details the state-level adoptions of means to elect their congressional delegations and overviews the nation's electoral landscape as it moved into the period when the SMD system was eventually mandated. If we seek to understand the benefits and liabilities of the SMD system, then it is useful to survey the various systems that have seen application and the arguments for and against their use in a particular political context. The abstract Federalist and Anti-Federalist debates over representation and elections suddenly and forcefully became

the backdrop to tangible disputes over how to elect representatives. State legislators were forced to wrestle with balancing their principles, obtaining political advantage, and managing the practical administration of elections. Decisions had to be made quickly and in the face of considerable uncertainty over how these methods would work in practice.

It is useful to briefly clarify here the ways that representatives were elected in the early republic. The most common method was the standard single-member district plurality system (SMD) in which electors received a single vote that was cast for a district-affiliated candidate. This was used by, for example, New York and is the same method used today. The general ticket (GT) used by several states, including Connecticut, New Jersey, and New Hampshire, selected candidates in a statewide election. Electors possessed as many votes as there were seats to be filled. These votes could not be cast cumulatively; for example, electors could not allocate two votes to an individual candidate.⁴ A third method required candidates to stand for election in a district, but electors could vote for a candidate in each of the state's districts. Georgia and Maryland used this system in the first two federal elections; this method appears similar to SMD plurality election but was actually an at-large method. Like the general ticket, it permitted electors to cast ballots for all of a party or faction's candidates. The defining characteristic that makes an at-large election at-large is how votes are allocated and cast, not whether candidate names are attached to districts. To distinguish this method from the SMD system, I refer to it as at-large single-member district (AL-SMD). A fourth method that saw application was the combined single-member and multimember district system (SMD-MMD). Some states, most notably Pennsylvania, used both single-member and multimember constituencies. In the multimember constituencies citizens typically voted in a manner identical to the general ticket system.⁵ One purpose of electing from multiple-member districts was to enable states to preserve corporate entities such as counties rather than breaking them up to create additional single-member districts. Another less laudable purpose was to secure political advantage by swamping a viable political minority in a district sufficiently large to guarantee the majority faction or party all of the district's seats. States that adopted this system usually did so following a reapportionment when their legislative representation increased. Finally, states that possessed only a single House seat elected their representative at large (AL).

The methods of casting ballots in the early republic bore little resemblance

to the way we vote today. Votes could be cast *viva voce*, or by reporting one's vote or votes directly to an election judge. Typically, however, electors wrote the names of as many candidates as there were positions to be filled on a slip of paper and handed this to an election judge. Pennsylvania's guideline for selecting its eight representatives was fairly standard: "Every person coming to elect representatives shall deliver in writing on one ticket or piece of paper the names of eight persons to be voted for as representatives."⁶ Requiring a written ballot posed few hurdles to the enfranchised. The founding-era literacy rate among white men in New England exceeded 90 percent.⁷ Those who could not write but were otherwise eligible to vote could generally report votes to an election judge or deposit a ballot filled out by a trusted person. These were not secret ballots in the sense we know today, although there was sometimes an effort to maintain confidentiality in the process. Maryland, for example, required that the ballot be folded. The judge could not unfold them until all ballots were cast.⁸ Still, the government-printed secret ballot we know today did not exist, and would remain unavailable for a century. Voting was a public act.⁹

These ways of selecting representatives also admit different thresholds for election. The Anti-Federalists were especially alarmed at the prospect of electing representatives with very small pluralities, which was quite possible in a preparatory era when widely dispersed voters could not easily coordinate their ballots for a few viable candidates. In particular, the general ticket presented an acute problem of narrowing the field so that winning candidates received more than a trivial vote share. In an era before organized political parties, there was often little commonality in the lists submitted by electors residing in different parts of a state, even if they had the same political leanings. Connecticut and New Jersey sought to ameliorate this problem by using nomination processes. Connecticut allowed electors to nominate as many persons as there were seats to be filled. The state's five representatives were then selected from a final pool consisting of the twelve leading nominees. New Jersey used a similar method, but for the purpose of establishing a list of eligible candidates. This list was published about two weeks before the election so electors would have sufficient time to distinguish viable from less viable candidates. New Hampshire pursued a different tack by requiring candidates to secure a majority of the vote to win election. If insufficient candidates met this requirement, the state held a runoff election to fill any remaining seats.¹⁰ States that used SMD elections also faced the small plurality problem, albeit to a lesser extent. Most were

content to elect the candidate with the greatest vote share regardless how small. Massachusetts was not, and required winning candidates to secure a majority of the vote. If no candidate in a district obtained a majority, the district held a runoff election between the two leading candidates.¹¹

This discussion is not intended to catalog the various methods used to elect the early Congresses, but rather to show the variety of potential and actual ways to elect representatives that were in play in the early years of the republic. Single-member and multimember constituencies, at-large elections, and a variety of nomination and electoral thresholds all saw application in the nation's early years. Four systems were used to elect the first House, even without considering differences in nomination or threshold requirements. The universe of potential ways to elect representatives available to the states was even greater. Madison's conjecture that the states would implement "various modes" of election was indeed perceptive.

The next section of this chapter focuses on the election to the First Congress that met from March 1789 to March 1791. Most states passed their election laws between October and December of 1788. This brief period witnessed a flood of documents, legislative debates, and personal correspondence advocating for and against means to select the entire corpus of national offices, including presidential electors, senators, and representatives. These are sometimes repetitive, loosely reasoned, and overtly partisan, but within these texts are principles that capture why states adopted particular ways to elect their representatives. These build on Federalist and Anti-Federalist ideals, but also on the anticipated effects of election methods applied to a particular time and place.

Following this, I trace the ascendance of the SMD plurality system through the balance of the first party era. The ways that states elected their representatives in the early Congresses introduced inertia into these processes that carried through to the Jacksonian period. However, these methods were not entirely static. There was some fluidity in election methods, and as new states were admitted to the union they had to revisit these arguments anew. There are two key considerations that help us better understand why Congress eventually mandated the SMD system. The first is the rapid ascendancy of SMD elections after the first few federal elections. By the second apportionment about half the states used either SMD or SMD-MMD elections, with about 70 percent of all representatives elected from single-member districts under the plurality rule. This figure remained more or less constant until the middle years of the Jacksonian period. The

second is why some states maintained the general ticket throughout the period and why some newly admitted states, such as Missouri, adopted the general ticket rather than SMD election. By the first years of the nineteenth century the single-member district system had become the way most of the House membership was elected, although several states continued to elect their representatives at large.

Electing the House in the First Party Era

The First Congress

In the First Congress the House of Representatives was elected in roughly equal measure from single-member districts and at large. Most of the southern states used single-member districts, as did New York and Massachusetts in the north. Pennsylvania, New Jersey, Connecticut, and New Hampshire opted for the general ticket. Georgia and Maryland required representatives stand for election in a district, but allowed electors to vote for candidates in all districts. This method, for reasons explained previously, was an at-large system that more closely resembles the general ticket than standard SMD plurality election. Finally, Delaware and Rhode Island used at-large elections because each elected a single representative. Of the First Congress's sixty-five representatives, 40 percent—twenty-six, to be exact—were elected from single-member districts by plurality rule.

