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American Revolution"

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Toward an American Revolution

**Exposing the Constitution
and other Illusions**

Jerry Fresia

**South End Press
Boston, MA**

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In memory of Malcolm X

Table of Contents

Acknowledgements

Chapter 1:

[Afraid To Reflect](#)

Part I: A Constitution that Disrespects its People

Chapter 2:

[Counterrevolutionay Tendencies](#)

Chapter 3:

[The Constitution: Resurrection of an Imperial System](#)

Part II: A System of Injustice

Chapter 4:

[The Lie](#)

Chapter 5:

[The Constitution and Secret Government](#)

Part III: A Song Without Knees

Chapter 6:

[When Protestors Become Police](#)

Chapter 7:

[The Need for Revolutionaries](#)

Appendix A: [Constitution of the USA](#)

Appendix B: [Federalist Paper #10](#)

[Index](#)

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Rise and demand; you are a burning flame
-Montreux

Afraid to Reflect

What I relate is the history of the next two centuries. I describe what is coming, what can no longer come differently: the advent of nihilism. This future speaks even now in a hundred signs; this destiny announces itself everywhere...For some time now, our whole European culture has been moving as toward a catastrophe, with a tortured tension that is growing from decade to decade: restlessly, violently, headlong like a river that wants to reach the end, that no longer reflects, that is afraid to reflect.¹

- **Frederick Nietzsche, 1888**

Consider certain features of the lives of three men. The first was a very wealthy man. In 1787, many considered him the richest man in all the thirteen states. His will of 1789 revealed that he owned 35,000 acres in Virginia and 1,119 acres in Maryland. He owned property in Washington valued (in 1799 dollars) at \$19,132, in Alexandria at \$4,000, in Winchester at \$400, and in Bath at \$800. He also held \$6,246 worth of U.S. securities, \$10,666 worth of shares in the James River Company, \$6,800 worth of stock in the Bank of Columbia, and \$1,000 worth of stock in the Bank of Alexandria. His livestock was valued at \$15,653. As early as 1773, he had enslaved 216 human beings who were not emancipated until after he and his wife had both died.²

The second man was a lawyer. He often expressed his admiration of monarchy and, correspondingly, his disdain and contempt for common people. His political attitudes were made clear following an incident which occurred in Boston on March 5, 1770. On that day, a number of ropemakers got into an argument with British soldiers whose occupation of Boston had threatened the ropemakers' jobs. A fight broke out and an angry crowd developed. The British soldiers responded by firing into the crowd, killing several. The event has since become known as the Boston Massacre. The soldiers involved in the shooting were later acquitted thanks, in part, to the skills of the lawyer we have been describing, who was

selected as the defense attorney for the British. He described the crowd as “a motley rabble of saucy boys, negroes, and molattoes, Irish teagues and outlandish jack tarrs.”³

The life of the third man was more complex, more filled with contradiction than the other two. He was wealthy. He owned over 10,000 acres and by 1809 he had enslaved 185 human beings. States one biographer, “He lived with the grace and elegance of many British lords; his house slaves alone numbered twenty-five.” Yet slavery caused him great anxiety; he seems to have sincerely desired the abolition of slavery but was utterly incapable of acting in a way which was consistent with his abolitionist sympathies. He gave his daughter twenty-five slaves as a wedding present, for example. And when confronted with his indebtedness of \$107,000 at the end of his life in 1826, he noted that at least his slaves constituted liquid capital. He had several children by one of his slaves and thus found himself in the position of having to face public ridicule or keep up the elaborate pretense that his slave children did not exist. He chose the latter course and arranged, discreetly, to have them “run away.”⁴

Who are these three men? We know them well. They are among our “Founding Fathers,” or Framers as we shall call them. They are the first three presidents of the United States, George Washington, John Adams, and Thomas Jefferson.

The brief sketches of these men are but glimpses into their personal lives, but some of the details are significantly revealing. They suggest that the Framers, far from champions of the people, were rich and powerful men who sought to maintain their wealth and status by figuring out ways to keep common people down. Moreover, I shall present additional evidence about the lives of the Framers, the Constitution, and the period in which it was written which supports the contention that the Framers were profoundly *anti-democratic* and afraid of the people. Some of the information may be surprising. In 1782, for example, Superintendent of Finance Robert Morris believed that a stronger central government was needed to “restrain the democratic spirit” in the states. Eric Foner tells us that Morris's private correspondence reveals “only contempt for the common people.”⁵ Benjamin Rush, “the distinguished scientist and physician” from Philadelphia and Framer (although he was not at the Constitutional Convention), would often refer to

common people as “scum.” Alexander Hamilton called the people “a great beast.”⁶ Not all the Framers resorted to name calling, but it is clear that they feared and distrusted the political participation of common people. Perhaps even more shocking than the personal opinions of the Framers, is the process by which the Constitution was ratified. As described in more detail in Chapter 3, secrecy, deceit and even violence played key roles in the Constitution's passage. These unsavory tactics were used by the Framers and their allies because the majority of the people were against the ratification of the Constitution. What is striking about this historical fact is its similarity with public policy and elite decision-making today. At times, the interests of elites and the public interest coincides. When it does not, however, elites tend to go ahead anyway. And because so much of what corporate-government elites believe to be in the national interest violates accepted standards of decency, many public policies are formulated and carried out covertly. But the point here is that covert and anti-democratic measures are not new developments. They have been the method of guaranteeing class rule ever since the Framers decided that they needed the present political system to protect their power and privilege.

It is contrary to everything we've been taught about the Framers to hear that they felt contempt for common people and that their Constitutional Convention was profoundly undemocratic. Indeed such accusations sound even less familiar in the context of the late 1980s when celebrations of the Constitution's bicentennial have brought adulation of this country's political origins to new and even more mindless heights. In its issue celebrating the bicentennial, *Newsweek* gushed, “The educated men in post-Revolutionary America,” (and one must presume that this includes the Framers), “embraced the political tradition of participatory democracy, the social pretense of virtual classlessness and the economic fact of absolute equality of opportunity.”⁷ The “Founding Fathers” are always the champions of freedom, justice, and democracy. “Reverence is due to those men...,” states *Time* magazine in its special bicentennial issue.⁸

Books and celebrity television specials packed with familiar myths and illusions have been churned out by the dozens. The Constitution itself is “the greatest single document struck off by the hand and mind of man” we are told by the the Commission on the

Bicentennial of the the U.S. Constitution. Thus on the 200th anniversary of the completion of the Constitution, former chief justice Warren Burger, on national TV, led the nation's school children and teachers in a recitation of the Preamble (“We the people...”) and President Reagan led the country in a recitation of the Pledge of Allegiance. One of the many books honoring our Constitution, *We The People* by Peter Spier, begins by stating that the “U.S. Constitution is the oldest and most significant written document of our history.” He goes on to say that the Constitution “has come to symbolize freedom, justice, equality, and hope for American citizens as individuals and as a collective, democratic nation. For two hundred years the Constitution has provided its people with rights, liberties, and a free society that people of other nations can only dream of.” How familiar Spier's words sound to those of us who have grown up in the United States. From our earliest days we are taught to glorify the Framers and the great American “democracy” that is their legacy. Even as adults we are still expected to accept the same grade-school, cartoon-like version of our founding.

As citizens we are supposed to be like the nation's school children who are given no choice but to stand by their desks and mindlessly recite a pledge of allegiance to a flag, a pledge that was introduced into schools at the turn of the century to counter the influence of ideas that immigrant school children had received from their parents and from distant lands. The fundamental purpose of bicentennial ideology, then, is to encourage us *not* to explore competing ways of thinking or to ask hard questions about our heritage. We are not encouraged to think because it is understood that thinking sometimes leads to disagreement, or worse, to the challenging of some sacred text. Instead we are encouraged to believe. Efforts to transform thinking citizens into believing citizens, we should point out, really began at just about the time that the Framers were planning the Constitutional Convention. Disturbing symptoms that common people were ignoring customs of social deference and were beginning to think for themselves led some Framers such as John Dickinson to urge that political instruments be devised to protect “the worthy against the licentious.” Benjamin Rush, in a proposal entitled “The Mode of Education Proper in a Republic,” stated: “I consider it possible to convert men into republican machines. This must be done, if we expect them to perform their parts properly, in the great machine of the government of the state.” And so it must be done today, if people are to “perform their parts

properly.” The aim of the ideological manager is, in effect, the creation of millions of “republican machines.”²

Common sense tells us that people who spend a good deal of time either acquiring or protecting a vast personal empire or defending a king's soldiers against the dispossessed would also have believed that the possession of enormous privilege was just and that protection of that privilege ought to be sought and maintained at considerable cost. Common sense should further compel us to wonder whether such people could write a constitution that would effectively transfer power from their few hands into the hands of the many, that is, into the hands of the poor, the debtors and people without property. Brian Price, an American historian who has spent countless hours studying early American elites' rise to power, asks a similar question: “Is it possible for a class which exterminates the native peoples of the Americas, replaces them by raping Africa for humans it then denigrates and dehumanizes as slaves, while cheapening and degrading its own working class - is it possible for such a class to create democracy, equality, and to advance the cause of human freedom?” The implicit answer is, “No. Of course not.”

There is a more specific purpose to all of this, however. If we do accept the illusion - the Constitution as sacred, a “shrine up in the higher stretches of American reverence” as *Time* magazine put it, then the serious problems that we face today would have to be aberrations, or deviations from the sacred text. The fundamental principles embedded within the Constitution, because it is “the greatest single document struck off by the hand and mind of man [sic]” and probably ordained by God at that, are intrinsically good. Only the sins of inept bureaucrats and politicians or the zealotry of ideologues ever get us into serious trouble. It follows from this mythology that there are no fundamental connections between the Constitution and the current crisis. Solving our problems always means going back to the Constitution and, not coincidentally, to the power relationships and privilege in the private sphere (or economy) which the Framers sought to protect.

For example, as Constitutional celebrations were unfolding in the summer of 1987, so too was the tale of government drug-running, assassination, secret government, and private control of foreign policy known as the Iran-Contra affair. A documentary produced for the public broadcasting system, “The Secret Government: The Constitution in Crisis,” and which aired in the fall of 1987, broke

new ground by revealing to a mass audience some of the facts regarding the role that the federal government has played in assassinating foreign leaders and in over-throwing democratically elected governments. Yet the documentary was quite explicit in stating that this “secret government,” rather than possibly having its roots in the distrust and fear of common people expressed by the Framers or in their protection and elevation of private power, is a violation of Constitutional principles. Of course, the Constitution was never critically examined. Instead, the sense of empowered citizenship was invoked as the hallowed words “We the People” were dragged slowly and dramatically across the screen, patriotic music provided the backdrop of sanctification, and Bill Moyers intoned, “Our nation was born in rebellion against tyranny. We are the fortunate heirs of those who fought for America's freedom and then drew up a remarkable charter to protect it against arbitrary power. The Constitution begins with the words ‘We the People.’ The government gathers its authority from the people and the governors are as obligated to uphold the law as the governed.”

