What Have We Learned from Pauline Maier?

by Ray Raphael

Ray Raphael’s latest books are Mr. President: How and Why the Founders Created a Chief Executive and Constitutional Myths: What We Get Wrong and How To Get It Right.

Upon her untimely passing Pauline Maier has been much celebrated, and deservedly so. In four important books she wrote and rewrote the history of the nation’s founding, but how seriously have her findings been treated? Her New York Times obituary appeared under this banner: “Pauline Maier, Historian Who Described Jefferson as ‘Overrated,’ Dies at 75.” A lifetime of work exploring the popular roots of revolution and nation-building was reduced to a catchy sound bite.

Maier deconstructed popular mythologies by reconstructing historical narratives, basing her work exclusively on contemporaneous sources. She had no ideological agenda other than setting the record straight, but that is no easy feat. Although traditional narratives, particularly those of a nation’s founding, are not impervious to change, they prefer to stay put. We can gain some measure of how these respond (or don’t respond) to historical correction by examining the relative impact of Maier’s work. Her impeccable research, combined with her stature within the profession, positioned Maier to nudge the
narrative – but did it move?

To determine the core national narrative of the Founding Era as presently told, I examined twenty-three college textbooks displayed at the Organization of American Historians 2013 annual convention. My choice of college texts as a measure of conventional wisdom is purposive. Unlike lower level texts that simplify the narrative, teach to the tests, and sway with the political winds, texts for college survey courses present distillations of the state of the art. Because these texts are revised frequently, albeit for commercial reasons, authors are presented with opportunities to incorporate new research and fresh perspectives, if they see fit. College texts in recent years, for example, have paid increased attention to African American and Native American perspectives of the Revolutionary War, but have they also contextualized their treatments of Samuel Adams, the Declaration of Independence, or ratification of the Constitution to reflect Maier’s findings?

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Maier’s first major book, From Resistance to Revolution, published in 1972, served as a standard text in college courses for decades. (“Haven’t people found anything better?” Maier joked bemusedly thirty years after publication.) While it did not cut new ground, it contextualized popular protest in the colonies within British culture, and it provided a careful, nuanced account of the radicalization of American politics from 1765 to 1776. With other works published in the wake of the turbulent 1960s, it depicted common people and crowd actions as contributing agents of radicalization, yet it attributed the final transition from resistance to revolution primarily to British obstinacy and ill-fated measures of oppression, a traditional story. While current textbooks do not significantly deviate from Maier’s presentation, it is difficult to judge the influence of her inaugural book. Not until Maier deviated from conventional wisdom is it fruitful to ask: who is listening?

In The Old Revolutionaries: Political Lives in the Age of Samuel Adams, published in 1980, Maier examined the meaning of “revolutionary” from the personal perspective of key individuals. She featured Adams not because was was a “one-man revolution,” as we are often led to believe, but because he exemplified the ascetic, moralistic idealism common among revolutionaries. “Virtue was the most emphatic theme of his writings and of his life,” she wrote. Adams did not preach defiance for its own sake; he preached instead, in his words, “Sobriety of Manners, … Temperance, Frugality, Fortitude.” The revolutionary ferment of the 1760s and 70s provided a “golden opportunity of recovering the Virtue and reforming the Manners of our Country,” Adams wrote. Seeking a “Christian Sparta,” Maier noted, his “model for the future lay in the past, in early New England… Adams’ personality, his politics, his revolutionary career – all these were to him tightly linked with his New England background. No man was more aware than he of the legacy of his Christian forebears, more proud of their achievements, more determined to perpetuate them into the future.” Looking backwards as much as forwards, he was more a conservative bent on restoring society than an anarchist trying to tear society down. An old revolutionary indeed.