Table 4.1 presents the ways the states elected their House delegations for the first two Congresses. These Congresses were elected under the original constitutional apportionment of representatives and met between 1789 and 1793. The Constitution was ratified without the benefit of a national census to determine the apportionment of representatives among the states. The Framers worked with their best estimates of state population, which had to suffice until the first national census in 1790. The chamber changed size between the First and Second Congresses because of the admission of Vermont and Kentucky to the Union in 1791 and 1792 respectively.

The primary choice the states had to make in the first federal election was whether they would elect their representatives from districts or statewide. This debate was generally framed in terms of whether electors had the right to vote for a state's entire delegation or for a single representative. It was understood that granting electors a single vote meant they had the right to vote for a candidate in a district. Multiple votes meant that electors had the right to vote for the state's entire congressional delegation statewide by general ticket. However, this debate carries more significance than just the

Table 4.1. Election Methods for the Constitutional Apportionment

State	First Congress (1789-1791)	Second Congress (1791-1793)
Connecticut	GT (5)	GT (5)
Delaware	AL (1)	AL (1)
Georgia	AL-SMD (3)	AL-SMD (3)
Kentucky	—	SMD (2)
Maryland	AL-SMD (6)	AL-SMD (6)
Massachusetts	SMD (8)	SMD (8)
New Hampshire	GT (3)	GT (3)
New Jersey	GT (4)	GT (4)
New York	SMD (6)	SMD (6)
North Carolina	SMD (5)	SMD (5)
Pennsylvania	GT (8)	SMD (8)
Rhode Island	AL (1)	AL (1)
South Carolina	SMD (5)	SMD (5)
Vermont	—	SMD (2)
Virginia	SMD (10)	SMD (10)
House Membership	65	69

The number in parentheses is the number of representatives apportioned to each state under the constitutional apportionment preceding the first census.

Source: Kenneth C. Martis, *The Historical Atlas of United States Congressional Districts: 1789-1983*.

choice between single-member district and at-large election. The question was presented in terms of whether the constitution confers a federal right to vote for multiple candidates. Under the Constitution, one could vote in federal elections if one was qualified to vote for the lower chamber of one's state legislature. The states determined if one was so qualified.¹² However, if one was qualified to vote in federal elections, it was unclear whether the states could limit electors to a single vote. Such concerns were not unreasonable. After all, the Constitution does not permit states to require that representatives reside in a particular district, so how could a state impose the seemingly comparable restriction that a voter must reside in a district?¹³ More generally, the distinction between single and multiple votes is central to any discussion of electoral systems because the ability to cast multiple votes opens up a host of potential ways to elect representatives while the single-vote restriction reduces the number of viable methods.

This debate quickly took on Federalist and Anti-Federalist tones. Federalists often favored at-large election and granting electors as many votes as representatives to be elected.¹⁴ The Federalist Pennsylvania Mercury, for

example, argued that a person's right to vote for all of a state's representatives is "a federal right given to them by the Federal Constitution, and which the state cannot take from them."¹⁵ New York assemblyman Brockholst Livingston, Princeton classmate of James Madison and brother-in-law of John Jay, reasoned that "the constitution gave every man a right to vote for six men [New York's apportionment], and it would be an arbitrary stride of power to restrain him to vote for only one."¹⁶ Those of Anti-Federalist persuasion generally avoided the question of whether the Constitution conferred such a right, instead advocating the advantages of casting a single vote in a district on grounds familiar from the ratification debates. Livingston's assembly colleague Samuel Jones responded that "if six men were to be voted for throughout the state, the people would be obliged to vote for men they could not know."¹⁷ In Massachusetts the Real Farmer reiterated the most classical Anti-Federalist argument that "the perfection of the portrait consists in its likeness . . . [and for] an equal and real representation . . . the . . . districts in which representatives shall be chosen, should be as small as the nature of the case, and the Constitution, will admit of."¹⁸ To obtain a real representation one has to elect "several persons . . . of different ranks and interests."¹⁹ This is not possible under the general ticket that would advantage elites, but is instead achieved by electors casting a single vote in a compact district.

The question of how much importance to place on unified state representation in the House of Representatives also influenced the choice of election method. Those who favored advancing state interests in the chamber advocated for the general ticket. Writing in the *Baltimore Journal*, *Civis* maintained that "we may therefore with propriety conclude, that as no particular corner of a state, can have any separate interest to advocate in the general government, the most eligible method would be . . . [election by] the people at large."²⁰ Pennsylvanian Numa pointed to the advantages of the method eventually adopted by Maryland and Georgia because "when members are chosen by the whole state they will consider themselves servants of the whole state, and not suffer themselves to be misled by local prejudices or interests of a few men who often govern counties or districts."²¹ Those skeptical of state representation, mostly Anti-Federalists, emphasized the importance of representing smaller political communities. Speaking in New Jersey, Publius Secundus Americanus argued that "electing one representative for each [district], the freeman's vote is of some consequence" and is recommended because "the people should be acquainted with the men they choose."²² Americanus foresaw that general ticket elections would

exacerbate partisan conflict while district elections would help prevent "the states from falling into parties."²³

Of deeper interest is why any state adopted at-large elections. Both the Federalists and Anti-Federalists advocated district elections, making it unclear why the general ticket method was entertained at all. In Virginia, Confederation Congress member Edward Carrington reported to James Madison that "the district plan in the fullest extent is adopted by a union of Federalists and Anti-Federalists, so that no proposition could be offered against it."²⁴ One would expect similar correspondence in all states. It is true that Federalists were sympathetic to at-large election, which they believed advantaged the election of "characters of general notoriety." Still, the United States adopted the Federalist Constitution and with it the ability to create large, heterogeneous congressional districts. If political principle mattered above all else, no Anti-Federalist should have supported the general ticket and neither would any Federalist, absent a strong argument that it would elect better representatives than districts containing about 30,000 residents. Few such arguments were made. Indeed, appeals such as those of Civis and Numa placed the Federalists in the awkward position of defending the state corporate interest argument they so resolutely denied at the drafting stage. As a matter of practical politics if not principle, it was the Federalists who most strenuously argued for granting citizens multiple ballots and the Anti-Federalists who argued for a single vote.

Political advantage played a large if not the largest part in driving states' selection of the method to elect the First Congress. The Federalist-controlled New Jersey and Connecticut legislatures adopted the general ticket with well-placed confidence that Federalists would control the congressional delegations. Likewise, solidly Federalist Maryland allowed voters to cast ballots for candidates in each district because it would ensure a Federalist sweep in the first House elections. The Pennsylvania Federalists did the same thing without the additional administrative burden of creating districts. Pennsylvanian Benjamin Rush, Federalist signer of the Declaration of Independence, was frank about his state's decision to use the general ticket: "By obliging the whole state to vote in one ticket, it is expected that the Federalists will prevail by a majority of two to one in the choice of representative for the lower house of congress."²⁵ However, at-large election is risky if one is unsure about the political leanings of the enfranchised. South Carolina's political divisions were geographic, with the low country dominated by the Federalists and the Midlands and Appalachian backcountry

by Anti-Federalists. A joint committee of the low-country-controlled South Carolina legislature recommended the general ticket to the full assembly, but this was wisely defeated by Federalists in favor of district elections. This owed less to political ideals than the recognition that the weight of the electorate resided outside the low country and would determine the state's congressional delegation.²⁶ This fear was well founded as Anti-Federalists won three seats in the state's first class of five representatives. Politically divided New Hampshire implemented the general ticket and returned a mixed delegation of proadministration and antiadministration legislators, showing that political coalitions and coordination between leaders of the two factions and their respective voters were not yet well established.