So what is missing? Moyers said not a word about corporate power, which the Framers chose to insulate from popular accountability and which has since grown and become concentrated and arbitrary in ways unimaginable to elites of the eighteenth century. The failure of the Constitution to provide checks against corporate (private) power can be directly linked to the private control of foreign policy. This defect, so obviously undemocratic, has become increasingly exposed. Moyer's revelations divert our attention away from this essential flaw and thus serve as a quite sophisticated, albeit ineffective, cover-up. Nor did Moyers tell us that some government officials such as the Director of Central Intelligence, who may spend money “without regard to the provisions of law and regulations relating to the expenditure of government funds,” are not obligated to uphold certain laws as are the governed. Could it be that by design the Constitution requires that a few “considerate and virtuous” citizens check and balance the “interested and overbearing” majority? Perhaps, but such subtleties tend to complicate, if not contradict, what must be among the greatest stories ever told, namely that the Constitution begins with the words, “We the People.” Stop there, we are told. Do not go any further. For to go beyond the grade-school version of our founding is to raise the possibility that the Constitution might be defective in some fundamental way. Viewers might conclude that U.S.-sponsored terrorism may not be a deviation from Constitutional

principles but rather the logical consequence of a system which protects the freedom of a handful of Americans to control a good deal of the earth's resources and, correspondingly, the lives of millions of people scattered around the globe. Similar connections between our founding ideas and the virulent racism that now exists, the subordination of women, the massive inequality that marks our society, and what some are pointing to as irreversible environmental degradation could also be made. To move beyond the history constructed for us, then, would be to admit the possibility that one could expose and call into question the legitimacy of the Framers and the system of elite rule they established through the Constitution. It would be permitting citizens of today to become more intimately familiar and identified with the lives and values of the people - a majority - one must emphasize, who opposed the Constitution at the time it was given to the states for ratification. Of course, if the ideological managers were to permit an honest reassessment of who the Framers really were and what they really did, nothing might come of it. But it is the very intensity itself of the ideological stranglehold over our own history which suggests that it is ruling elites, not you or I, who are afraid that if a candid assessment of the Framers and the Constitution were to become common knowledge, it would help citizens to explain their sense of political powerlessness and invite the kind of self-discovery that underlies effective radical politics. "The monopoly of truth, including historical truth," states Daniel Singer, "is implied in the monopoly of power."

Three Obstacles to Effective Radical Politics

The central theme of this book can be summarized as follows: We live in an undemocratic system that is a major source of terror and repression, both at home and around the world. In large measure this is due to the tremendous concentration of unchecked corporate power. Our responsibility, as citizens and as a people, is to challenge the structure of power within our society, particularly the private power of the corporate-banking community. The Constitution prohibits this. In fact, the Constitution was intended to ensure that only a few people would run the government and that they would be the few who would run the economy. The crisis confronting us, in other words, demands effective radical politics and a departure from many Constitutional values, assumptions, and principles. Effective radical politics, however, is inhibited by our acceptance and glorification of the Constitution and the Framers

who engineered its ratification. It is as if we believe the IBM ad which stated, “The Constitution is a political work of art...and...It's also the most important contract of your life.” We shouldn't have to depend upon or live by IBM's conception of justice today anymore than we should have to depend upon or live by the conception of justice articulated by rich and powerful white men, many of them slaveowners, who lived 200 years ago. Our values are not their values. The government of the United States does not, in its policies, express the decency of its people. It lacks legitimacy. And we need to confront that fact.

Ideologically, then, there are three obstacles to effective radical politics. They are 1) respect for the Constitution as a fair and equitable and democratic document; 2) the underlying belief that the U.S. government is fair, acts justly, or would under ordinary circumstances; and 3) a reluctance on the part of most citizens whose values are at odds with those expressed by corporate and state policy to engage in confrontation. In Chapters 2 through 4, I discuss why the Constitution is not a fair and equitable document, why it impedes rather than encourages democracy, and why it is, ultimately, a constitution that disrespects its people. In Chapters 4 and 5, I explain why I believe that the government of the United States, in order to meet its obligation of protecting the private empire of corporate elites, cannot meet its obligation to promote the common interest of the majority of its people and cannot, therefore, act justly under ordinary circumstances. I argue in this section that we live in a system of injustice. Finally, in Chapters 6 and 7, I argue that each of us as citizens must develop a sense of self-respect and self-confidence that necessarily challenges the role set for us by the Framers as obedient and dependent “republican machines.” We need, as I explain below, to learn a “song without knees.” Before moving on, let us discuss each of these obstacles a bit further and then briefly review the lives of the “founding fathers” so that we get a better sense of just who they were.

A Constitution That Disrespects Its People

I have been suggesting that *at the very heart of our political institutions, at the very core of our way of doing politics is fear and distrust of the political activity of common people.* As we explore more deeply the vision of the Framers and the historical context of their work, we shall find that the Framers repeatedly expressed what

they felt was the need to *check and balance* the political expression of people who were not like themselves, who were not involved in the market economy, who did not own much property, and who were not very rich. John Adams believed that “Men in general...who are wholly destitute of property, are also too little acquainted with public affairs to form a right judgment, and too dependent on other men to have a will of their own.”¹⁰ In fact, when the Framers used the term “the people” they had in mind the “middling” property owning people or, generally speaking, the middle class. It is the political expression of this middle class which they also distrusted but which they felt they had to permit if property owners were to be free from government interference. The Framers were thus willing to permit the limited participation (through the House of Representatives - remember that the Constitution did not permit the direct election of the Senate and we still do not elect the president directly) of white males who met state property qualifications.

The political expression of classes below the middle class property owners, women, or people of color, indentured servants, or people with no property - in short, the “people in the first instance” as Charles Pinckney called them, or the majority, was simply “nonsense” and “wrong.” Political expression by these groups was not permitted and as we shall note, the Constitution was purposefully made to be anti-majoritarian in several ways. Representatives were to be of and among “the better people” who would have a material stake in society, who would be less given to some common impulse of passion, and who would be able to tell us what our real needs and interests are. Amendments have broadened the definition of “the people” to include most of those who were excluded in 1787. But the Constitution's very design, its processes, and its structure still gives life to the eighteenth century elitist belief that rich and powerful people ought to rule. The Constitution still disrespects the political wisdom of most people, of workers, particularly people of color, of women, and of those who happen to be poor.

A System of Injustice

The vision of the Framers, even for Franklin and Jefferson who were less fearful of the politics of common people than most, was that of a strong centralized state, a nation whose commerce and trade stretched around the world. In a word, the vision was one of

empire where property owners would govern themselves. It would be a nation in which ambitious industrious (white Anglo-Saxon) men would be finally free from the Crown and from the Church to do with their property as they pleased and as their talents permitted. It would be a nation organized around private power where there would be freedom to acquire wealth and the function of the state and of its executive would be to protect these freedoms and opportunities, defined as natural rights. Meanwhile, it was perceived that the only real threat, to paraphrase Madison, to the rights of the few virtuous citizens and therefore to the “common good,” would come from the overbearing majority, the people without property. For it is the less virtuous and less industrious people, the people in debt for example, who would seek to redistribute property and invade the rights of others.

There is a tension, then, between the elite who privately own productive resources and the multitudes who are made dependent, who, as Karl Marx noted, must sell their lives in order to live. Within this relationship of power, the Constitution protects the power of the more powerful. It does this because the Framers believed that it was the right of a few “better” people to own and control much of the earth's resources. And it does this because the Framers believed that the lives of women, people of color, and the poor ought to be defined in terms of the desires and interests of the rich. Resistance to this tyranny, from the Whiskey Rebellion of 1794 to the revolutionary leaders of today who are genuinely committed to directing meager resources to the majority poor in the Third World, are and have been brutally repressed because the national army created by the Constitution is directed by that document to preserve these relationships of disparity. Of course, relationships of disparity are not referred to as such by elites. They would prefer to call them “our rights” and “our freedom.” Thus “our” concepts of rights and of freedom are interwoven with the Framers' vision of conquest and empire and privilege.

A “Song Without Knees”

Eric Foner writes that in the minds of the “founding fathers” was a “view of human nature as susceptible to corruption, basically self-interested and dominated by passion rather than reason. It was because of this natural ‘depravity’ of human nature that democracy was inexpedient: a good constitution required a ‘mixed’ government

to check the passions of the people, as well as representing their interests.” We should add that the “founding fathers” were less worried about checking their own passions. They did not see themselves as depraved. Only common people were depraved.¹¹

We are the legacy of that warped view. Thomas Ferguson and Joel Rogers point out that none of the major initiatives of the Reagan administration (tax cuts for the rich, budget cuts in social programs, and increased militarism, particularly increased funding for nuclear weapons and the sponsorship of terrorist armies such as the Contras) followed popular initiatives. Instead they were initiated by business elites.¹² Ours is a system, as Noam Chomsky regularly reminds us, of elite decisionmaking with occasional ratification by an irrelevant public. When one studies the views of the Framers, one discovers that it was never intended to be otherwise. The larger problem, however, is that we have become used to playing a subservient role. We live, politically, *on our knees*.

Martin Luther King, Jr. at times stated that perhaps one of the greatest accomplishments of the Civil Rights movement was that blacks, who had been brought to America in “darkness and chains,” had learned to “straighten up their bent backs.” “We won our self-respect,” he said. An inner sense of dignity had been acquired. Stephen Oates, a King biographer, writes with regard to one particular woman in the movement:

For her and the others who participated, the movement of 1965 became the central event of their lives, a time of self-liberation when they stood and marched to glory with Martin Luther King. Yes, they were surprised at themselves, proud of the strength they had displayed in confronting the state of Alabama, happy indeed, as Marie Foster said, to be “a new Negro in a new South - a Negro who is no longer afraid.” And that perhaps was King's greatest gift to his long-suffering people in Dixie: he taught them how to confront those who oppressed them.....¹³

In so many ways all of us live in chains and darkness. Writes Starhawk, “Women, working-class people, people of color, and people without formal education, are conditioned to think of their opinions and feelings as valueless. They are taught to listen to an

inner voice that murmurs, 'You shouldn't say that. You only think that because something is wrong with you. Everybody else knows more about things than you do.' ”¹⁴ We have yet to learn to straighten our backs. We wish to believe that confronting those who disrespect us is somehow bad or itself disrespectful. But we need to learn that proper confrontation is a source of dignity and a necessary first step to politics. Otherwise politics becomes draining. For without a sense of confidence and purpose we play by the rules the Framers set down, rules that were designed for the “depraved.”

In Nicaragua, there is a song called “Song Without Knees.” It tells of life under the dictator Somoza and how the revolution was a process in which people learned to get off their knees, learned to stand up and express themselves as healthy and creative people. Here in the United States we too need to learn a “Song Without Knees” so that we can create space for a *politics without knees*, a politics which is rooted not in the fear and distrust of common people, but one which departs fundamentally from the myths and illusions of the founding period which hold many of us hostage in a state of comfort, denial, and unfortunately, irresponsibility.

