

FOREWORD BY ANGELA ONWUACHI-WILLIG

# UNPUNISHED MURDER

MASSACRE AT COLFAX AND THE QUEST FOR JUSTICE

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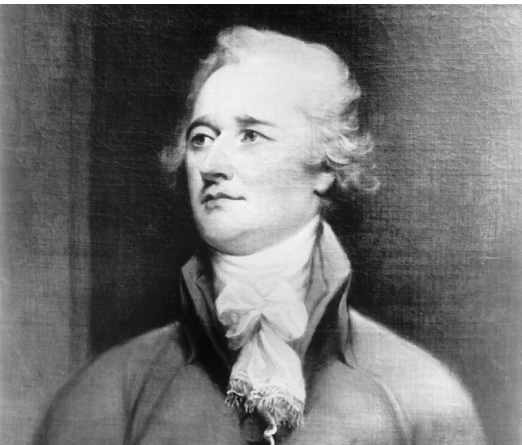
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## **A NEW GOVERNMENT— ALEXANDER HAMILTON AND “BRUTUS”**

WHEN INDEPENDENCE WAS SECURED by the Treaty of Paris of 1783, the United States was not really united at all. Under America’s governing document, the Articles of Confederation, which called itself a “compact of friendship,” each state was allowed to operate as almost a separate country—with its own laws, its own militia, even its own money. Such a system could not serve the needs of the new nation, but it would be difficult to change. Most Americans identified more with the state they lived in than with the United States.



Alexander Hamilton.



James Madison.

But some, like James Madison of Virginia and Alexander Hamilton of New York, believed the new nation could not grow, and perhaps not even survive, unless it truly became one. In May 1787, they tricked twelve of the thirteen states into sending delegations to Philadelphia, supposedly to reform the Articles. Rhode Island,

nicknamed “Rogue’s Island” for its freewheeling style in business, was perfectly happy with the Articles as they were and refused to send anyone to fix them. Once in this “convention,” Madison and Hamilton intended to draft an entirely new system of laws and then to persuade the other delegates to accept it. But the odds were not good. The issues that divided the states were stronger than those that bound them together, and no issue divided the states more than slavery. Madison himself said, “The real difference of interests, lay not between large and small, but between the Northern and Southern states. The institution of slavery and its consequences formed a line of discrimination.”

The delegates fought for four months behind locked doors, often in sweltering heat, and when the Convention finally

ended, Hamilton, Madison, and their supporters had won. On September 17, 1787, in a ceremony both solemn and joyous, thirty-nine delegates, including the Convention's presiding officer, George Washington, signed the newly drafted Constitution of the United States.

The "Supreme Law of the Land" contained seven major divisions, called "Articles," the first three of which discussed who would govern and what powers those who were elected and appointed would have. Article I dealt with the legislature—Congress—which almost every delegate believed would be the most powerful branch of government. Congress was divided into two chambers, a House of Representatives, which would be elected directly by all those who were allowed to vote, and a Senate, whose members—two per state—would be chosen by state legislatures. (After the Seventeenth Amendment in 1913, senators, too, would be elected by popular vote.) Article I is by far the longest since, with the British Parliament as a model, there was a greater understanding of what a legislature should and should not be able to do.

But the British Parliament never had to deal with whether or not slaves would be counted for representation, while in the United States this question was of equal or even greater importance than anything else the delegates had to decide. The white slaveholding South wanted slaves to be counted to determine how many seats a state would be granted in the House of Representatives; the North, which had almost no slaves, was opposed.

1 — Objections to the present confederation

I Entrusts the great interests of the nation to hands incapable of managing them —

Treaties of all kind

All matters in which foreigners are concerned —

The care of the public peace: Debt

Power of treaty without power of execution

Common defence without power to raise troops  
have a fleet — raise money

— Down to contract debts without the power  
to pay —

— These great interests of the state must be  
well managed or the public prosperity  
must be the victim —

Legislates upon communities  
where the Legislatures are to act they  
will deliberate —

No sanction —

{ To ask money not local  
— & by unjust means  
Legis

July 14. 1787.

611.

of their agent to other necessary measures. 3. They could obstruct measures on the majority, by virtue of the peculiar powers which would be vested in the Senate. 4. The evil, instead of being cured by time, would increase with every new state that should be admitted, as they must all be admitted on the principle of equality. 5. The perpetuity it would give to the preponderance of the Northern against the Southern scale, was a serious consideration. It seemed now to be pretty well understood, that the real difference of interests lay, not between the large and small, but between the Northern and Southern, States. The institution of slavery, and its consequences, formed the line of discrimination. There were five states on the Southern side on the Northern side of this line. Should a proportional representation take place, it was true, the Northern would still outnumber the other, but not in the same degree, at this time; and every day would tend towards an equilibrium.

ell. Wilson would add a few words only. If

Madison's July 14 notes, when he acknowledges that slavery is what most divides the nation.

The issue put delegates from both sections in an odd position. White Southerners, who usually insisted slaves were property, had to in this case insist they were people. Northerners, who were equally firm that human beings could not be property, had to here insist they were. In the end, they compromised. For every five slaves, three would be counted for deciding representation. Since slaves could not vote, this of course meant that the vote of a white man from a slaveholding state was worth more than one from a free state. If the North had not given in on this question, however, Southern delegates would have walked out, and the effort to draft a Constitution would have failed. The “Three-Fifths Compromise” became the best known, but not the only, accommodation that the North made in Philadelphia to the slaveholding South.

The delegates next turned to Article II, the election and powers of the president. Drawing up this article was more difficult—it took more than 160 different votes—because, although they knew they didn’t want a king or queen, the delegates had no model on which to base an alternative. Deciding whether or not to call the president “Your Excellency” aroused passionate debate, and there were even proposals that the presidency be a council of three. In the end, although the president would be the commander in chief of the army and navy—almost all the delegates assumed the first president would be General Washington—he (and someday she) was not expected to be nearly as powerful as presidents turned out to be.