The received explanation for states' choice to use SMD or at-large election is size; larger states typically used SMD election while the smaller states gravitated toward the general ticket.²⁷ This is correct, but the pattern took a few years to become clear. In the first federal election only eleven states had any decision to make at all, and the relationship between size and election method is weak. Pennsylvania, which adopted the general ticket, was not just geographically large; its population was second only to Virginia. Connecticut was geographically compact, but its population exceeded that of both Carolinas, each of which districted. Indeed, Pennsylvania and Connecticut alone accounted for thirteen of the First Congress's twenty representatives elected by general ticket. If Maryland and Georgia are properly classified as states that used at-large elections, then there is little relationship between state size and election process in the First Congress. Of the five largest states (Virginia, Massachusetts, Pennsylvania, New York, and Maryland), three adopted SMD elections and two elected representatives at large. Of the five smallest states (North Carolina, South Carolina, New Jersey, New Hampshire, and Georgia), three used at-large elections and two used the SMD method. Connecticut, the state with the median population, elected at large. One has to squint hard to see a pattern in these data. In the end, political principle, practical politics, and the simple need to elect a delegation drove electoral selection for the First Congress.

Electing the House in the Balance of the First Party Era

Following the first House election, state political leaders took stock of their methods for electing representatives. Most stood pat, but Pennsylvania switched from the general ticket to SMD elections for the second federal election, while Maryland and Georgia both adopted the SMD method for the

third federal election. The admission of Kentucky and Vermont increased the number of states using SMD elections by two, so that by the late 1790s this method of electing representatives was clearly ascendant. Of the Fourth Congress's 106 representatives, over 80 percent were elected from single-member districts.

There was relatively little change in electoral systems after the first few federal elections. Pennsylvania returned to the general ticket for the Third Congress and then reinstituted districts for the Fourth Congress. Georgia used the general ticket to elect its representatives to the Third Congress and maintained this system until the 1842 mandate. Still, for the balance of the first party era, states rarely changed their method of election from that in place in 1800.

That said, by the Fourth Congress the large state-small state pattern was well established. As table 4.2 shows, the states that used the general ticket—Connecticut, Georgia, New Hampshire, New Jersey, and Rhode Island—had little in common besides being small in population and, for the most part, in geography.²⁸ Three reasons are generally cited to explain large states' preference for districting and small states' preference for the general ticket. These follow from the premise that the larger states were more socially and politically heterogeneous than the smaller states. The first is that SMD election helped the large states better secure representation for disparate populations in the various regions of a state. The homogeneity of the small states precluded the need to district for this purpose.²⁹ Second, the small states had better defined and agreed-on state interests that were more easily advanced by selecting representatives at large. If an entire state delegation is unified by a common election in a statewide vote, it is more likely to represent and press state interest in the chamber. Partisan advantage also helps explain small-state preference for the general ticket. Since these states were more politically homogeneous, the majority party or faction can more easily use at-large elections to control the state's entire House delegation. Finally, at-large election also helped the small states protect themselves against the large states by electing unified delegations to Congress, since the large-state delegations were presumably divided by district elections.³⁰

Keeping in mind that we are extrapolating from a very few cases, these explanations raise a number of questions. It stretches the imagination to believe that leaders of large state majority factions districted for the noble purpose of securing the representation of concentrated political minorities.

Table 4.2. State Election Methods for the House of Representatives in the Third through Seventh Congresses

Second Apportionment		Source: Kenneth C. Martis, <i>The Historical Atlas of United States Congressional Districts: 1789-1983</i> .	
State	House Membership	a. One representative was elected at large.	b. PA 4th elected two representatives by block vote.
Connecticut	CT (7)	—	—
Delaware	AL (1)	—	—
Georgia	GT (2)	—	—
Kentucky	SMD (2)	—	—
Maryland	SMD (8)	—	—
Massachusetts	MMD (14) ^a	—	—
New Hampshire	GT (4)	—	—
New Jersey	GT (5)	—	—
New York	SMD (10)	—	—
North Carolina	SMD (10)	—	—
Ohio	—	—	—
Pennsylvania	GT (13)	—	—
Rhode Island	GT (2)	—	—
South Carolina	SMD (6)	—	—
Tennessee	—	—	—
Vermont	SMD (2)	—	—
Virginia	SMD (19)	—	—
Third Congress (1793-1795)	CT (7)	AL (1)	AL (1)
Fourth Congress (1795-1797)	CT (7)	AL (1)	AL (1)
Fifth Congress (1797-1799)	CT (7)	AL (1)	AL (1)
Sixth Congress (1799-1801)	CT (7)	AL (1)	AL (1)
Seventh Congress (1801-1803)	CT (7)	AL (1)	AL (1)

They may have been forced to do so in politically contentious state houses. but the framing generation was not as politically magnanimous as our primary school teachings would lead us to believe. It is also unclear why corporate representation would be more important to the small states than the large states. A large state such as Federalist-leaning Massachusetts could probably have increased its influence in the chamber by electing a unified or nearly unified House delegation. Finally, the most important political division between the states postfounding was not large state versus small state, but north versus south or, more accurately, slaveholding versus non-slaveholding. If state commonality and interest drove election method, any pattern in election method should correspond to geography; it does not. Also, the first two newly admitted states, Vermont and Kentucky, were small yet adopted SMD election.

A more complete understanding of the large state-small state pattern is realized by recognizing that the components of the size explanation are not mutually exclusive and are very difficult to disentangle. Election methods were driven by state heterogeneity—whether it is political, economic, or cultural, all of which blend together; the desire to secure corporate representation; and the desire to secure partisan advantage. These considerations came together more easily in the smaller states than in the larger ones, and this is reflected in their respective choices in electoral system. State political leaders quickly learned that the general ticket was especially advantageous if one could be certain of obtaining an electoral majority. For this reason, the small states used the general ticket to elect unified or nearly unified congressional delegations.

The more interesting pattern is that adoption of the general ticket usually benefited the Federalists, and this happened almost exclusively in states without a western frontier. Single-member districts were almost universally adopted by newly admitted states. In the Fifth Congress, for example, Connecticut, New Hampshire, New Jersey, and Rhode Island were represented entirely by Federalists while Georgia was the sole general ticket state to elect Anti-Federalist representatives. The Federalists were politically strongest in the small, established states while the Anti-Federalists and later Republicans were strongest in the larger states, especially in the western regions of those states. In the fifth congressional election Pennsylvania Republicans carried the state's five westernmost districts, while the eight districts won by the Federalists were all in the eastern half of the state.³¹ The same pattern appears in Virginia, where the Tidewater was solidly Federalist and all

Table 4-3. State Election Methods for the House of Representatives in the Eighth through Twelfth Congresses