The “Founding Fathers”

These 35 Framers were considered the most active. Unless otherwise indicated, the following information was drawn from chapters 5 and 7 of Charles Beard, *An Economic Interpretation of the Constitution of the United States* (New York: The Macmillan Company, 1948); Chapter 8 of Clinton Rossiter, *The Grand Convention* (New York: The Macmillan Company, 1966); and Page Smith, *The Constitution* (New York: William Morrow and Company, 1978).

Abraham Baldwin of Georgia

He was a wealthy lawyer who possessed a few thousand dollars worth of public securities. He wanted the Senate to be composed of men of property so that they could check the House of Representatives which was apt to be composed of men of less substantial wealth and therefore closer to the common people.

Gunning Bedford of Delaware

He was the son of a “substantial land owner,” a lawyer, and was eventually elected governor of his state. He was in favor of a more democratic Constitution than the one we have now which he felt checked the “Representatives of the People” more than was necessary.

William Blount of North Carolina

He was born into a substantial planting family and was very deeply involved in land speculation. He enslaved human beings.

Pierce Bulter of South Carolina

He enslaved thirty-one human beings. He also was a stockholder and director of the first United States bank. He felt that no congressional representatives should be directly elected by the people, that the Senate ought to represent property, and that slavery ought to be protected. He was responsible for the Constitution's fugitive slave law and he also “warmly urged the justice and necessity of regarding wealth in the apportionment of representation.”

George Clymer of Pennsylvania

He possessed a large fortune, held public securities, and helped create the Bank of Pennsylvania. He believed that “a representative of the people is appointed to think for and not with his constituents.” And later as a member of Congress “he showed a total disregard to the opinions of his constituents when opposed to the matured decisions of his own mind.”

John Dickinson of Delaware

He was a member of one of the established landed families of the South, a lawyer, and he married into one of the wealthiest commercial families in Philadelphia. He wanted a monarchy and refused to sign the Declaration of Independence. He seems to have constantly worried about the “dangerous influence of those multitudes without property & without principle.”

Oliver Ellsworth of Connecticut

He was the most successful lawyer Connecticut had yet known with a fortune “quite uncommonly large.” He held public securities and invested in the Hartford Bank and the Hartford Broadcloth Mill. He was also regarded, perhaps more than any other member at the Convention, as someone who feared “levelling democracy.” He argued that voting be limited to those who paid taxes. Regarding slavery he said, “As slaves multiply so fast...it is cheaper to raise than import them....[But] let us not intermeddle. As population increases; poor laborers will be so plenty as to render slaves useless.”

Benjamin Franklin of Pennsylvania

He was a printer, scientist, author, diplomat and land speculator who had accumulated a “considerable” fortune. More than anyone at the convention, he was sympathetic to meaningful self-government. Because of this he was known to have serious doubts about the Constitution but signed it anyway. Charles L. Mee, Jr., in *The Genius of the People*, states, “Franklin disliked the document, thinking it cheated democracy.”

Elbridge Gerry of Massachusetts

He was a Harvard graduate and a merchant with a considerable estate. In reference to the political unrest at the time of the Convention, he complained that “The evils we experience flow from the excess of democracy.” He did not want any members of the new national government to be elected by popular vote, having been taught the “danger of the levelling spirit.” Although he was quite active at the Convention, Gerry had numerous objections to the final draft and he refused to sign it.

Nathaniel Gorham of Massachusetts

He was a successful merchant who was involved in land speculation on a large scale. He expressed what was then the general attitude about the one chamber that was popularly elected (given the restricted franchise) when he said, “All agree that a check on the legislative branch is necessary.” He was sympathetic to monarchy and during the Convention secretly wrote to European royalty in hope of involving someone with royal blood in governing the United States.

Alexander Hamilton of New York

He was an eminent lawyer who perhaps more than any other delegate was responsible for organizing the Convention, and later, as Secretary of the Treasury under President Washington, for implementing the Constitution and institutionalizing its relation to the private economy. He greatly admired monarchy and time and again emphasized the need to check “the amazing violence and turbulence of the democratic spirit.” Hamilton believed that government ought to be an instrument in the hands of creditors, financiers, and bankers. When he later sought to create a national bank, he said that it would help unite “the interest and credit of the rich individuals with those of the state.”¹⁵ His statement at the Convention concerning the relationship between government, the rich, and the poor deserves to be quoted at length because it represents what was then a very common attitude among elites:

All communities divide themselves into the few and the many. The first are the rich and well born, the other the mass of the people. The voice of the people has been said to be the voice of God; and however generally this maxim has been quoted and believed, it is not true in fact. The people are turbulent and changing; they seldom judge or determine right. Give therefore to the first class a distinct, permanent share in the government. They will check the unsteadiness of the Second....Can a democratic assembly who annually revolve in the mass of the people, be supposed steadily to pursue the public good? Nothing but a permanent body can check the imprudence of democracy....It is admitted that you cannot have a good executive upon a democratic plan.¹⁶

William Samuel Johnson of Connecticut

He was a wealthy and successful lawyer and graduate of Yale who refused to help in the War of Independence because he could not “conscientiously” take up arms against England. Clinton Rossiter describes him as “the nearest thing to an aristocrat in mind and manner that Connecticut had managed to produce in its 150 years.” He was one of the few northerners at the Convention who simply

did not worry about slavery or the slave trade.

Rufus King of Massachusetts

He was born into and married into wealthy families, was a Harvard graduate, and had extensive mercantile and other business interests. He was also a large holder of government securities and was later director of the first United States bank. King argued in favor of a strong unimpeachable executive and urged that the judiciary be permitted to check the political tendencies of common people whom he felt would use legislatures to attack the privilege of property owners. He was responsible for the clause which prevented any state from passing any law “impairing the obligation of contracts.” This clause greatly helped the rich, as we shall see.

John Langdon of New Hampshire

He was “uniformly prosperous” and a “man of great wealth and pressing commercial interests,” the “leading merchant” from Portsmouth. He was a large creditor of the new government (the third largest holder of public securities among all the Framers) and a strong supporter of a national bank.

James Madison of Virginia

He was a descendant of one of the old landed families, studied law at Princeton, and at one time enslaved 116 human beings. He has been called the “most active of all the moving spirits of the new government.” For this reason he is acknowledged as the “Father” of the Constitution. He greatly feared that the majority of people with little or no property would take away the property of the few who held quite a bit. He very much liked the Constitution because he believed that it would check the majority from establishing “paper money,” the “abolition of debts,” an “equal division of property,” or other “wicked projects.” And in general it would prevent the majority from “discovering their own strength” and from acting “in union with each other.” His defense of the Constitution in *Federalist No. 10*, found in the Appendix, is the most concise and clearest example of the political thought that undergirds our political institutions. Because his role in the design of the Constitution was so central, I shall quote him frequently; his political thought weighs heavily upon us today.

Luther Martin of Maryland

He was a successful lawyer and graduate of Princeton, but his fortune was never large. He enslaved “only” six human beings. He was in sympathy with poor debtors generally and argued that the government ought to protect the debtor against the “wealthy creditor and the moneyed man” in times of crisis. He refused to sign the Constitution, given its protection of creditors, and fought hard against its ratification.

George Mason of Virginia

He was a speculator in land, owning some 75,000 acres. He also owned \$50,000 worth of other personal property and he enslaved 300 human beings. Like many large slaveowners, he feared a strong national government and a standing army. He was a strong proponent of the right of individuals to own property without government interference. Given the lack of a Bill of Rights and the strong central power sanctioned by the Constitution, Mason feared that the new system would result in “monarchy or a tyrannical aristocracy”; he refused to sign it. Mason is a classic example of a Framer for whom “rights” meant the protection of private power and privilege. Mason did not object to the anti-democratic features of the Constitution, rather he objected to the fact that a national government might someday interfere with his individual freedom as a property owner, that is, his “rights.”

John Francis Mercer of Maryland

He enslaved six human beings. He also held a moderate amount of public securities. He stated that “the people cannot know and judge of the characters of candidates. The worst possible choice will be made.” He left the Convention early, and strongly opposed the ratification of the Constitution.

Gouverneur Morris of Pennsylvania

He was a lawyer who was born into the landed aristocracy of New York. A rich man, he helped establish the Bank of North America. He was “an aristocrat to the core,” once stating that “there never was, nor ever will be a civilized Society without an Aristocracy.” He believed that common people were incapable of self-government

and that poor people would sell their votes. He argued, "Give the votes to people who have no property, and they will sell them to the rich who will be able to buy them." Voting should be restricted to property owners. He shaped the Constitution more than most men at the Convention (he made 173 speeches, more than anyone) and was responsible for the style in which it was written.

William Patterson of New Jersey

He was a lawyer, graduate of Princeton, and attorney general of New Jersey who was born in Ireland. He resisted the creation of a strong central government and left the Convention early.

Charles Pinckney of South Carolina

A successful lawyer, and a considerable landowner, he enslaved fifty-two human beings. Taking the side of the creditor against the debtor, he had been among the Congressmen who were critical of the Articles of Confederation and sought the creation of a centralized national government. At twenty-nine, he was the youngest member of the Convention. He believed that members of government ought to "be possessed of competent property to make them independent & respectable." He wrote to Madison before the Constitution was ratified, "Are you not...abundantly impressed that the theoretical nonsense of an election of Congress by the people in the first instance is clearly and practically wrong, that it will in the end be the means of bringing our councils into contempt?"

General Charles C. Pinckney of South Carolina

A successful lawyer who worked for the merchants of Charlestown, he was also a large landowner in Charleston, and he enslaved human beings. He felt that the Senate ought to represent the "wealth of the country," that members of the government ought to hold property, and according to Clinton, believed in the need "for stiff measures to restrain the urges of arrant democracy."

Edmund Randolph of Virginia

He was a successful lawyer who owned 7,000 acres of land. He enslaved nearly 200 human beings. He held considerable public securities. He believed that the problems confronting the United

States at the time were due to the “turbulence and follies of democracy.” The new Constitution, therefore, ought to check popular will. He thought that the best way of doing this would be to create a independent Senate composed of relatively few rich men.

George Read of Delaware

A successful lawyer who “lived in the style of the colonial gentry,” enslaved human beings, and was a signer of the Declaration of Independence. He was in favor of doing away with states and wanted the President to be elected for life and have absolute veto power.

John Rutledge of South Carolina

He was a very successful lawyer who also owned five plantations. He enslaved twenty-six human beings. He said that the defects of democracy have been found “arbitrary, severe, and destructive.” We see in Rutledge a clear expression of the notion that the general welfare is, in essence, economic development and accumulation. With regard to the issue of objections to slavery, he stated: “Religion & humanity had nothing to do with this question. Interest alone is the governing principle with Nations. The true question at present is whether the Southern states shall or shall not be parties to the Union. If the Northern States consult their interests they will not oppose the increase of Slaves which will increase the commodities of which they will become the carriers.”