Maier’s Puritanical Adams bore little resemblance to the flaming revolutionary Americans had come to know. In her essay on Adams for American National Biography (1999), Maier set the competing portraits side-by-side. She challenged the myth that “Sam” Adams (only his enemies called him “Sam” in his lifetime, she noted) was the rabble-rousing, streetwise “grand incendiary” of the Revolution, preaching violence to his trained “mob” and pushing for independence long before anybody else did. This view, built on “discredited Loyalist charges that the American Revolution was the work of a few agitators,” created “a full-fledged mythic Adams,” quite the opposite of the Puritanical political figure, an effective writer but not much of an orator, who hoped until late in the game “to avoid Blood and Tumult” and who tried to slow down the push for independence in Massachusetts until more of a consensus had been reached.

Decades later, despite Maier’s thorough deconstruction, the mythic Sam Adams endures. College textbooks continue to tell how the “hot headed” Adams, a “genuine revolutionary agitator,” “harangued … crowds milled in the streets” and “marshaled” his “trained mob.” On the night of the Boston Massacre, one says, “15,000 Bostonians” were “under the sway of Samuel Adams.” Another repeats word-for-word a trumped-up charge by a Tory opponent that even officials in London discredited: “Let us take up arms immediately and be free,’ Sam Adams was heard to say; ‘We shall have thirty thousand men to join us
from the Country.'" Adams, the “leading agitator,” was responsible for radical resistance in Boston and thereby the American colonies. As the exclusive agent of revolution, “the leader of the Boston radicals,” Adams “was indispensable in the drift in Massachusetts from formless resentment to armed resistance to independence… He was the one who handled the tasks that transform protest into politics.”

One text even assigns agency to Adams, by proxy, at the Constitutional Convention, which he did not attend: “Rufus King and Elbridge Gerry, Massachusetts delegates, … had learned a thing or two from Sam Adams.” Some are more restrained, and one notes, as Maier did, that Adams was “obsessed with the preservation with public virtue” and wanted only to create a “Christian Sparta,” an ideal commonwealth in which vigilant citizens would constantly guard against the spread of corruption, degeneracy, and luxury.” But this is an exception. Few Americans today have been exposed to the Samuel Adams whom Pauline Maier presented.

In American Scripture (1997), Maier contextualized the story of the Declaration of Independence in three ways.

First, its authorship. Jefferson “was no Moses receiving the Ten Commandments from the hand of God,” she wrote. The document for which he usually receives credit was produced by a five-man committee and refined by Congress sitting as the Committee of the Whole. It was “an act of group editing that has to be one of the great marvels of history.” This was not a new revelation, but in fifty-seven pages, based on contemporaneous documentation only (most traditional accounts depended heavily on the recollections of Jefferson and Adams many decades later), Maier detailed scores of significant alterations—thematic, pragmatic, and stylistic—made to Jefferson’s initial draft.

Second, its precursors. While others had noted that Jefferson was influenced by a rich intellectual tradition from the European Enlightenment, Maier focused on more immediate precedents. Local and state bodies had already produced at least ninety declarations in favor of independence, instructing their representatives to higher bodies to make a final break from Britain. Uncovering and analyzing these “other” declarations of independence was an original contribution to the field.

Finally, prior Congressional actions. Because the Declaration of Independence is treated as “American Scripture,” the traditional narrative surrounding it ignores critical measures Congress had already taken. Iconic events can obscure other events, and this is a case in point. Although demonstrative in its finality, the Declaration followed seamlessly from a decision made eight weeks earlier, on May 10, 1776, in which Congress urged states to form new governments. The radical preamble to that resolution, adopted on May 15, states that since the King and Parliament had already “excluded the inhabitants of these United Colonies from the protection of his crown,” it was “necessary that the exercise of every kind of authority under the said crown should be totally suppressed, and all powers of government exerted, under the authority of the people of the colonies.” Here was “independence” in all but name. Maier insisted, correctly, that we cannot understand the political context of the final declaration with no mention of the actions of May 10 and 15.

How much of this has filtered into college textbooks?