Third Apportionment		Twelfth Congress		Eleventh Congress		Tenth Congress		Ninth Congress		Eighth Congress	
State	(1803-1805)	AL (1)	GT (7)	AL (1)	GT (7)	AL (1)	GT (7)	AL (1)	GT (7)	AL (1)	GT (7)
Connecticut	SMD (6)	—	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)
Delaware	SMD (6)	—	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)
Georgia	SMD (6)	—	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)
Kentucky	SMD (6)	—	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)
Louisiana	SMD (6)	—	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)
Maryland	SMD (6)	—	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)
Massachusetts	SMD (6)	—	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)
New Hampshire	SMD (6)	—	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)
New Jersey	SMD (6)	—	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)
New York	SMD (6)	—	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)
North Carolina	SMD (6)	—	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)
Ohio	SMD (6)	—	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)
Pennsylvania	SMD (6)	—	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)
Rhode Island	SMD (6)	—	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)
South Carolina	SMD (6)	—	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)
Tennessee	SMD (6)	—	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)
Vermont	SMD (6)	—	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)
Virginia	SMD (6)	—	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)	SMD (17)

a. Two candidates were elected in district 5.
b. Eleven candidates were elected by MMD from districts 1, 2, 3, and 4; 3 from 1st, 3 from 2nd, 3 from 3rd, 2 from 4th.
c. Two candidates were elected by the joint district 2 and 3.
d. Four candidates were elected by MMD; 2 from 2nd and 2 from 6th.

Source: Kenneth C. Martis, *The Historical Atlas of United States Congressional Districts: 1789-1983*.

Table 4-4. State Election Methods for the House of Representatives in the Thirteenth through Seventeenth Congresses

Fourth Apportionment				
State	Thirteenth Congress (1813-1815)	Fourteenth Congress (1815-1817)	Fifteenth Congress (1817-1819)	Sixteenth Congress (1819-1821)
Alabama	—	—	—	AL (1)
Connecticut	GT (7)	GT (7)	GT (7)	GT (7)
Delaware	GT (2)	GT (2)	GT (2)	GT (2)
Georgia	GT (6)	GT (6)	GT (6)	GT (6)
Illinois	—	—	AL (1)	AL (1)
Indiana	—	AL (1)	AL (1)	AL (1)
Kentucky	SMD (10)	SMD (10)	SMD (10)	SMD (10)
Louisiana	AL (1)	AL (1)	AL (1)	AL (1)
Maine	—	—	—	—
Maryland	SMD-MMD (9) ^a	SMD-MMD (9) ^a	SMD-MMD (9) ^a	SMD-MMD (9) ^a
Massachusetts	SMD (20)	SMD (20)	SMD (20)	SMD (20)
Mississippi	—	—	—	—
Missouri	—	—	—	—
New Hampshire	GT (6)	GT (6)	GT (6)	GT (6)
New Jersey	DMD (6)	GT (6)	GT (6)	GT (6)
New York	SMD-MMD (27) ^b	SMD-MMD (27) ^b	SMD-MMD (27) ^b	SMD-MMD (27) ^b
North Carolina	SMD (13)	SMD (13)	SMD (13)	SMD (13)
Ohio	SMD (6)	SMD (6)	SMD (6)	SMD (6)
Pennsylvania	SMD-MMD (23) ^c	SMD-MMD (23) ^c	SMD-MMD (23) ^c	SMD-MMD (23) ^c
Rhode Island	GT (2)	GT (2)	GT (2)	GT (2)
South Carolina	SMD (9)	SMD (9)	SMD (9)	SMD (9)
Tennessee	SMD (6)	SMD (6)	SMD (6)	SMD (6)
Vermont	GT (6)	GT (6)	GT (6)	GT (6)
Virginia	SMD (23)	SMD (23)	SMD (23)	SMD (23)
House Membership	182	183	185	186
187				

a. Two candidates were elected in district 5.

b. Twelve candidates were elected by MMD: 2 from 1st, 2 from 2nd, 2 from 12th, 2 from 15th, 2 from 20th, 2 from 21st.
c. Fourteen candidates were elected by MMD: 4 from 1st, 2 from 2nd, 2 from 3rd, 2 from 5th, 2 from 6th, 2 from 10th.

Source: Kenneth C. Martis, *The Historical Atlas of United States Congressional Districts: 1789-1983*.

areas west of the Blue Ridge were Republican.³² Further, in the early nineteenth century all newly admitted states adopted SMD plurality elections, if not initially then after their apportionment reached about three or four representatives.³³ Of the eight states admitted to the Union after the founding until the 1820s that elected more than one representative, only one—Tennessee—used the general ticket, and then only for one apportionment cycle, after which it switched to SMD elections. Put simply, every state admitted after the founding in the first party era instituted SMD elections. A good predictor of state electoral system in the first party era is simply distance from the Atlantic Ocean.

Learning the Electoral System Ropes in the First Party Era

One of the most striking features of early republic elections is how quickly voters and the protoparties adjusted to the incentives provided by the various methods used to elect the House. Different election systems privilege different numbers of viable competitors and hence the optimal number of candidates that should stand for election. The SMD plurality-rule system encourages like-minded citizens to band behind a single candidate. This helps avoid splitting the vote and electing a candidate from another party. Consequently, elections in such districts should eventually gravitate toward two-candidate contests, with each candidate affiliated with a different faction or party. The empirical regularity in which the SMD plurality system tends to organize elections around two parties is known as Duverger's Law, and results from voters seeking to avoid "wasting" votes by casting them for candidates unlikely to win and also to the tendency of this system to "magnify" the seats won by the major party relative to its vote share. Ballots for a third- or lower-ranking candidate are wasted in the sense that only the two leading candidates are competitive for election. The difference between the first- and second-place finish determines party control of the seat; the difference between second and third does not. If voters want to influence the election outcome they have an incentive to vote for their most preferred candidate among the two leading candidates.³⁴ The SMD plurality system also tends to reward the leading party with extra legislative seats relative to its vote share. This "mechanical" effect obtains because minor parties that receive votes are unlikely to win any seats. Since these parties have detracted from the vote shares of the major parties but not their seat shares, the majority party receives legislative seats out of proportion to its vote share.³⁵ Multimember constituencies provide similar incentives, with

the number of viable candidates increased in proportion to the number of representatives selected in each district.³⁶ In chapter 8 I argue that Duverger's law is less of a "law" and more of a tendency in explaining party systems, but in the early republic one clearly observes the emergence of coordination between political elites in the latter's endorsement of specific candidates and in the number of candidates standing for election.

The general ticket, especially if it is used to elect a large number of representatives, presents a more difficult problem for like-minded citizens to coordinate on an optimal number of candidates. If voters return a complete ballot and vote only for candidates representing their preferred party, then parties should offer no more candidates than there are seats to be elected. In this case, the leading candidates will have equal vote shares and all will be elected to the House. In effect, a general ticket ballot is a ballot for a political party, with the winning party taking all of the seats. The difficulty is that party leaders and like-minded voters may not agree on candidates or voters may simply not return a complete ballot. Under such circumstances the vote shares of candidates representing the same party or faction will differ, with the consequence that more than one party elects representatives to Congress. The likelihood of this scenario depends on how easily party leaders and voters can coordinate on a set of candidates. The ease of doing so depends on whether there are various factions within a party, how many representatives the state elects, the ease of communication with electors, and similar considerations.³⁷ General ticket elections, especially in the absence of organized political parties, are more likely to be a free-for-all.