Roger Herman of Connecticut

He was a shoemaker, storekeeper, farmer who rose from poverty to affluence and he also owned public securities. A signer of the Declaration and drafter of the Articles of Confederation, Sherman was not terribly enthusiastic about a strong national government. But nor was he enthusiastic about popular sovereignty. He said, “The people immediately should have as little to do as may be about the government. They want information and are constantly liable to be misled.”

Caleb Strong of Massachusetts

He was a lawyer and Harvard graduate. He owned public securities

and seems to have accumulated considerable wealth. He was in favor of more frequent congressional elections than what the Constitution eventually mandated. He left the Convention early and went home.

George Washington of Virginia

As we have noted, by several accounts Washington was the richest man in the United States and he enslaved hundreds of human beings. He made only one speech at the Convention and seems to have had no particular theory of government. He distrusted popular democratic tendencies and viewed criticism of the government, as Beard notes, as “akin to sedition.” He also feared the growth of urban populations, stating that “The tumultuous populace of large cities are ever to be dreaded. Their indiscriminate violence prostates for the time all public authority.”

Hugh Williamson of North Carolina

Educated as a medical doctor, he inherited a great trading operation. He also speculated in land and owned public securities. He wrote Madison following the Convention that he thought an “efficient federal government” would in the end contribute to the increase in value of his land. He sided with creditors against debtors in his state. At the Convention he was generally in favor of shifting power away from the states toward the national level.

James Wilson of Pennsylvania

Born in Scotland, he was a successful lawyer whose clients were primarily “merchants and men of affairs.” He was one of the directors of the Bank of North America. He was involved in the corrupt Georgia Land Company and held shares “to the amount of at least one million acres.” He later became a member of the Supreme Court. He was apprehensive, as were most of his colleagues, about the opportunity that common people would have to express themselves politically through legislatures. But he also believed that the judiciary would be a sufficient check on popular will. He, therefore, was in favor of more popular participation in the selection of government officials (popular election of the President and the Senate) than the Constitution permitted.

Notes

Chapter 1

[1.](#) Frederick Nietzsche, *The Will to Power* (ed.) Walter Kaufman and (tr.) Walter Kaufman and R.J. Hollingdale (New York: Random House, 1967), 4.

[2.](#) Charles A. Beard, *An Economic Interpretation of the Constitution of the United States* (New York: The Macmillian Company, 1948), 144, 145.

[3.](#) Howard Zinn, *A Framers History of the United States* (New York: Harper & Row, 1980), 67.

[4.](#) Fawn M. Brodie, *Thomas Jefferson* (New York: W.W. Norton & Co., 1974).

[5.](#) This statement was made in a lecture at the Evergreen State College, Olympia, Washington, in October 1987.

[6.](#) Eric Foner, *Tom Paine and Revolutionary America* (New York: Oxford University Press, 1976), 190. Here I am using the term Framers broadly. It refers not only to those who wrote the Constitution but to others such as John Adams, Thomas Jefferson, Benjamin Rush, Robert Morris and others who played leading roles in shaping our political and economic institutions.

[7.](#) *Newsweek* , May 25, 1987, 47.

[8.](#) *Time*, July 6, 1987, 35.

[9.](#) John F. Kasson, *Civilizing the Machine* (New York: Penguin Books, 1976), 31,32.

[10.](#) Foner, 123.

[11.](#) Foner, 90.

[12.](#) Thomas Ferguson and Joel Rogers, *Right Turn: The Decline of the Democrats and the Future of American Politics* (New York: Hill and Wang, 1986).

[13.](#) Stephen B. Oates, *Let the Trumpet Sound* (New York: Harper & Row, 1982), 361.

[14.](#) Starhawk, *Dreaming the Dark* (Boston: Beacon Press, 1982), 101.

[15.](#) Wilfred E. Binkley, *American Political Parties* (New York: Alfred A. Knopf, 1943), 40.

[16.](#) Max Farrand, ed., *The Records of the Federal Convention of 1787* (New Haven: Yale University Press, 1966), 288.

[Go on to Chapter 2](#) | [Table of Contents](#)

Toward an American Revolution

Exposing the Constitution and other Illusions

Jerry Fresia

Part I

A Constitution That Disrespects Its People

We have probably had too good an opinion of human nature in forming our confederation. Experience has taught us that men will not adopt and carry into execution measures the best calculated for their own good, without the intervention of a coercive power.

- George Washington

Chapter 2

Counterrevolutionary Tendencies

When England invaded America - what we usually call "settling" it - The Crown lawyers had consulted their only precedents to rationalize the position of the new American outposts in the structure of the empire. Each colony became in legal theory a collective lord analogous to the barons who had marched into Ireland. When the Americans turned against the Crown they continued an ancient tradition of lords who have marched too far and grown too powerful to accept royal orders gladly. In this perspective the American Revolution was a barons' revolt.¹

- Francis Jennings

It is useful to think of the Framers as barons who had marched too far and grown too powerful. Sixty-nine percent of the signers of the Declaration of Independence had held colonial office under England. They were, essentially, merchants or businessmen who wanted independence or freedom from the Crown and the Church to run their businesses any way they wanted. Corporate elites would still have us believe that government is “on their backs.” But just as today, elites then would not risk altering the relationships of power and certainly would not consider sharing economic and political power with the less privileged classes. What they wanted was to create a new political economy in which they were independent from Great Britain but still in possession of power and privilege in their own society. According to John C. Miller:

[The Framers]...had no wish to usher in democracy in the United States. They were not making war upon the principle of aristocracy and they had no more intention than had the Tories of destroying the tradition of upper-class leadership in the colonies. Although they hoped to turn the Tories out of office, they did not propose to open these lush pastures to the common herd. They did believe, however, that the common people, if properly bridled and reined, might be made allies in the work of freeing the colonies from British rule and that they - the gentry - might reap the benefits without interference. They expected, in other words, to achieve a “safe and sane” revolution of gentlemen, by gentlemen, and for gentlemen.²

How were the Framers to create a new system in which the many disenfranchised would support, or at least not contest, the privilege of the few?

The Framers' Fear

English merchant capitalists who arrived in America found that whatever wealth was to be had would come from the hard labor of mining, cutting down forests, planting and harvesting crops, and constructing buildings, roads, and bridges. Investors, therefore,

arranged to bring “new hands” to the “new world” to exploit its resources. A vast propaganda campaign was launched to lure the poor of Europe to America. Roughly half the immigrants to colonial America were indentured servants. At the time of the War of Independence, three out of four persons in Pennsylvania, Maryland, and Virginia were or had been indentured servants. Of the 250,000 indentured servants that had arrived by 1770, more than a 100,000 had been either kidnapped or released from their prison sentences. And by this time, roughly 20 percent of the colonial population was in slavery. Jefferson was clear about this when he said that “our ancestors who migrated here were laborers not lawyers.”³

In the hundred years or so prior to the War of Independence, the rich had gotten richer, and the poor, poorer. For example, in 1687 in Boston, the top 1 percent owned about 25 percent of the wealth. By 1770, the top 1 percent owned 44 percent of the wealth. During this same period, the percentage of adult males who were poor, “perhaps rented a room, or slept in the back of a tavern, owned no property, doubled from 14 percent of the adult males to 29 percent.” It was during this time that the rich introduced property qualifications for voting in order to disenfranchise the poor and protect their privileges. In Pennsylvania in 1750 for example, white males had to have fifty pounds of “lawful money” or own fifty acres of land. This meant that only 8 percent of the rural population and 2 percent of the population of Philadelphia could vote. Similar situations existed in the other states. It is important to note the way in which voting qualification requirements can be used to curb political expression. Keep in mind also that voting has never been guaranteed in this country, or made a *right*, a point to which we shall return in Chapter 4.⁴

Common people were not taking this abuse sitting down. During the last quarter of the seventeenth century, militant confrontations brought down the established governments of Massachusetts, New York, Maryland, Virginia, and North Carolina. In Virginia, in a dispute over land distribution and Indian policy, white frontiersmen, together with slaves and servants forced the governor to flee the burning capital of Jamestown. England was forced to quickly dispatch 1,000 soldiers to Virginia to put down the armed insurrection. By 1760, there had been eighteen rebellions aimed at overthrowing colonial governments, six black rebellions, and forty major riots protesting a variety of unfair conditions. In addition, women were beginning to speak and write about their inequality

and would soon begin fighting the “irresponsibility of men” in family matters, and the denigration of the status of women in the public world.⁵

To be sure, common people were involved in and supported the unfolding struggle for independence from Great Britain, even though Britain's colonial policies would, for them, only end in more severe or permanent forms of subordination. But as Philip Foner points out, for common people, independence meant *freedom from the oppression of colonial aristocracy* as well as freedom from British rule. Stated one slogan, common people must be free from all “Foreign or Domestic Oligarchy.”⁶ In other words, common people were thinking in terms well beyond “independence.” They were thinking in terms of *liberation*.

We see then, that in the context of the struggle for independence, the specific aspirations of common people put them into conflict with the people we think of as the “Founding Fathers” or Framers. The Sons of Liberty, the Loyal Nine, and the Boston Committee of Correspondence and other such groups which the Framers organized were rooted in the “middling interests and well-to-do merchants” and upper classes. They have been wrongly described as revolutionary. The truth is that they took great measures to keep the peace and defuse revolutionary tendencies. As mass resistance to British policies mounted, for example, they urged, “No Mobs or Tumults, let the Persons and Properties of your most inveterate Enemies be safe.” Sam Adams agreed. James Otis added, “No possible circumstances, though ever so oppressive, could be supposed sufficient to justify private tumults and disorders...” The Boston Committee of Correspondence actually did its best to contain and control the militancy of activists involved in the Boston Tea Party.⁷

Virtually ignored by most historians is the fact that much of the resistance directed toward Great Britain by common people was an extension of the resistance they felt toward what Dirk Hoerder has described as “high-handed officials and men of wealth whose arrogant conduct and use of economic power was resented.” Rioters often damaged coaches and other luxury items of the rich. The homes of the wealthy were sometimes broken into and destroyed. The governor of Massachusetts said in 1765, “The Mob had set down no less than fifteen Houses...the houses of some of the most

respectable persons in the Government. It was now become a War of Plunder, of general levelling and taking away the Distinction of Rich and poor.”⁸

In the countryside, there was similar class antagonism. In New Jersey and New York, tenant riots led to the carving of Vermont out of New York State. And in North Carolina in 1771 there was the Regulator movement, an armed insurrection which according to Marvin L. Michael Kay was led by “class-conscious white farmers...who attempted to democratize local government.” What was the general response to this revolutionary moment by the Framers? The response of Gouverneur Morris, a key co-author of the Constitution, was not atypical: “The mob begins to think and to reason...I see and I see with fear and trembling, that if the disputes with Britain continue, we shall be under the domination of a riotous mob. It is to the interest of all men therefore, to seek reunion with the parent state.”⁹