Acknowledging joint authorship has become a requirement for political correctness. Only one of the 23 textbooks fail to state explicitly that Jefferson worked with a committee, and even that text refers to Jefferson as the “main author,” implying the existence of other contributors. Having made this admission, however, many of the texts minimize the committee’s involvement (only “minor revisions” were made to Jefferson’s draft; the committee “delegated the task of writing the document” to Jefferson; or “Jefferson and his committee...”) or backslide into treating Jefferson as the author (“Jefferson began the preamble,” “Jefferson’s argument,” and so on). “Jefferson’s pronouncement, couched in a lofty style, was magnificent,” says the 2014 edition of The American Pageant, the exact same words that appeared in the original 1956 edition.

Four of the twenty-three texts feature Maier’s “other” declarations of independence. Three others note that some Congressional delegations received instructions to vote for independence but make no
further mention of instructions from lower bodies. (xviii) Four include the key Congressional actions of May 10 and 15, antecedents to independence. (xix) (Not surprisingly, the single text featuring both the “other” declarations and the earlier Congressional actions lists Maier’s American Scripture in its “recommended reading” section.) (xx) In the remaining thirteen texts, Congress’s vote for independence follows extensive treatments of Paine’s Common Sense, with no attention given to political actions by local and state bodies or to acts of Congress that directly affected independence. The Declaration of Independence stands alone, an iconic moment, much as Jefferson stands alone, or at least above all others, as its iconic author.

The tally here: Maier has made some impact on the traditional story, but her findings have not yet been adopted as common wisdom.

*Ratification: The People Debate the Constitution, 1787-1788* won the George Washington Book Prize and received rave reviews in the mainstream press (*New York Times, Washington Post, Wall Street Journal*), but reviewers did not elucidate Maier’s unique recasting of the debates. Several scholarly reviews also failed to note what Maier brings to the table. The review in *Journal of American History* found nothing new in Maier’s treatment, calling it “a fairly conventional” account that reads “like the official history of the ratification,” while only one of the five participants in a *William and Mary Quarterly* roundtable on the book paid attention to Maier’s new take on the political calculus of ratification. Accolades notwithstanding, many readers seem to have missed much of what she said. (xxi)

At the outset, Maier observed that the nomenclature that has traditionally defined the contestants – “Federalists” vs. “Antifederalists” – is seriously misleading. As others have noted, the term “Federalist” was applied in the summer of 1787 to those who wished only to strengthen the confederation, not create a supreme national government, yet supporters of the Constitution successfully commandeered the term for themselves, thereby saddling their opponents with a negative-sounding “anti.” For Maier, this was only part of the problem. “Federalist” versus “Antifederalist” suggests a strict dichotomous division, whereas the distinction between supporters and critics of the Constitution was somewhat “porous at the center.” (xxii) Most supporters of the Constitution admitted it was not perfect, while most critics agreed with much of the new proposal. Debates that led to political outcomes in several key states took place on this middle ground, which dualistic renderings fail to acknowledge.

Underlying all the debates, in her view, was the procedure established for ratification: state conventions were required, in the words of George Mason, to “take this or nothing.” Without any means for amending the document prior to ratification, the people, in whose name the Constitution was supposedly written, were being asked merely to add their assent to a document not of their own making. This meta-issue colored all substantive ones. If the people objected to specific provisions they deemed significant, how could they sign on to the whole?