Image 4.1 is an electoral broadsheet that illustrates how the early parties coordinated on candidates in the face of these difficulties. The Democratic-Republican broadsheet was published in Delaware in 1807 endorsing the election of Constitutional Convention participant John Dickenson as Delaware's House representative. It is signed by several Democratic-Republican notables, including Declaration of Independence signatory George Read, former Delaware governor David Hall, and Reuben Gilder, who served in the Revolutionary War as a surgeon and later became a well-established Baltimore physician. For Democratic-Republican voters the broadsheet went some ways toward solving the candidate coordination problem as it advocated a single candidate for Delaware's single seat in the House. For Dickenson the endorsement was still insufficient for election, as Federalist Nicholas Van Dyke won the seat. Nonetheless, the broadsheet shows that

Meeting

OF THE

DEMOCRATIC REPUBLICAN CONFEREES,

Of the State of Delaware.

At a meeting of the Democratic Republican conferees of the State of Delaware, convened in the town of Dover, on the 4th. of August 1807, in pursuance of previous appointment, for the purpose of selecting suitable characters, to be voted for and supported by the Democratic Republicans of the State of Delaware, at the ensuing general election, for the office of Governor and Representative to Congress; David Hall was called to the chair, and John Hamm appointed secretary.

Upon consideration,

It was resolved unanimously, That Joseph Hallett be and he hereby is selected by this meeting as a suitable character to be voted for and supported by the Democratic Republicans of the State of Delaware, for the office of Governor, at the ensuing general election.

Resolved unanimously, That John Dickinson be and he is hereby selected by this meeting as a suitable character to be voted for and supported by the Democratic Republicans of the State of Delaware, at the ensuing general election, as a candidate to represent this State in the Congress of the United States.

Resolved further, That this meeting do recommend the above named candidates to the citizens of the State of Delaware, as worthy of their suffrages and support, at the ensuing general election, and as possessing in an eminent degree, that patriotism, and those abilities, which are the sure pledges of a faithful discharge of public duty.

Resolved, That the foregoing proceedings be signed by the conferees from the several counties in this State, and be published in handbills, for the information of our fellow-citizens.

Signed,

DAVID HALL,
JOHN FIRHER,
JOHN WAY,
JOHN MERRITT,
PETER WILLIAMS,
WILLIAM D. WAPLES,
FERDINAND CARSON,
REUBEN GILDER,
JOHN COLLINS,
JOHN HAMM.

GEORGE READ,
WILLIAM HELL,
JOHN ADAMS,
ROBERT JAMISON,
THOMAS LOWMYER,
JOHN FARISS,
WALTER DOUGLASS,
JOHN CAREY,
MITCHELL KERSHAW.

Dover, August 6, 1807.

Image 4.1. Maryland Federalist Election Broadsheet, 1807. Used by permission of the Library Company, Philadelphia, PA.

even in the nation's earliest years the emerging parties adopted strategies to compete effectively under the electoral rules in force.³⁸

The difficulty in systematically evaluating how well citizens and political leaders responded to the incentives provided by selection methods is due to the dearth of election data from the early republic. Fortunately, this deficiency has been greatly ameliorated by the A New Nation Votes project conducted under the auspices of Tufts University and the American Antiquarian Society.³⁹ This project has collected House election returns for many early republic elections from available ballots, period newspaper and broadsheet reports, county histories, and other sources. These data provide considerable information on many early House of Representatives elections. The collection is not complete; for any state that elected by district, we may not have returns for all districts in any election year. For example, for Virginia in 1789 we have complete returns for six districts; for the remaining districts we know only the name of the winner and perhaps one competitor. Still, the information on these six First Congress elections is considerable, and the collection will become more complete over time. For any election—single-member district, multimember district, or general ticket—for which we have data, these data are complete. These contests cover the corpus of election laws that saw application in the nation's first years before reliable returns became more readily available in the Jacksonian period. These data show that, remarkably early, our voters and political leaders were increasingly able to coordinate on fewer, more viable candidates. These data document the nation's rapid transition to organized, competitive elections.

Table 4-5 presents an example of general ticket returns. Displayed are

Table 4-5. New Hampshire 1806 General Ticket Election Returns

Within Party	Republican	Federalist	Votes	Votes
1	Jedediah K. Smith	Samuel Tenney	5,773	3,685
2	Clement Storer	Caleb Ellis	5,695	3,625
3	Peter Carlton	David Hough	5,695	3,596
4	Francis Gardner	Thomas W. Thompson	5,680	2,838
5	Daniel M. Durrell	Silas Betton	5,123	2,825
6	John Wheeler	Samuel Quarles	934	132
7	Timothy Farrer	Nathaniel Shannon	798	105
	9 Others	13 Others	<100	<100

Source: A New Nation Votes: American Election Returns, 1787-1825.

the results of the 1806 election, in which New Hampshire elected five Republicans to the Tenth Congress. The names of the elected are in *italics* along with their vote receipts. Among the Republicans, Jedediah Smith had the highest number of votes and Daniel Durrell ranked last. The general ticket presents a question of how to calculate vote shares. In New Hampshire an elector could vote for five candidates, so if 10,000 people returned complete ballots there are 50,000 votes distributed across some number of candidates. However, no candidate could receive more than 10,000 votes. Consequently, I calculated a candidate's vote share as the percentage of the maximum possible number of votes that he could receive. In the 1806 New Hampshire election 46,504 distinct votes were cast for the five available seats, so no candidate could receive more than 9,301 votes.⁴⁰ Based on these figures, Jedediah Smith received a majority of 62 percent. The last elected representative, Daniel Durrell, received a majority of 55 percent. To facilitate comparison with SMD and MMD elections, I define the winning plurality under the general ticket as the minimum vote share needed to gain election. In 1806 this was 55 percent. Similarly, the first or maximum losing vote share was Samuel Tenney's 39.6 plurality.

A particularly notable aspect of the New Hampshire election is how quickly the vote trails off after each party's fifth-ranked candidate. For both the Republicans and Federalists, the fifth-ranked candidate received a vote share comparable to the first-ranked candidate; however, the sixth-ranked candidate received only a fraction of the vote of the fifth-ranked candidate. In general ticket elections the vote difference between the first-place finisher and the last elected finisher is often very small because electors typically vote a straight ticket. This means that the difference in the pluralities of candidates from the same party or faction will often be negligible, and the leading party, as in the above example, will sweep the election and win all seats. Based on the complete returns, in 1806 New Hampshire had about 9,400 total electors, of whom about 5,700 voted for Republicans and 3,700 for Federalists. For each party there were five leading candidates and no more. Electors clearly distinguished these candidates from the others.

To better understand early House elections, I graphed the number of candidates and vote shares for elections in Delaware, New Jersey, Massachusetts, and Virginia from the first federal election until 1820. I selected these states because they implemented a broad range of electoral laws and also include states from New England, the mid-Atlantic, and the South. These graphs provide visual insight on when and how well candidates, parties, and voters

adjusted to the incentives provided by these electoral systems. In essence, they capture the steepness of the election learning curve. It turns out it was very steep, meaning that regardless of the system, parties, candidates, and voters quickly adjusted to the method used to elect representatives.