The Threat of Democracy

As the legitimacy of the Crown's government began to collapse, the period of control by extra-legal committees and congresses established by the colonists set in. Reflecting the class hostility described above, urban workers and artisans and country farmers often formed strong alliances in order to protect themselves vis-à-vis the merchant class. For example, in 1768 mechanics from Charlestown, Massachusetts were dissatisfied with the initial non-importation agreement written by merchants because it ignored their demand for the prohibition of the importation of slaves who were being hired out as craftspeople; they decided to elect their own representatives. The *Boston Chronicle* reported that “a number of the leading mechanics of this city assembled under some trees in a field adjacent to the ropewalk in order to select six gentlemen to represent the inhabitants of Charles Town in the ensuing General Assembly.” Reading the report in the newspaper, mechanics then went to the town meeting, ignored the legal restrictions on their right to vote, and took charge of town government. One aristocrat complained two years later in 1770, “The Merchants in Boston are now entirely out of the question in all debates at their Town Meeting.” A group of merchants added, “At these meetings, the lowest Mechanics discuss upon the most important points of government with the utmost freedom.”¹⁰

The fears of the Framers were being confirmed. The underclasses were not taking orders. They were speaking for themselves. And they were making it quite clear that their vision of a new society was not the same as that of the Framers. This seems to have been particularly true in Philadelphia. In 1770, the first political meeting specifically restricted to mechanics was held and by 1772 craftsmen had organized their own political organization, the Patriotic Society, to promote their own candidates and agenda. Gary Nash notes that “By mid-1776, laborers, artisans, and small tradesmen, employing extralegal measures when electoral politics failed, were in clear command in Philadelphia.” In selecting delegates for the 1776 Pennsylvania Constitution, they urged voters to shun “great and overgrown rich men [who] will be improper to be trusted.” They also drew up a bill of rights to be considered which included the assertion that “an enormous proportion of property vested in a few individuals is dangerous to the rights, and destructive of the common happiness, of mankind; and therefore every free state hath a right by its laws to discourage the possession of such property.”¹¹

The constitution which the Pennsylvania backwoods farmers came up with was impressive. Kenneth M. Dolbeare, respected for his knowledge of U.S. political institutions, concludes that “the extent of popular control” put forward by these common people “exceeds that of any American government before or since.” Although it was not radical by some twentieth century standards (it ignored women, slaves, servants and the poor but did challenge property rights as we now know them), it dramatically reveals the degree to which our present federal Constitution is elitist *by the eighteenth century standards of common people*. For example, the document began by stating quite explicitly that all men possessed the right of “acquiring, possessing, and protecting property and pursuing *and obtaining* happiness and safety.” We will be in a better position to appreciate the egalitarian features of this constitution once we have discussed the meaning of our own federal constitution which the Framers designed, but nonetheless, the attempt to genuinely involve some common people in political decisionmaking was more honest in the document described below:

A one-house Assembly whose members were elected annually was made the seat of almost all power. The Assembly was required to function in open public sessions, and to keep full records. Legislation had to

indicate its purpose clearly in the preamble, and except in emergencies had to be published and distributed publicly by the Assembly before it could be considered for enactment - but only by the next session of that body, after another election had been held. The office of governor and its veto power were eliminated in favor of a weak Supreme Executive Council of 12 members, four of whom were elected each year for three-year terms. Judges were elected for seven-year terms, but were made removable for cause by the Assembly. A council of Censors was to be elected every seven years to review the government's performance and recommended a new constitutional convention if changes in its structure or powers were required.¹²

The reaction to this radical departure from the aristocratic liberalism of Great Britain by the Framers and their class allies was predictable. They referred to it as “mobocracy of the most illiterate,” a constitution written by “coffee-house demagogues,” “political upstarts,” and “the unthinking many who believed that men of property...men of experience and knowledge were not to be trusted...” Benjamin Rush, a Framers, called it “a tyranny. The moment we submit to it we become slaves.”¹³

The kind of system which the Framers generally had in mind was a particular kind of representative system or republic; it was one in which elites or “better people” decide what is best for “common people.” This kind of system, in fact the kind we now live under, is often referred to as *classical liberalism*. It is the aristocratic or paternalistic representative system associated with John Locke. Locke, it is important to note, was a wealthy man, with investments in the silk trade and slave trade who also received income from loans and mortgages. He invested heavily in the first issue of the stock of the Bank of England and he also advised the colonial governors of the Carolinas, suggesting a government of slaveowners run by forty wealthy land barons. The purpose of Locke's political theory was to create a political system that would support the development of mercantile capitalism in which property owners, not the Crown, held power. Therefore, the concept of “the people” associated with his theories, and the concept of “the people” used by the Framers, as we saw earlier, meant the people who owned productive property - capital, land, factories, and the like. As one

member of the British Parliament made clear, by the people “I don't mean the mob...I mean the middling people of England, the manufacturer, the yeoman, the merchant, the country gentleman.” It is also important to note, because it helps explain the views of the Framers and our way of politics today, that Locke and his contemporaries also believed that people who labored and who did not own productive property were thought of as “human capital” to be used, but they were not considered intelligent enough to govern themselves.¹⁴

We see, then, that as early as the 1760s and 1770s the democratic tendencies of common people had alarmed the Framers. Stated a Pennsylvania newspaper in 1772, it was “time the Tradesmen were checked. They take too much upon them. They ought not to intermeddle in State Affairs. They ought to be kept low. They will become too powerful.” Therefore, when the First Continental Congress convened in Philadelphia in the fall of 1774, the members of the Congress were selected from the “ablest and wealthiest men in America.” John Jay, who would later become the first Chief Justice of the Supreme Court, was chosen as president. He believed that the upper classes “were the better kind of people, by which I mean the people who are orderly and industrious, who are content with their situation and not uneasy in their circumstances.” His theory of government was simple: “The people who own the country ought to govern it.”¹⁵

By 1776, according to Jackson Main, 10 percent of the white population - large landholders and merchants - owned nearly half the wealth of the country and held as slaves one-seventh of the country's people. As Howard Zinn correctly points out, the Framers were a “rising class of important people” who “needed to enlist on their side enough Americans to defeat England, without disturbing too much the relations of wealth and power that had developed over 150 years of colonial history.” Unlike the situation in Pennsylvania, efforts of common people to build popular governments in most of the other states were defeated. In Massachusetts, for example, the new Constitutions of 1776 to 1780 increased rather than decreased property qualifications for voting. In Maryland, 90 percent of the population was excluded from holding office because of property qualifications.¹⁶

But the Framers were not out of the woods. In some respects, the

war had exacerbated class conflict (the rich could buy their way out of the draft and officers received much more pay than common soldiers); more than once, common soldiers mounted attacks on the headquarters of the Continental Congress in Philadelphia, once forcing the members to flee to Princeton across the river. And in yet still other states (Delaware, Maryland, North Carolina, South Carolina, Georgia, and to a lesser degree, Virginia), the civil strife which was part of the challenge to elite domination persisted throughout the war. Elites did succeed in adding modifications to the new bills of rights in North Carolina, Maryland, New York, Georgia, and Massachusetts that stated that “nothing herein contained shall be construed to exempt preachers of treasonable or seditious discourses from legal trial and punishment.” In other words, even after independence had been achieved, the possibility of a revolution remained.¹⁷

Military Defeat of the Common People: Shays Rebellion

Technically, Shays Rebellion was a rebellion over tax policies that took place in western Massachusetts. Politically, however, it was much more than that. It encompassed a series of defiant and militant showdowns that took place between the Framers and the common people in twelve of the thirteen states. The battles had less to do with taxes, as we shall see, and more to do with choosing the direction in which the new nation would move. Militarily, the common people were defeated in Massachusetts and in other states where skirmishes took place. In Philadelphia, at the Constitutional Convention, the Framers would consolidate their victory, and the common people would suffer a corresponding political defeat. Their hopes for community, for a moral economy, for localized political power, and for democracy would be dashed.

Although one-fourth of blacks in the North were held in slavery (30,000 blacks were enslaved in the North as late as 1810), during the 1780s the vast majority of white New Englanders, and perhaps the majority throughout the entire North, lived in a largely subsistence culture.¹⁸ That is, as one yeoman farmer stated, a farm “provided me and my whole family a good living on the produce of it. Nothing to wear, eat, or drink was purchased, as my farm provided all.” Near self-sufficiency generated feelings of self-mastery and independence, but not the independence of the

individualistic “self-made I-pulled-myself-up-by-my-bootstraps” variety. Rather it was the sense of independence associated with *community*. Small white farmers lived in a community directed culture. Their sense of independence was linked to the cooperation and interdependence of friends and family at the community level.

Women often labored in the fields along with men. Members of extended families traded labor. Neighbors traded labor and animals. Payment and exchange in nearby towns was often in goods, services, and land. Craftspeople produced not for an abstract market, but in most cases limited production to items specifically needed and required by neighbors.

Community help even extended to the new farmer in a village. “In America, a man is never alone, never an isolated being,” observed Marquis de Chastellux in 1781. “The neighbors, for they are every where to be found, make it a point of hospitality to aid the new farmer. A cask of cider drank in common, and with gaiety, or a gallon of rum, are the only recompense for these services.” During the 1780s, community cornhuskings, barn raisings, logrollings, and quilting bees symbolized the overall cooperation among rural New Englanders.¹⁹

Simply stated, common people within the white community seemed willing to take care of one another. Together, they had a greater appreciation of their common interests. Individual needs were understood, in part, as community needs.

These sets of needs and values were much different than the market-oriented approach to life pressed by the most important economic groups within coastal towns, the merchants, shopkeepers, lawyers, bankers, speculators, and commercial farmers - the class out of which the Framers emerged. The Framers and their allies sought greater economic development, expanded trade, and accumulated personal wealth. Initial gains were reinvested in order to realize increased profits. Sam Adams, for example, speculated in continental and state securities, buying them cheaply and hoping the government would back them with gold. A well known Boston lawyer in 1785 stated, “Money is the only object attended to, and the only acquisition that commands respect.” Individualism and competition were accepted and celebrated. Boston wholesaler

Thomas Hancock made clear the impoverished sense of community merchants shared when he said, “As to the profit you get on your goods its your look out, not mine. I expect my money of you when it's due.”²⁰

In the mind of the Framers, it was “every man for himself.” This deserves special emphasis because it was this understanding of political and economic (social) behavior that helps us to grasp the meaning of Shays Rebellion and later the Constitution itself. Freedom in the minds of the Framers was both freedom from others and freedom to accumulate wealth. Given this concept of freedom, community, becomes less like a family and more like a market where relations revolve around exchange. The Framers feared communities that were networks of mutual concern and mutual obligation, for when moral considerations based on traditional and community values come into play, the property owners and the money lenders are restricted to what the community has to say about how resources are used. In the Framers' world, the community becomes a set of exchanges between producers and consumers, owners and workers. People are free individuals (free from traditional, moral, or community values) in a free market, freely pursuing self-interest. The social order is held together, not on the basis of tradition or a sense of mutual responsibility but by impersonal *contracts*. With the rise of contractual relations, particularly in a society with great inequality, power is shifted away from people who were recognized as being able to interpret traditional, moral, and community rules (often religious leaders, elders, healers) toward those who owned great amounts of property and money. In addition a coercive agency is required to enforce contracts. As Howard Zinn argues, “To protect everyone's contracts seems like an act of fairness, of equal treatment, until one considers that contracts made between rich and poor, between employer and employee, landlord and tenant, creditor and debtor, generally favor the more powerful of the two parties. Thus, to protect these contracts is to put the great power of the government, its laws, courts, sheriffs, police, on the side of the privilege.”²¹

The role of the state in this setting is the key to making the market system work. It's function is to make sure the relations of exchange keep on going, to help expand or create markets (especially with regard to capital and labor), to subsidize or protect key industries, to protect the property of those who have it, to guarantee contracts, to insure that foreign or critical ideologies don't take hold, and to use

force, if necessary, in each of these undertakings.