In Pennsylvania, the first state to vote on ratification, Robert Whitehill and William Findley, who would later lead the opposition, initially said they “had nothing against the principles of the proposed plan” and “the people generally are disposed to have a [national] government of more energy.” But the demand that they “take this or nothing,” and the haste in which they were expected to grant their approval, “converted men who had had hoped to ‘perfect’ the Constitution into its opponents.” (xxiii)

In Massachusetts, another key state and the sixth to vote on ratification, “take this or nothing” came to a head. Supporters of the Constitution, hoping to sway enough critics to secure a majority, suggested nine amendments for Congress to consider after ratification. Again, Maier’s treatment and the conventional one diverge. Maier noted there was no “promise” that amendments would be added, as is often reported, only a stipulation that the Massachusetts delegation would introduce them in Congress. Nor were these amendments considered at the time a “bill of rights,” another common misconception. They bore little resemblance either to the state declarations of rights or to what we now call our national Bill of Rights. Instead, they addressed a variety of issues: defining federal court jurisdiction over interstate civil disputes (a $3,000 minimum for the Supreme Court and $1,500 for lower federal courts), stipulating that “Congress erect no Company of Merchants with exclusive advantages of Commerce,” and so on. (xxiv)
Further, Maier noted, Samuel Adams, deciding at the last moment that the proposed amendments did not sufficiently protect liberties, introduced what he and others did consider a bill of rights: a long amendment that foreshadowed key provisions of the eventual First, Second, and Fourth Amendments to the United States Constitution. Adams’s bill of rights was resoundingly rejected, with Adams himself voting against it once he saw it was doomed to defeat. (xxv)

In traditional renditions, debates in Virginia and New York have been similarly misrepresented, Maier claimed. In these states, critics of the Constitution (staying true to her principles, she refrained from the misleading label "Antifederalist") pushed for a second convention to consider amendments before ratification, while supporters, not wanting to open a Pandora’s box, still insisted on “take this or nothing.” In the common accounting, Federalists compromised by promising a “bill of rights,” as they allegedly had done in Massachusetts, but this was not the case. Virginia and New York did list amendments, structural changes to the body of the Constitution, but ratification was not contingent upon them. New York called for a second convention, but it agreed to ratify without one. Virginia prepared a wish list it called a “bill of rights” (North Carolina was the only other state to use that term) as well as twenty other amendments, but the convention agreed to ratify without any guarantee of either a second convention or passage of amendments of any sort. No state convention “promised” that a “bill of rights” would be passed. Conflating “amendments” with a “bill of rights” wreaks confusion everywhere, and Maier took great pains to distinguish between the two. Unless we do so as well, we will never understand the history of ratification or the derivation of what we now call the Bill of Rights.

In the Epilogue, Maier offered her most radical claims: Our view of the so-called Bill of Rights reads history backwards in two ways. First, our current idea of individual rights does not cover the fundamental political right of representation, which had triggered the American Revolution and then caused much debate during ratification. Can a government be held accountable to the people when representatives serve large districts, when taxes are levied by a body whose members have little communication with their constituencies, when senators serve for six years, when Congress can raise a standing army in times of peace, and so on? The right of representation was central to arguments over the proposed Constitution, and the Constitution’s critics would not feel their rights could be guaranteed by amendments that failed to address this overarching political one.

Second, people at the time did not envision a unified body of protective rights, as we do today, and they did not refer to the twelve amendments Congress proposed to the states as a “bill of rights.” The press did not call them that, nor did state legislatures that acted on them, nor did Madison, who had wanted to weave the amendments into the body of the Constitution, not append them as a separate bill of rights. Secretary of State Thomas Jefferson, who had long championed a “bill of rights,” did not use that term early in 1792 when notifying state governors of “the ratification by three fourths of the Legislatures of the Several States, of certain articles in addition and amendment of the Constitution of the United States, proposed by Congress to the said Legislatures.” Jefferson “could have saved a lot of words by calling those amendment a bill of rights,” Maier commented, but he did not. (xxvi) When, how, and why did the First Ten Amendments become the Bill of Rights, the collective body we treat them as today? This was Maier’s inquiry when she died. (xxvii)

*Ratification* was published only three years ago, and most current college textbooks have yet to incorporate Maier’s views. This might change, but even texts with new editions perpetuate mythologies she deconstructed. Some explain the politically motivated nomenclature, yet they continue the casual use of the term “Antifederalist.” Maier did not fault those who opt for the “old historical convention,” but she did fear, correctly I believe, that this facilitates a simplistic formulation of the debates. (xxviii) None of the twenty-three texts even hints at a “porous” center, those many Americans, perhaps even the majority, who welcomed most aspects of the Constitution but wanted some adjustments.