It is important to understand that these graphs do not present a story about Duverger's Law. At best, the Federalists and Republicans might be described as protoparties, and there was little in the structure and organization that would allow one to make sensible statements about how the parties and their affiliated voters responded to electoral processes. Further, the period after 1800 is one of single-party dominance. Beginning with the Seventh Congress in 1801 through the balance of the era, the Republicans maintained overwhelming control of the House of Representatives, with their majority often exceeding 70 percent of the seats. Simply, after 1800 relatively few Federalists were elected to the House. Consequently, graphs detailing the number of candidates competing for seats and their associated vote shares do not mean that two parties are competing for these seats; quite often two Republicans were competing. That said, there were certainly states and districts with a strong Federalist presence, and also districts that were competitive and contested by both groups.

Figure 4.1 graphs Delaware's elections from the first House election until 1820. Delaware's experience nicely illustrates how quickly citizens and political leaders responded to the incentives provided by election methods. Delaware elected a single representative from the First (1789) to the Twelfth Congresses (1811), and then a second representative through the Seventeenth (1821) Congress. The at-large election of one representative effectively made the state a single-member district. Delaware then used the simplest application of the general ticket to elect two representatives until 1822, when it reverted back to a single representative. The figure presents the number of House of Representatives candidates per seat and the winning pluralities through these Congresses.

In the state's first federal election five candidates received respectable vote shares. Federalist John Vining won with a 44 percent plurality, and Anti-Federalist Rhodes Shankland finished second with almost 24 percent of the vote. By the fourth election in 1794 two candidates, Federalist Henry Latimer and Republican John Patton, combined to win over 95 percent of the vote; Patton was elected with a 51 percent majority. From that point forward Delaware's House elections were almost always contested by two primary candidates per seat, with this pattern only briefly altered in 1806 when three

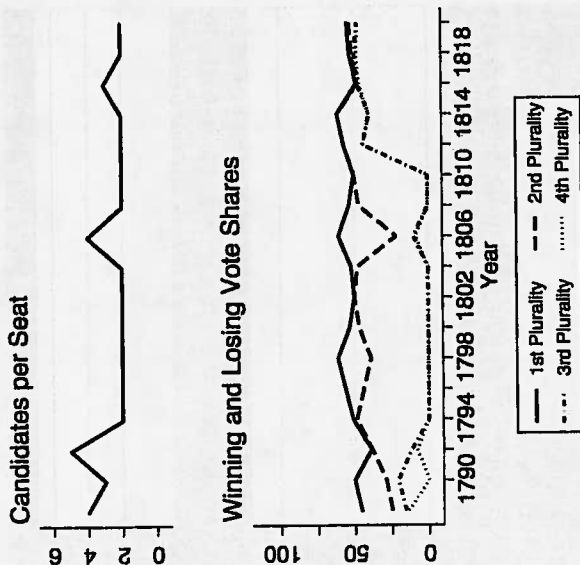


Figure 4.1. Delaware: 1789–1820. Source: A New Nation Votes.

Republicans entered the field, securing pluralities of approximately 21, 10, and 8 percent respectively. Federalist James M. Broom won the election handily with over 60 percent of the vote.

In 1812 the election system changed to electing two candidates by general ticket, and the vote difference between the first- and second-place candidates, and the third- and fourth-place candidates, immediately collapsed. In this election Federalists Thomas Cooper and Henry M. Ridgely were elected with nearly identical vote shares of 56 percent. Republicans Richard C. Dale and David Hall finished third and fourth respectively, with pluralities of approximately 43 percent. In effect, the election became a majority contest between two party slates.

By 1816 Delaware's political environment became more competitive, demonstrating one of the very few instances in which a representative from each party was elected under the general ticket. In this case Federalists failed to coordinate well, and two minor Federalist candidates won a combined vote share of just over 10 percent. This was sufficient to allow Republican Willard Hall to secure the second seat by a fraction of a percent over the

second Federalist candidate, Caleb Rodney. In the absence of the two additional candidates, the Federalists would have won both seats handily. Nonetheless, the overall pattern in elections is clear. By 1798 most elections were contested by two primary candidates per seat. When the state elected a single representative, winning candidates generally secured a majority of the vote. The second-place candidate was always competitive, and third- and lower-place candidates received negligible vote shares. The vote share of the second loser increased dramatically in 1812 when a second seat came into play, but as expected the number of candidates remained about two per seat, and the minimum winning plurality remained approximately 50 percent of the vote.⁴¹ In Delaware at least, the protoparties understood the rules and competed accordingly.

New Jersey presents an interesting example of election irregularities, malfeasance, and corruption. As Figure 4.2 suggests, this was also true in the early republic. New Jersey's political environment was significantly more complex than Delaware's. It elected five or six representatives, depending on the apportionment, in a politically contentious state in which electoral rules and practices were sometimes changed quickly for political advantage. After 1800 the Republicans dominated the state so overwhelmingly that in 1803, 1804, 1810, 1816, and 1818 the Federalists mounted no organized attempt to contest these elections. Throughout most of the early republic New Jersey used the general ticket to elect representatives. It switched to SMD plurality elections for the 1798 election and to dual-member districts in 1813. Both changes advantaged the Republicans during brief periods of increased Federalist strength. In 1796 Federalists swept the House election on the general ticket. Recognizing that their support was geographically concentrated in the north, the Republican-controlled assembly districted for the 1798 election, leading to the election of three of their own to the Sixth Congress.⁴² Republicans again changed the rules in 1812 when they postponed the general ticket election scheduled for that autumn until spring 1813, when the state's six representatives would be elected from dual-member districts. This strategy worked well as two Republicans were elected from the northern First District. The smaller pluralities in 1814 owe to the Federalists contesting, although in vain, this election in response to the 1812–1813 shenanigans. This election notwithstanding, the Republicans enjoyed an overwhelming advantage, as reflected in very high winning pluralities. In 1802–1804, 1810, and 1816–1819 Republican candidates swept the general ticket with close to 100 percent or more of the possible vote. That

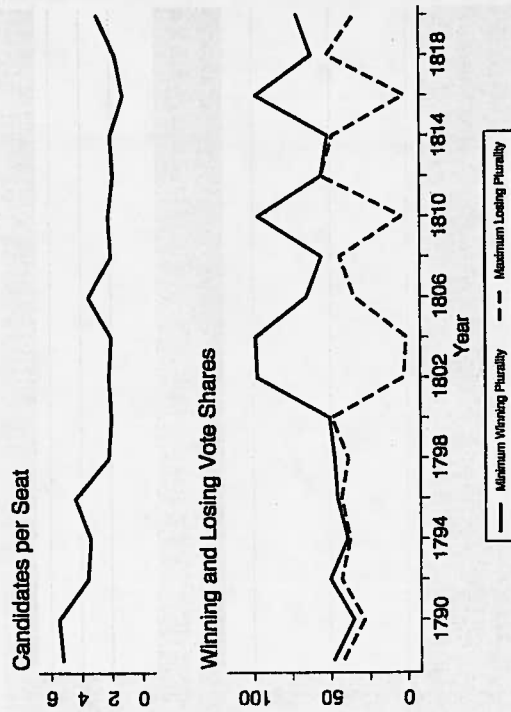


Figure 4.2. New Jersey: 1789-1820. Source: A New Nation Votes.

said, the number of candidates per seat approached two or fewer as the state moved into the nineteenth century. Combined with the 1798 and 1812-1813 rule changes, this clearly illustrates that political leaders understood that electoral systems shape results and that these could be changed to one's advantage.