Proponents of the new market political economy argued that it was natural, self-evident, and divinely inspired. But like all systems, it was and is not neutral. It carries with it historically specific biases which have been the source of protest to this day. In the world of individualistic competition, each person confronts every other person as a competitor and potential enemy. The individual freedom to become rich and separated from community is valued more highly than the rewards of family-like bonds found in a cooperative community. Moral standards tend to give way to standards of efficiency and productivity. Nature loses its spiritual significance and becomes a resource. Compassion and a genuine concern for others is too frequently shuffled into and contained within the private sphere, in families or love relations, or in the church. Mutual responsibility and the obligations of family and community - those troublesome, ethical, sticky, personal, emotional realms of human experience - are split off and given to women, generally, to worry about. Egoism, ambition, and upward mobility are encouraged. The stratification of society is viewed as natural, not a product of human actions.

The Framers, by virtue of the Constitution, would finally place the power, legitimacy, and force of the state squarely behind these new market values and the privilege of private elites. But keep in mind that the urgency with which they undertook that task was due to the fact that during an economic downturn during the mid-1780s, when the Framers pushed their market-relations hard, common people held fast to their vision of community, did everything they could to peacefully defend it, and then in a last desperate attempt to hang on, they fought back.

The trouble really started when merchants and coastal wholesalers got stuck, following the War of Independence, in their attempt to re-establish large-scale trade with Great Britain. British officials, who now viewed the United States as a foreign nation (and one with whom they had lost a war), decided to play hard ball. They denied New England merchants access to the lucrative British West Indies market and they demanded that the U.S. merchants pay for imports in specie (hard money or what we might say "in cash"). In other words, British officials stopped giving credit.

The wholesalers then turned around and demanded hard money or cash from retail shopkeepers in inland regions. Country store owners then turned around and demanded that farmers immediately pay back their loans in cash. But farmers, quite accustomed to the cooperative relationships in the community, felt that these demands were unwarranted and rather selfish. Besides, they had been used to paying back their loans in crops, goods, and labor. Farmers found themselves being dragged into debtor court and threatened with the loss of their land. Others were threatened with jail for unpaid debts.

Merchants had difficulty collecting debts so they tried taking legal action. In the farming community of Hampshire County Massachusetts, 32.4 percent of the county's men over sixteen were hauled into court from 1784 to 1786. The jail conditions were often abominable. In one cell, twenty-six prisoners were held without proper food or ventilation. Prisoners developed boils and sores. Some even died. To compound matters, some state governments such as Massachusetts which were practically instruments of the merchant class decided to help merchants out by shifting the tax burden away from the merchants and onto the farmers. Moreover, the increased tax burden had to be paid in hard money. The justification given for this tax policy was that it would help to promote commerce.²²

Notice the role of the state. It was protecting the interests and values of the merchant class and the market system in general. In Hampshire county, not a single retailer went to jail. This of course was the great issue. One farmer stated that “it cost them much to maintain the *Great Men* under George the 3rd, but vastly more under the Commonwealth and Congress.”²³

The common people started with peaceful protest. They worked through the existing legislatures hoping for a “traditional world in which men are justly dealt with, not a perfect world.” Specifically they sought paper money and tender laws (bartering), legislation which would have permitted them to acquire credit and a way to pay it that was compatible with a self-sufficient way of life and community values. In states where the legislature was controlled by mercantile interests, they organized town meetings and county conventions. Easily a majority of the people demanded paper money; the *New Hampshire Gazette* reported that “three-quarters at least, and more likely seven-eighths of the people” wished that

“paper money on loan be made by government.”²⁴

Notice the key features of this movement: 1) A *majority* of common people, at least in New England and perhaps across the country wanted a particular piece of legislation. But just as a majority of people today may want an end to Contra funding or a nuclear weapons freeze, such policies continue because they are policies which are considered as imperative in order to protect the interests of the most powerful class. As we shall see, the Constitution was designed to protect the few property owners from the majority. 2) Because of property qualifications and the location of capitals in the coastal areas, the merchant class was given disproportionate influence in most states. The creation of popular assemblies by farmers was a way to make *political power available at the local level*. It was a way to involve the majority in meaningful political decisions. These would-be rebels were doing what they were supposed to be doing - working together and advancing workable and feasible legislation. The Constitution would further weaken local political power and insure that it was centralized at the national level. 3) The issue was not just economic. It was social, cultural, and moral as well. Small landholders in Middleboro, Massachusetts believed that the depreciation that would be created by the issuing of paper money would enable them to escape the “most pressing demands” of the “wealthy and overbearing sets of men who can build up their fortunes on the ruins of the country in its present distressed situation.” Other farmers criticized those “who have a greater love to their own interest than they have to that of their neighbors.” The Constitution would firmly establish market rules as the law of the land.²⁵

In this context it is worth noting the actual plight of most merchants. Few merchants were without assets. Many owned large farms, had assets in stock and trade, investments in factories, and many received support from wealthy kin. “Probably most important,” writes Szatmary, “merchants had no legal obligation to discharge postwar debts owed to foreign creditors.” In other words, the debt or liquidity problem could have been solved collectively, or democratically, with the full participation of all parties. But it would have meant an entirely different social order, one based more upon respect for all people, and the sharing of political and economic power. For merchants, this was unthinkable. At issue for them was political and economic privilege and how to protect it with the development of a strong, sovereign state. They wanted to protect

their credit because they believed that the future success of *their* enterprises depended on it. And they want to protect their political power. Coastal elites, of whom the Framers were a part, strongly condemned the creation of popular assemblies as subverting the principle of “free and rational government.” They were, said one elite, “treasonable to the state” in that they “support a government of their own making.”²⁶

So for elites, there was no question of cooperation or of figuring out a way to help each other. There was no respect for genuine dissent or for a different point of view if it conflicted with their self-interests. They argued that contracts were “sacred things,” that the “right of property is a sacred right.” The right of property said one Connecticut merchant, who captured the essence of the Framer's thinking, was the “one most religiously to be respected by every society, that in these modern times wishes to flourish.”²⁷

As tax collectors carried off hogs and horses and as courts seized land, farmers, “living in a community-oriented society...were indignant at the plight of friends and relatives.” By the end of 1786, armed uprisings, often directed at stopping court proceedings, involving almost 9,000 militants or roughly one-quarter of the “fighting men” in rural areas, had broken out in Maine, Vermont, New Hampshire, Massachusetts, and Connecticut. David Humphreys of Connecticut dashed off a letter to George Washington: “We have prevented an emission of paper money and tender laws from taking place.” By mid-1787, uprisings had spread to Pennsylvania, Virginia, South Carolina, Maryland, and New Jersey. In Rhode Island, debtors had taken over the legislature and were issuing paper money. In North Carolina, New York, and Georgia legislatures passed either tender laws or issued paper money.²⁸

Meanwhile, coastal merchants who had in 1785 pressured the Massachusetts legislature to adopt a resolution “to propose to the several states a convention of delegates for the express purpose of a general revision of the Confederation” were moving fast to change the laws of the land and weaken the power of the states through the creation of a national government. By June 1786, Rufus King, co-author of the Constitution, noted that “the merchants through all the states are of one mind, and in favor of a national system.” In September of 1786, several hundred men had surrounded the

legislature in New Hampshire and demanded paper money. Daniel Shays, with 700 armed farmers, closed down court proceedings in Springfield, Massachusetts. And in September of 1786, merchant delegates from five states met at Annapolis to consider plans for a national government. They recommended that they call for a convention in Philadelphia in May of 1787. Eight of the twelve states that sent delegates to the Convention chose their delegates from October 16, 1787 to February 28, 1787, the period when the rebellion was most threatening. George Washington correctly noted that the rebellions had so alarmed state leaders that “most of the legislatures have appointed and the rest will appoint delegates to meet at Philadelphia.” James Madison also linked the motivation of the delegates at the Constitutional Convention to Shays Rebellion. He said that the rebellion in the states “contributed more to that uneasiness which produced the Convention...than those...from the inadequacy of the Confederation....”²⁹

Early in 1787, Daniel Shays began, in what was the boldest rebel action, a march on Boston with 1,000 men. Militarily, the action, not unlike the insurrection in general, was a failure. The militants fought in several skirmishes in a number of states, but were defeated in each of them, their leaders arrested, several sentenced to death, and several were hanged. But as the Framers convened in Philadelphia, small bands of farmers continued cross-border raids from New York into Massachusetts and attacked the homes of retailers, professionals, and military leaders. As late as June 8, after the Framers had been meeting for three weeks, farmers in Maryland and South Carolina were still blocking the consideration of debt suits, and in one incident forced a sheriff who was serving a writ to “eat it on the spot.”

Some Things To Remember

In 1976, the bicentennial year of the “American Revolution,” a play was performed in the western Massachusetts town of Northampton about Shays Rebellion which led the audience to believe that the Constitutional Convention which followed gave expression to the values and interests of the common people. It implied that the Constitution was a people's document. It set things right, fixed things up, and let the majority rule. Such was not the case.