Nor do any of the texts feature “take this or nothing,” which colored all the debates. Only one, fleetingly, refers to the push for a second convention, (xxix) while only two mention proposed amendments without specifically linking them to the words “bill of rights.” (xxxi) Typically, textbooks conflate “amendments” with “bill of rights” and speak of Federalist “promises” or “assurances” that a “bill of rights” would be enacted. In Massachusetts, “to win over other delegates, Federalist leaders assured the convention that they
would enact a national bill of rights,” one text reports. Antifederalists made “Federalists promise that they would agree to add a bill of rights later,” says another. (xxxi) Virginia and New York ratified “on the assumption that a bill of rights would be added in the form of amendments to the Constitution,” says yet another. (xxxii) This is the basic line followed by most texts, and none takes a significantly different tack.

Not a single textbook mentions the amendment deemed by Maier most dear to critics of the Constitution and most threatening to its supporters: prohibiting direct taxes unless a state, once requisitioned, failed to produce its share of revenues. Maier saw this proposal and other structural alterations placed on the table by state conventions as keys to the political etymology of the first ten amendments. To prevent the tax amendment and additional changes to the Constitution from coming before a second convention, Madison offered some amendments that critics complained were no more than a “pinch of snuff.” (xxxiii) Madison’s brilliant maneuver resulted in the first ten amendments we so cherish today, yet this pragmatic narrative, so easily documented, finds no place in current textbooks.

By contrast, The Federalist essays (often called by a name they accrued in 1961, The Federalist Papers), which Maier noted had but limited influence on the ratification debates, are featured prominently and praised profusely in each and every one of the twenty-three texts. The commonly accepted story, once again reading history backwards, concludes that since we view The Federalist with such reverence now, it must have had great historical impact. Only two of the texts, while still highlighting The Federalist essays, concede their limited impact on ratification. (xxxiv)

It is too soon to tell whether textbooks will ever acknowledge that The Federalist, cited so often in Supreme Court cases, plays a greater role today than it did at the time, or that the amendments we call the Bill of Rights, enshrined in American culture and jurisprudence during the twentieth century, resulted from a political ploy to preserve Congress’s unfettered power to tax. We like the current rendition better: ratification was a compromise, with Federalists getting their Constitution and Anti-Federalists their Bill of Rights. This feel-good tale, which Maier revealed is historically flawed, will be difficult to dislodge. We like to think that the historical Bill of Rights was integrally linked to the original Constitution, and the notion that Federalists “promised” a Bill of Rights to secure ratification promotes this misconception. Tying the Constitution and the Bill of Rights together in this manner has serious implications. It allows us to see the Constitution itself as an attempt to limit government rather than imbue the federal government with “energy” and “vigor,” in the words of its framers.

Through sloppy history, the tail now wags the dog. Today, when we hear talk of the Constitution, it is often within the phrase “our Constitutional rights.” Rarely do we hear about “Constitutionally empowered government,” although that was the clear purpose of the entire endeavor. On September 5, 1787, while the Federal Convention was still in session, a writer for the Pennsylvania Gazette put it this way: “The Year 1776 is celebrated for a revolution in favor of Liberty. The year 1787, it is expected, will be celebrated with equal joy, for a revolution in favor of Government.” (xxxv) The United States Constitution, as viewed at the time, was first and foremost about effective and responsible government, a simple enough message it would seem. Maier’s work on ratification and the Bill of Rights could help us recall that obvious truth.