Figure 4.3 graphs the average number of candidates per district and the first- through fourth-place pluralities in Massachusetts. Massachusetts relied almost exclusively on single-member districts during this period, but election was by majority rather than plurality rule. If no candidate secured a majority, subsequent elections were held until a candidate emerged with a majority of the vote. The majority requirement generally invited candidate entry into the election because one might attempt to advance to a runoff field more advantageous to one's eventual election. However, the Massachusetts system was not a true runoff because any candidate who competed in the first round could also stand in subsequent elections. In practice, weaker candidates often stood aside or received few votes, but elections that failed to generate a majority sometimes witnessed several rounds of voting before a candidate was elected. For example, the November 1796 election in the Eastern First District saw three candidates split the vote with pluralities

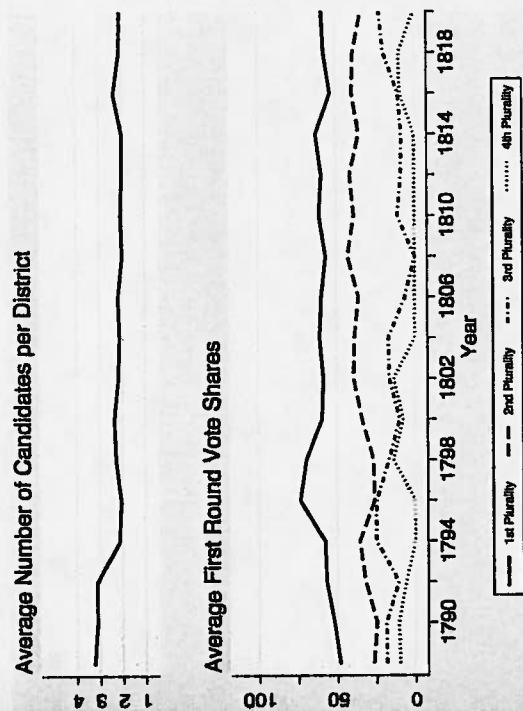


Figure 4.3. Massachusetts: 1789-1820. Source: A New Nation Votes.

between 28 and 40 percent. The second round in February 1797 was contested by the same three candidates, who finished in the same order with none receiving a majority. Finally, the two leading candidates stood for a third election in May with Federalist Isaac Parker obtaining 53 percent of the vote. In the first two federal elections most districts required multiple ballots to elect a representative. Thereafter elections were typically decided in the first round, with this becoming more common over time. Following the second apportionment about two-thirds of all district elections were decided on the first ballot. After 1802 multiround elections were uncommon, and electoral majorities were almost always secured on the first ballot.

Consistent with this, the average number of candidates competing per district declined significantly between 1794 and 1796, and stabilized around two per district for the balance of the first party era. Likewise, the average first-round vote share increased during roughly the same period, settling between 50 and 60 percent for the remainder of the era. This is not surprising since the pattern of political competition stabilized in Massachusetts in the early 1800s, with Republicans dominant in the eastern and far western parts of the state, while Federalist strength was concentrated in central Massachusetts. The central Massachusetts fifth and sixth districts,

were competitive in that two or more candidates received substantial vote shares. Still, having complete returns for twelve of nineteen House elections in 1797 is remarkable, and the proportion of complete returns increases in time. Figure 4-4 graphs the average number of candidates per district per year and the average vote-share pluralities for the competitive elections. The average number of candidates per election-year graph includes those districts where only one candidate received votes, while the vote shares are calculated only for those districts where two or more candidates received votes.

The most obvious characteristic of these elections is that the average number of candidates per district over the period never exceeds two. This is primarily because a significant number of elections were uncontested. For example, in 1801 we have complete information on twelve district elections, and only six of these featured two or more candidates. Throughout the first-party era in Virginia roughly 40 percent of House contests were uncontested. A typical example of competition in these districts is provided by Republican John Randolph's experience. Randolph was elected in 1799 from the Virginia Piedmont Seventh District, defeating Federalist Powhatan Bolling with approximately 60 percent of the vote. In 1801 he was elected from the same district unopposed. Following the 1801 reapportionment, Virginia's House delegation increased to twenty-two; Randolph's district was redrawn with modest boundary changes, and Randolph was again elected to the House unopposed, as he was in 1805 and 1807. Some districts were more competitive. For example, Virginia's Fifth District, located in the western part of the state following the 1802 reapportionment, featured contested elections in the five cycles between 1803 and 1811, with Republicans winning four of these elections and the Federalists capturing the seat once. Likewise, the Tidewater Virginia Twelfth District returned exactly the same record during this period. In addition, many districts, especially toward the latter part of the period, were contested by two Republicans with no Federalist opposition. For example, no Federalist won in the Virginia Third District after 1797, and no Federalist contested an election after 1813. Many of these two-candidate contests after 1810 were among Republican candidates.

The vote shares tell a similar story. These are again only calculated for the competitive races, but in these the average winning share in a cycle tended to be a comfortable majority of about 60 percent. The average second-place finish was in the 37 percent range, and when a third candidate competed, their vote shares over the period were just over 10 percent. The first- and

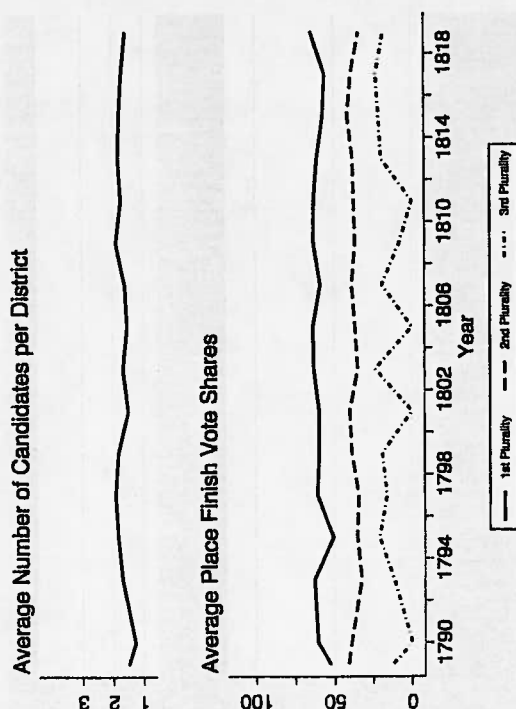


Figure 4-4. Virginia: 1789-1820. Source: A New Nation Votes.

for example, consistently elected Federalists to Congress while the eastern districts, excluding Boston, were reliably Republican. The districting system in Massachusetts, along with the experience of competing under the majority requirement, routinized political competition. The fortunes of Republicans and Federalists waxed and waned with the political tides, but both parties were always competitive for a share of the Massachusetts congressional delegation.

Figures 4-4 displays similar information for Virginia, which elected its representatives from single-member districts using the plurality rule. The Old Dominion enjoyed long experience with district elections defined by corporate entities. In colonial times it elected its House of Burgesses from dual-member districts that corresponded to county boundaries.⁴³ The number of candidates seeking election in these districts averaged about four, decreasing to about three or so immediately before the revolution.⁴⁴ When the state adopted SMD plurality elections for federal elections it was unsurprising that the number of vote recipients per district rarely exceeded two. Election-return data for Virginia are spotty for the first few elections. For example, for the 1797 House election we have complete returns for only twelve of Virginia's nineteen districts. Of these twelve districts, only eight

second-place pluralities are quite smooth because these are averaged over several contests in each cycle, whereas third-place pluralities exist only in a handful of elections. Overall, the figure presents a picture of electoral stability. Candidate entry into these elections was selective, with a large percentage of races are uncontested. Competitive districts tended to lean either Federalist or, more commonly, Republican. In the more competitive districts winners still generally obtained office with a comfortable vote margin. The Virginia political world was largely stable and predictable, and political elites and citizens responded accordingly, as reflected in the decision to stand or not stand for election or to vote for tertiary candidates.