The Framers were not simply supporting the merchant class against

the common people, they *were* the merchant class. They were the champions of market values. It was against them that the common people fought. It should not surprise us that an issue today which finds currency and which is captured by the slogan “People before Property” was an issue then. Time and again, merchant leaders, the Framers among them, were concerned that the general effort by common people to equalize the burden of an economic crisis and preserve bonds of mutual responsibility would undermine the “security of property.” Henry Knox, a Framers who did not attend the Convention, stated that unless the government is “strengthened...there is no security for liberty and property.” Edward Rutledge, a Framers who did not attend the Convention, argued that the rebels would “stop little short of a distribution of property - I speak of a general distribution” and that would destroy commercial exchange and lead to economic ruin. Oliver Ellsworth, co-author of the Constitution, felt that it was a “favorable moment to shut and bar the door against paper money” and tender laws which had “disgust[ed]...the respectable part of America.” George Washington, co-author, worried that the rebellion “sunk our national character much below par,” bringing U.S. “credit to the brink of a precipice.” Keep in mind the priority which property has in the mind of the Framers when we examine the Constitution itself.³⁰

It is also important to remember how swiftly the Framers turned to repressive measures to curb political expression *when that expression did not accommodate their system of privilege*. When the protest began, for example, Sam Adams engineered a Riot Act which prohibited twelve or more armed persons from congregating in public and which empowered county sheriffs to kill rioters. If convicted under the act, rioters would “forfeit all their lands, tenements, goods, and chattels, to the common wealth” and would be “whipped thirty-nine stripes on the naked back, at the public whipping post, and suffer imprisonment for a term not exceeding twelve months, nor less than six months.” Massachusetts suspended the writ of *habeas corpus*. The state was also granted the power to arrest and imprison without bail for an indefinite period “in any part of the Commonwealth any person whom they shall suspect is unfriendly to government.” Sam Adams's justification for these measures bears repeating because it underscores the attitude of the Framers toward revolutionaries which prevails to this day: “In monarchy the crime of treason may admit of being pardoned or lightly punished, but the man who dares rebel against the laws of a

republic ought to suffer death.” The right to revolution (for the middle class) advanced in the Declaration of Independence is here taken back - for good.³¹

At the Constitutional Convention, the Framers made clear their desire to enact coercive measures which would counter the revolutionary impulse that had been bubbling to the surface for twenty-five years. Alexander Hamilton told the Convention in June, “A certain portion of military force is absolutely necessary in large communities. Massachusetts is now feeling the necessity.” George Mason added, “If the General Government should have no right to suppress rebellions against particular states, it will be in a bad situation indeed.” Mason then argued for national control of the militia. James Madison agreed, “without such a power to suppress insurrections, *our* liberties might be destroyed by domestic faction (emphasis added).” Charles Pinckney, not having faith in the state militia, called for a national army: “There must also be a real military force. This alone can effectively answer the purpose. The United States have been making an experiment without it, and we see the consequences in their rapid approaches to anarchy.” John Langdon: “The apprehension of the national force will have a salutary effect in preventing insurrections.” In Article I, Section 8 of the Constitution, Congress was given the ability, finally, to “raise and support armies.”³²

Article IV, Section 4 of the Constitution reads that the United States “shall protect” every state “on application of the legislature, or of the executive (when the legislature cannot be convened), against domestic violence.” James Wilson explained, “I believe it is generally not known on what a perilous tenure we held our freedom and independence....The flames of internal insurrection were ready to burst out in every quarter...and from one end to the other of the continent, we walked in ashes concealing fire beneath our feet.” The guarantee clause (just cited) “is merely to secure the states against dangerous commotions, insurrections, and rebellions.” The delegates also agreed that the writ of *habeas corpus* could be suspended “in cases of rebellion” (Article I, Section 9). A clause intended to prevent rebels from hiding in bordering states as the Shaysites had done was also added. Article IV, Section 2 in part reads, “A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having

jurisdiction of the crime.” A similar clause relating to fugitive slaves can be found in the same section.³³

The swiftness of the Framers to quickly and forcibly snuff out the dissent of common people who dared to be equal was demonstrated again in the Whiskey Rebellion of 1794. Western Pennsylvania farmers who understood clearly that the new federal Constitution had taken political power from them, refused to pay a tax on whiskey (which had been used as currency) that had been forced on them by a commercial elite. Some 7,000 western Pennsylvanians marched against the town of Pittsburgh, feigned an attack on Fort Pitt which held a federal arsenal, and destroyed the property of some prominent people there. Washington dispatched Hamilton along with 12,950 troops, the “army of the Constitution, to the troubled area in order to put down the “enemies of order.” Because of the measures provided by the Constitution, the Whiskey Rebellion, unlike that of Shays, was immediately crushed.³⁴

The rebellions of 1776-1787 were an attempt on the part of the majority of white common people to establish a political and economic system that departed radically from the aristocratic paternalism of the colonial era. Indentured servants, blacks, Native Americans, and women (although women who met property qualifications could vote in New Jersey until 1807) were excluded. Yet small farmers and artisans did resist the vision of the commercial elites of a “splendid empire,” of a distant, impersonal, and arbitrary centralized government. Their vision was not that of a wealthy world power, but of community, free from the greed and lust for power that had marked the commercial empire of Great Britain. They placed their hope in retaining and building upon the vitality of local self-government, on town meetings, popular assemblies, recall, and referenda.

Ralph Ketcham summarizes the general attitude of those opposed to the Constitution this way: the decency found amid family, church, school, and other community oriented institutions could “impinge directly and continuously on government” so that it too might be expressive of human decency. Each town or district or ward or region was to have its own and be conscious of its particular identity rather than being some “amorphous, arbitrary geographic entity. Only with such intimacy could the trust, good will, and deliberation essential to wise and virtuous public life be a reality.”

Anything else, for them, would not be self-government.³⁵

This is not to say that the vision of the common people in question did not embody values that contributed to domination and subordination of various sorts, particularly with regard to race and gender. Yet it is clear that many common people within the white community consciously sought to establish a political economy that would prevent the arrogant and oppressive rule of people who accepted privilege as a natural right. From the point of view of the Framers this was the wrong kind of political economy, the wrong kind of vision. They had never really gone beyond the British vision of empire, of commercial growth, westward expansion, and increased national and international power and prestige. To them, the “levelling tendencies” unleashed by the War of Independence had gone too far. They sought a centralized national government, the ability to coercively suppress internal dissident movements, to regulate trade, to protect private property, and to subsidize industries which would drive the economy and the nation forward to greater horizons of productivity, comfort, and wealth. They wanted, in short, the “essence of the British imperial system restored in the American states.” And “in the name of the people they engineered a conservative counter-revolution and erected a nationalistic government whose purpose in part was to thwart the will of ‘the people’ in whose name they acted.”³⁶

Notes

Chapter 2

1. Francis Jennings, “The Indians' Revolution,” in Alfred F. Young, ed., *The American Revolution* (DeKalb, IL: Northern Illinois University Press, 1976), 322.

2. John C. Miller, “The American Revolution as a Democratic Movement,” in Earl Latham, ed., *The Declaration of Independence and the Constitution* (Boston: D.C. Heath, 1956), 9.

3. Philip Foner, *History of the Labor Movement in the United States*, Vol. 1, (New York: International Publishers, 1975), 13-18.

[4.](#) The data on wealth distribution come from Gar B. Nash, "Social Change and the Growth of Prerevolutionary Urban Radicalism," in Young, 3-37. The voting information comes from P. Foner, 28.

[5.](#) See Howard Zinn, *A People's History of the United States* (New York: Harper Colophon Books, 1980), 39,59; Alce S. Rossi, ed., *The Feminist Papers: From Adams to de Beauvoir* (New York: Columbia University Press,1973); and Barbara Leslie Epstein, *The Politics of Domesticity* (Middletown, Connecticut: Wesleyan University Press, 1981).

[6.](#) P. Foner, 33.

[7.](#) See Dirk Hoerder, "Boston Leaders and Boston Crowds, 1765-1776," in Young, 232-271; and Zinn, Chapter 4.

[8.](#) Hoerder, 243,244.

[9.](#) See Marvin L. Michael Kay, "The North Carolina Regulation, 1776-1776: A Class Conflict" in Young, 71-124; and P. Foner, 34.

[10.](#) P. Foner, 8,39.

[11.](#) Nash, 31; Eric Foner, *Tom Paine and Revolutionary America* (New York: Oxford University Press, 1976), 61.

[12.](#) Kenneth M. Dolbeare, *Democracy at Risk: The Politics of Economic Renewal* (Chatham, New Jersey: Chatham House Publishers, Inc., 1984), 2, 4.

[13.](#) E. Foner, 135-138.

[14.](#) Zinn, 74. For a discussion of Locke's treatment of the laboring class, see C.B. Macpherson, *The Political Theory of Possessive Individualism* (New York: Oxford University Press, 1962).

[15.](#) P. Foner, 84.

[16.](#) Zinn, 81

[17.](#) Zinn, 76©101.

[18.](#) The data on slavery is from Zinn, 87; the information on subsistence farming is from David P. Szatmary, *Shays' Rebellion: The Making of an Agrarian Insurrection* (Amherst, MA: University of Massachusetts Press, 1980), 1; unless otherwise specified, the account of period surrounding Shays Rebellion is drawn from Szatmary's work.

[19.](#) Szatmary, 7-8.

[20.](#) Szatmary, 11.

[21.](#) Zinn, 99.

[22.](#) Szatmary, 34.

[23.](#) Szatmary, 35.

[24.](#) Szatmary, 40.

[25.](#) Szatmary, 41.

[26.](#) Szatmary, 47.

[27.](#) Szatmary, 45.

[28.](#) Szatmary, 53.

[29.](#) See Szatmary, Chapter 7.

[30.](#) Szatmary, 124-129.

[31.](#) Zinn, 94.

[32.](#) Szatmary, 129.

[33.](#) This discussion is drawn from Szatmary, Chapter. 7.

[34.](#) Thomas P. Slaughter, *The Whiskey Rebellion* (New York: Oxford University Press, 1986), 224; the action also had the effect of raising the value of Washington's property by about 50 percent.

[35.](#) Ralph Ketcham, *The Anti-Federalist Papers and the Constitutional Convention Debates* (New York: New American Library, 1986), 17,18.

[36.](#) Merrill Jensen, "The Articles of Confederation," in Earl Latham, 17, 19.

[Go on to Chapter 3](#) | [Table of Contents](#)

Toward an American Revolution

Exposing the Constitution and other Illusions

Jerry Fresia

Chapter 3

The Constitution: Resurrection of An Imperial System

[O]ur...Founding Fathers, knew the ideas, language, and reality of empire....It became...synonymous with the realization of their Dream....Under the leadership of Madison, the...convention of 1787...produced (behind locked doors) the Constitution. Both in the mind of Madison and in its nature, the Constitution was an instrument of imperial government at home and abroad.

- **William Appleman Williams¹**

We tend to view the Constitution as having been written with the full blessing and approval of “the people.” Such was not the case. The delegates had agreed to secrecy. Few knew what happened at the convention or what was said until 1840. The *Federalist Papers* were more a defense of Constitutional principles than a record of what had transpired there. Fifty-three years passed after the Constitution had been written before notes of the convention discussions were made public. The reason for secrecy was simple. When the Constitution was completed, “the majority of the people were completely against it.”² The majority instead identified with the document which was the constitution from 1781 to 1789, the Articles of Confederation.

Under the Articles there was no Senate or Supreme Court or President. There was just one branch of government, the Congress.

