

# How a decades-long conversation shaped the young United States

By [Kenneth W. Mack](#)

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Akhil Reed Amar’s [“The Words That Made Us: America’s Constitutional Conversation, 1760-1840”](#) is the rarest of things — a constitutional romance. Amar, an eminent professor of law and political science at Yale, has great affection for his subject as a text that is worthy of loving engagement by scholars and the public at large. His 700-page narrative covers the “main constitutional episodes” that Americans faced as they revolted against Britain, created a Constitution and Bill of Rights, and built a new nation. Amar argues that the rebellious British subjects sparked a decades-long “constitutional conversation,” which eventually drew in men such as John Adams, George Washington, Alexander Hamilton, Thomas Jefferson, James Madison and Chief Justice John Marshall. His book appears at a time when the Constitution has been criticized for its [suppression](#) of the revolution’s popular impulses, its undemocratic features [such as the electoral college, its embeddedness in slavery and its deliberate exclusion](#) of so many from its iconic invocation of “We the People.” Amar’s story is more celebratory, but the strength of his argument depends on whether his central metaphor of a conversation accurately captures what is at stake in this book.

“The Words That Made Us” starts on the familiar ground of Massachusetts, and with equally familiar figures such as the young Adams, Massachusetts Bay Gov. Thomas Hutchinson and Boston lawyer James Otis Jr. as they became important characters on differing sides of the coming revolt. These figures were part of a transatlantic conversation between Britain and its North American colonies that emerged from the French and Indian War, a debate whose participants grappled with whether and how Parliament could tax the colonies. Amar argues that the colonists learned they were a nation by conversing with one another — writing letters, arguing in pamphlets and newspapers, coming together in the Continental Congress, and eventually writing the Declaration of Independence and the Articles of Confederation. It was “America,” he argues, not Jefferson, that wrote the declaration and authored independence, as former colonists refined their arguments in countless conversations.

Yet, recent scholarship has unearthed many other origin stories for the forces that unsettled British and North American hierarchies and made revolution possible. Native Americans defended their land in what was then the West. Enslaved people revolted in the British Caribbean (around the same time as the familiar Massachusetts events). Farmers rebelled against taxes in the North Carolina Piedmont region. All these actors forced questions onto the agenda of the British and the colonists, but few of them produced the kind of epistles that this book examines. Oddly enough, Amar notes that 10 percent of the Continental Army was Black at the close of 1776, without further explication. He is partly aware of these deficits and argues that the voices of Blacks, women and others entered the conversation only in the 19th century (the subject of his next book), when figures such as Frederick Douglass finally appear. During the era of Constitution-making, by contrast, “Indian tribes were not active and effective participants in the emerging system of constitutional discourse” — at least as he defines it.

“USA 1.0” morphed into what Amar calls “USA 2.0,” as Americans used the constitution-making process for the new states to revise the software for their emerging system and eventually craft the 1787 Constitution. Along the way, Amar delivers brilliant chestnuts of interpretation, arguing for instance that revolutionary Americans experimented with ideas that anticipated some elements of the British dominion system. Amar stresses the democratic aspects of their process, including that the federal Constitution was concise enough to be reprinted in newspapers — at least for those who could read. (Literacy was comparatively high but quite unevenly distributed.) States like Massachusetts also modeled democratic values when they began to write their own fundamental charters by consulting the citizenry at large. Amar is fair-minded in assessing the deficits of the new document, noting for instance that the three-fifths clause buttressed enslavers’ power in the House and enabled Jefferson and a succession of enslavers to win the presidency on the backs of the enslaved.

Yet these deficits, for him, are mere contradictions — irritating bugs in USA 2.0 that would be worked out eventually, rather than features of the system. He curtly dismisses those who disagree, at one point railing against “radical-chic intellectuals” who argue on MSNBC, “with barely suppressed smirks, that Americans revolted in 1776 mainly to protect slavery” — when in truth well-respected professional historians have engaged in a spirited debate over the role that slavery played in the revolution. Amar loves his subjects — perhaps a bit too much.

The voluminous third part of “The Words That Made Us” narrows the conversation to historical actors such as Washington, Hamilton, Jefferson, Madison, Marshall and Andrew Jackson — the kinds of figures who populate constitutional-law professors’ worlds — as they argued over how to interpret the new document. There are quite illuminating discussions of, for instance, Marshall’s famous opinion in *McCulloch v. Maryland* concerning the national bank, where Amar shows how the chief justice modeled constitutional interpretation for the nation using the document’s text, structure, history and a pragmatic awareness of the needs of the past and present, in contrast to present-day constitutional originalists’ search for the abstruse “public meaning” of 18th-century words. But the questions resolved here tend to be those such as who was the better constitutional interpreter (Hamilton beats Jefferson and Madison), or who best saw the logic of the new system (Hamilton and Washington), or whether the court invented judicial review in *Marbury v. Madison* (no). Amar notes that these men argued in a style that might be easily read by the people, but the populace at large, it appears, has dropped out of the conversation entirely.

“The Words That Made Us” is intended to be a big book, not just in size. Amar freely confesses that he hopes his book will take its place alongside classic works by historians such as George Bancroft, Charles Beard and Gordon Wood. It is too early to make such predictions, but one should note that these classic authors attained their influence and staying power in part by capturing something that characterized their era, as well as something less timebound. In a moment that has produced profound debates on such topics as America’s place in a larger world and its racial, ethnic and religious composition, it is open to question whether a book that traverses, often brilliantly, such a delimited range of conversation can capture what was truly at stake for Americans of the founding generation, as well as for ourselves.

## The Words That Made Us

**America’s Constitutional Conversation,  
1760-1840**

By Akhil Reed Amar

Basic. 817 pp. \$40