It is not important to explore the weeds here, but one can get a sense of district competition and how it developed by looking at examples of elections in individual districts across time. The difficulty in studying districts across time is that they are not static; districts are rearranged and changed with each new apportionment. The reapportionment after the first census increased Virginia's House representation from ten to nineteen, so district numbers from the first two Congresses bear little relationship to those in the third. Under the first apportionment Virginia's Fifth District was in the center of the state. Following reapportionment that number was assigned to a district in the southwest. It is worth noting here that the general practice of assigning numbers to districts itself dates to the nineteenth century. In the early republic districts were more often identified by geographic entities, such as the name of the largest county in the district. In addition, following reapportionment the geographic extent of districts was greatly reduced. As a general rule, at best one can study within-district political competition in an apportionment period.

Fortunately this is not true for Maryland. Maryland apportionment did not change between 1803 and 1822, and because of that the state experienced only minor redistricting. Indeed, the boundaries for some districts remained largely unchanged for these two decades.⁴⁵ Figure 4-5 shows the vote shares for Federalist and Republican candidates in the Maryland Second and Seventh Districts during this period. These districts are directly across the Chesapeake from each other on the western and eastern shores respectively. In at least one respect, these districts are atypical in that both were relatively competitive during the period. Federalists tended to do better in the western Second District but also ran competitively in the eastern shore, winning in 1816 and nearly so in 1820.

The important feature of this figure is not that these districts witnessed

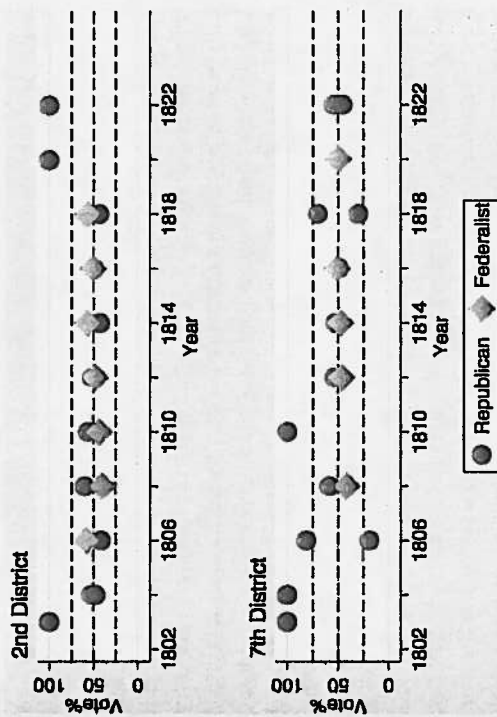


Figure 4-5. Maryland: 1803-1822. Source: A New Nation Votes.

two-party competition in the sense we understand today; they did not. These were organized factions and protoparties, not modern political parties. What is important is that when these districts were contested it was by two candidates. Also, in these years Republicans dominated Maryland politics—Republicans won about three-quarters of the House elections during this period. This dominance often enticed multiple Republican candidates to enter races, as was the case in 1804 in the Second District, and in 1806 and 1818 in the Seventh District. In this respect, the Maryland experience was typical in that single-member districts tended to attract two candidates even when it was clear that there was little party competition. In some sense, the 1804 election in the Second District and the 1806 and 1818 elections in the Seventh District were more closely related to contemporary primary elections. Regardless, candidates, political leaders, and electors were learning, and one manifestation of that was learning to not crowd the field.

Conclusion

At the founding the states chose how to elect their representatives. As Madison's letter to Jefferson at the beginning of this chapter reveals, these choices were conscious and considered, not simply a continuation of existing colonial practices. Even states such as Virginia and Massachusetts that

had extensive experience with representative democracy had to reassess election practices because of the differences between representing corporate entities such as towns and counties and representing citizens under the new Constitution. The voluminous documentary evidence from the first federal election shows that these decisions were not lightly considered. The states chose election processes and often experimented with them before settling on an approach that would carry them through the next half century. These choices were influenced by the state's history, their cultural and political characteristics, and the desire to achieve particular political objectives or to increase state influence in the national legislature. Most of this experimenting occurred in the nation's first decade, with a subsequent pattern of electoral system quiescence extending through the first third of the nineteenth century.

Throughout this period different principles and patterns emerged that shaped the subsequent national discussions about electing the House of Representatives. Foremost among these was the understanding that the way a House delegation is elected is the prerogative of the state. It is true that constitutional amendments were introduced to mandate SMD elections for the House early in the nation's history, as discussed in the next chapter. However, the idea that it was the proper place of the national government to mandate how the states would elect representatives was never seriously entertained at the beginning of the nation's history. A bedrock principle of founding-era governance was that elections are a state-level activity and control of these processes resides in the states. So far as House elections were concerned, this bedrock began to crumble in the middle years of the nineteenth century.

The second important pattern that emerges is the ascendancy of the SMD system in House elections. By 1800 the vast majority of representatives were elected from single-member districts, and most of these by plurality rather than majority rule. This raises the question of why the states gravitated toward the SMD plurality system despite being free to adopt any system they saw fit. The large-state and small-state dichotomy clearly has purchase here; the large states used SMD elections, and the states that used the general ticket were all small. That said, the normative foundations for SMD plurality elections also helps explain the gradual voluntary agreement by most states that this method was the best way to elect a representative assembly. These values became increasingly entrenched in the early years of the nineteenth century, and reflect the decline of corporate representation as a normative

concept. The political dominance of the Republicans in the Era of Good Feelings also removed the necessity of at-large elections to secure unified congressional delegations since the Federalists were not competitive in many jurisdictions.

The third major pattern that emerges in this era is that political leaders and citizens quickly learned how to compete effectively under the electoral rules in force in their states. The volatility of the first few elections settled quickly, and thereafter excess candidates under any electoral rule disappeared and voters coalesced around the few viable candidates in any given election. The ability of like-minded political leaders, factions, and parties to do so depended critically on their ability to recognize the incentives provided by each election method and respond accordingly. It is not surprising that political leaders could do so very early in our history. They had lengthy experience with elections under the colonial system, and the learning curve was steep. The primary question for political leaders was how to select optimal rules for a given state and time, given that suffrage was broad and increasing.

This state of the electoral world raises a number of questions. The most significant is why party leaders in the late Republican era and Whig-Jacksonian era would seek to disrupt this political world by imposing electoral methods on the residual states that used either the general ticket or multimember constituencies, and how they could do this so effectively that they overcame the ingrained opposition to even desirable changes, given that election authority was vested with the states. There is no simple answer to this question, but an important component of any answer is understanding the electoral implications of moving from a period of relative political quiescence in the Era of Good Feelings to the tumultuous politics of the Jacksonian and Whig Era. This is the subject of the next chapter.