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Endnotes


One might think that the increased attention to popular protest in the Revolutionary days would lead people to question the top-down dynamic that underlies the “Sam” Adams mythology: Adams called the shots and the people did his bidding. Instead, because they now devote more attention to popular
movements, many authors feel an even greater need to highlight a protagonist who leads the crowd and drives the story of the revolution forward. Waving the banner of popular movement, Adams leads the pack more often rather than less so. A comic book sold in gift shops along Boston’s Freedom Trail portrays Adams speaking to a crowd on two different occasions, and each time the crowd responds: “Adams is right!” (Matt Doeden, *The Boston Tea Party*, Charles Barnett III, ill., (Mankato, MN: Capstone, 2005), 5, 25.) This remains the face of popular protest fostered by “Sam” Adams mythologies, despite Maier’s careful scholarship.


xii Ibid., 37.


 xix Keene et al., *Visions of America*; Faragher et al., *Out of Many*; Norton, *People and a Nation*; Davidson et al., *Experience History*.

 xx Faragher et al., *Out of Many*.


 xxiii Ibid., 60, 66.

 xxiv Ibid., 197. Other amendments dealt with the ratio of representation in Congress, a restriction of federal powers with respect to congressional elections, a stricter proscription against titles of nobility, and restrictions on the time and manner of collecting direct taxes. One amendment foreshadowed the eventual Tenth Amendment, one required a grand jury indictment in cases that might lead to “infamous punishment or loss of life, and another called for jury trials, upon request, for interstate civil cases. For the text of the amendments see Jensen, Merrill, et al, eds., *Documentary History of the Ratification of the Constitution* (Madison: State Historical Society of Wisconsin, 1976—), 6:1469-71.

 xxv Maier, *Ratification*, 204-5. Merrill et al., *Documentary History of Ratification*, 6:1452-54 and 1490. The text of Adams’s amendment: “And that the said Constitution be never construed to authorize Congress to infringe the just liberty of the press, or the rights of conscience; or to prevent the people of the United States, who are peaceable citizens, from keeping their own arms, or to raise standing armies, unless necessary for the defense of the United States, or of some one or more of them, or to prevent the people from petitioning, in a peaceable and orderly manner, the federal legislature, for a redress of grievances, or to subject the people to unreasonable searches and seizures of their persons, papers or possessions.”
Maier, *Ratification*, 460. Maier also noted that in the mid-twentieth century, when called upon to display the “official” Bill of Rights, the National Archives could find only a copy of the first twelve amendments sent to the states for ratification. No contemporaneous copy of a “Bill of Rights” existed. (Ibid., 467.)

Although she had not yet published her research, she did give some talks on the matter, including this one at Georgetown Law School on April 10, 2013:

http://apps.law.georgetown.edu/webcasts/eventDetail.cfm?eventID=2001 (The talk begins at fifteen minutes.)

Maier, *Ratification*, xiv.


Ibid.; Keene et al., *Visions of America*.


Brinkley, *Unfinished Nation*, 139.

Maier, *Ratification*, 453.

A handful of texts (Keene et al., *Visions of America*; Boyer et al, *Enduring Vision*), while still highlighting The Federalist essays, concede their limited impact.

Quoted in the frontispiece to Max M. Edling, *A Revolution in Favor of Government: Origins of the U.S. Constitution and the Making of the American State* (New York: Oxford University Press, 2003). Edling used this quotation to title his book, which linked the Constitution to the creation of powerful nation-states elsewhere at the time. This is the scholarly work I heard Maier mention, and praise, most often.
Pauline Maier was one of the most prolific and prominent American historians of her generation. The daughter of a fireman, she was born Pauline Rubbelke in Minnesota in 1938. Rubbelke was educated at Radcliffe College in Massachusetts; during her studies there she met her future husband, Charles S. Maier, a student and later history professor at Harvard. Pauline Maier graduated in 1960, studied in London then returned to complete her doctorate at Harvard. Most of her academic career was spent as a professor of history at the neighbouring Massachusetts Institute of Technology. Maier was a proli