A centralized government that could pass uniform legislation and coerce the states to go along or use force to put down rebellions had disappeared with the Declaration of Independence and the Articles were designed to keep it that way. There was wide agreement, particularly among the middle and lower classes that whatever the new government was to be in the United States, it should not be like the highly centralized, strongly national government of Great Britain. Rather, political power should be as close to the local level as possible; and it should be decentralized, broken down into many parts which could be brought together into a congress. But that was it. Distant, impersonal, centralized government in which a few had power over the many was feared and thought to be counter to the purpose of the struggle for independence.

The states were completely equal, each having a delegation with one vote. Congress settled disputes between the states. Elections were held every year. Declarations of war, military build-ups, or even treaties had to first have the approval of at least nine of the thirteen states. Congress could not stop a state from issuing paper money. On a regular basis, Congress could only tax to raise money for the Post Office. There were severe restrictions on holding office and a conscious effort to limit individual power. No one could be a member of Congress for more than three out of any six years; no one could be president of Congress for more than one year out of any three. Members could be recalled at any time by their respective state governments. States were not permitted to keep vessels of war in peacetime or maintain troops (unless for defense and with the approval of Congress).

Perhaps the greatest defect of the Articles was an inability to enforce or create unity. States could go their separate ways or fail to respond to particular rulings and nothing could be done about it. The Articles were also an obstacle to the development of national and international relations of trade. Congress lacked the power to regulate or coordinate interstate or foreign trade or even develop a uniform currency. Nor did it have the power to tax. The groups most troubled by the weaknesses of the Articles were those whose own private businesses were dependent upon the protection of interstate and international markets. Interstate and international trade barriers, for example, greatly interfered with merchants and producers implicated in the market economy. Emergent manufacturers were interested in protective tariffs. Many of the plantation owners and merchants were also land speculators and

moneylenders; hence they were interested in creating a strong military power which could force or use the threat of force to compel Native Americans, slaves, debtors, or similarly disadvantaged people to act in accordance with their interests, both domestically and internationally.

There was generally agreement across classes (that were permitted to express themselves politically) that the Articles needed to be strengthened. The sovereignty of the nation depended upon it. But among the common people of those classes the issue was how best to *amend* the Articles. But for a few very powerful Framers, such as George Washington, John Dickinson, Charles Carroll, Robert Morris, Gouverneur Morris, James Wilson, and Alexander Hamilton, the issue was not how to amend the Articles. They had never supported the Articles to begin with.³ For them the goal was to restructure the government entirely. The “inferior” people or “men of more humble, more rural origins, less educated, and with more parochial interests”⁴ had too much political influence; they had used state legislatures, in some instances, to curb private economic power and expansion in the interest of community. John Lloyd worried that “Gentlemen of property” too frequently lost electoral contests to men from the “lower classes.” Elbridge Gerry seems to have had a similar concern when he said that if western farmers obtained influence equal to that of eastern merchants they would “oppress commerce, and drain out wealth into the Western Country.”⁵

The Framers preferred a system more like Great Britain in which the “better” people had the authority to use the state to promote the expansion of a private economy independently of what the “inferior” people might think is in their best interest. They believed, paraphrasing John Locke, that “having more in proportion than the rest of the World, or than our Neighbours, whereby we are enabled to procure to ourselves a greater Plenty of the Conveniences of Life” was the end to which the state should be committed. Empire is freedom. It is natural. It is our right.

A Coup d'état

Although it is a misnomer, those who supported the Framers in their effort to ratify the Constitution have been called “federalists.” Those who opposed the Constitution and favored the federal form

of government provided by the Articles of *Confederation* have been misleadingly referred to as “*anti-federalists*.” The Framers who were pushing for a Constitutional Convention wanted a national government, not a federation of states, and would have been more accurately labeled “nationalists.” Most people, however, feared a national government so the Framers, in order to align themselves with those who responded well to the idea of a federation of states, began calling themselves federalists and their opponents anti-federalists. Not only did this disguise their intentions but the term “anti-federalist” made opponents of the Constitution seem obstructionist and negative.

The series of meetings that led to the convention were engineered by men who did not like the Articles. They were part of an elite consensus that was forming in reaction to the many rebellions (black and white) and democratic tendencies among excluded people and it was their private meetings that led to the initiative for the Constitutional Convention. At every turn, the popular voice was absent, and elites were increasingly empowered. *No special popular elections were held to select delegates*. Instead, delegates to the Convention were selected by the state legislatures, who were already once removed from the limited electorate. Moreover, the Constitutional Convention had been called to *amend the Articles only* and any proposed changes *had to be approved by all the states before they were adopted*. But the Framers defied these legal stipulations, abandoned their authorization to amend the Articles only, designed an entirely new centralized national government, and inserted in the Constitution that it should go into effect when ratified by *only nine states*. J. W. Burgess has stated that what the Framers “actually did, stripped of all fiction and verbiage, was to assume constituent powers, ordain a constitution of government and liberty and demand a *plebiscite* thereon over the heads of all existing legally organized powers. Had Julius or Napoleon committed these acts, they would have been pronounced *coup d'état*. “

The Constitution of the United States

A National System

At the most fundamental level the Constitution went beyond the Articles in the following way. The new Constitution (Article I,

Sections 8 and 10) simply swept away the sovereignty of the states in the areas of war and treaty-making, coining money, emitting bills of credit, and impairing the obligation of contracts. These sections also placed the state militia under control of the national government, authorized the national government to tax directly and raise a national army and navy, and gave the national government the new powers to regulate commerce and establish a national currency. Article IV, Section 3 gave the national government the power to dispose of western territories. And to make clear the supremacy of the national government vis-á-vis the states, and Article III, Section 2 and Article IV stipulated that national laws, treaties, and judicial power are superior to those of the states.

The sweep of these changes is breath-taking. First, note that the national government was now in a position to protect and develop markets (and with a national army and navy this could be done forcibly), protect manufacturers, develop a capital market by paying creditors in full, raise revenue directly, and do all this without having to wait for the approval or compliance of the states. The ability of the states to help out the debtor or disadvantaged by emitting bills of credit or by modifying contracts was outlawed. Consequently, just as so many Framers had wanted,⁶ military force was now available and authorized to be used against recalcitrant states or insurgents. Quite plainly, political power at the local level had been significantly reduced. In fact, the Framers “failed to provide any Constitutional guarantees for the lowest level of government, the municipalities...[where] political enthusiasm and activity of the American citizens had developed and flourished.”⁷ In other words, the development of an economy based upon impersonal market relations and the rational self-interested individual could go forward with full swing.

In short, a major change occurred quickly. Power was shifted from the local and state levels to the national level. This meant that political power was now concentrated in not only a few hands but in those fewer hands that held considerable wealth and economic power. The new national system assured the “commercial and financial interests...that ...potentially unpopular rules and practices would nevertheless be enforced reliably and consistently....The ability to change the economy, to deal with substantive public policy issues such as the distribution of wealth and fiscal and monetary measures, was effectively removed from popular control.”⁸ With the erosion of a way of life based upon production

for use and the encouragement of one based upon production for profit, the space for collective discussion, resistance, or non-compliance was drastically narrowed. Thus the function of the federal government was clarified. Its purpose was to protect property essential to a commercial economy (contracts, bonds, and credit) and promote the expansion and development of market relations. We may say then that the role of the government as established by the Constitution, at least implicitly, was that of *an instrument of private power* both in the political sense of limiting meaningful popular involvement and in the economic sense of imperial expansion. David Smith notes that the “imperial organization designed to advance England's foreign trade, to protect her colonial interests in North America...was the parent...of American Federalism.”⁹

Checks and Balances

One indication of how poorly we understand our political system is that we celebrate the concept of checks and balances as a hallmark of democracy. It is not. Checks and balances limit public power (the government), especially the power of the people, and thereby expands private power (owners of productive property and capital) which is left largely unaccountable to the public. It is, if anything, a hallmark of the *lack* of democracy and reflects the Framers' admiration of Great Britain and their identification with imperial thinking. The Framers set for themselves the task of designing an imperial system that would be legitimized by the consent of the governed. In the context of eighteenth-century thinking, consent of the governed included constitutional monarchy where the monarch's powers were limited and where the government included an assembly elected by the people. But any influence in the government by common or “inferior” people raised the possibility that the poor could challenge the rich, public power could be used to challenge private power. Note Madison's remarks:

...as had been observed (by Mr. Pinckney) we had not among us those hereditary distinctions of rank which were a great source of the contests in the ancient governments as well as the modern States of Europe...We cannot, however, be regarded even at this time as one homogeneous mass....In framing a system which we wish to last for ages, we should not lose sight of the changes which ages will produce. An

increase of population will of necessity increase the proportion of those who will labor under all the hardships of life, and secretly sigh for a more equal distribution of its blessings. These may in time outnumber those who are placed above the feelings of indigence. According to the equal laws of suffrage, the power will slide into the hands of the former.

In order to prevent common people from having an equal say in public affairs and to safeguard private power in general by limiting public power, the Framers chose to discard the arrangement under the Articles of Confederation where the important powers of government were vested in a single legislature and resurrect England's aristocratic system of "checks and balances." The purpose of checks and balances was this: public power would be "checked," especially the House of Representatives which was closest to the people. Moreover, the House of Representatives would be "balanced" by the interests of property by giving property owners a greater voice in two ways: 1) the Presidency and the Senate would be elected directly by property owners through the electoral college and state legislatures respectively, and 2) the Presidency and the Senate would be given more power than the House in the government. John Adams, who once stated, "We have been told that our struggle has loosened the bonds of government everywhere; that children and apprentices were disobedient; that schools and colleges were grown turbulent; that Indians slighted their guardians, and negroes grew more insolent to their masters," was the supreme advocate of checks and balances. Although he was not at the convention, many of the delegates shared his desire that the structure of the new government should follow closely on the British model.

In the British system, the House of Commons (common people or small property owners) was balanced by the House of Lords (aristocrats or large property owners) and the king. In this way, should "wicked projects" emerge from the "lower" house, such legislation could be checked by the "upper" house or if necessary by the executive, in this case the king. Again we can see that common people, in this model, are distrusted and that property owners are thought of as "better" or more "virtuous." That most of the Framers shared these assumptions and used these terms is well-documented.

The relationship of the Presidency and the Senate to the Congress

was intended to parallel the checks and balances built into the British system; property, argued the Framers, was the stabilizing force. People with property are conservative and cautious. People without property have nothing to lose and engage in foolish experiments.¹⁰ Therefore, the Framers chose to have an “upper house” or Senate which could check the House of Representatives, the “lower house.” The Senate would represent property by virtue of representing entire states (as Madison correctly noted a very large district such as a state takes in a greater variety of parties and interests making it more difficult for underclass people to sustain a majority, not to mention the greater and prohibitive campaign costs) and by having Senators elected by state representatives (who were far more connected to property than the general electorate). Senators would also be given longer terms than members of the House (six years as opposed to two).

This design reversed the popular trend toward unicameral (single chamber) legislatures, small districts, annual elections, and rotation in office. Stated Edmund Randolph, if the task of the delegates was to “provide a cure for the evils under which the United States labored,” then, “in tracing these evils to their origin every man had found it in the turbulence and follies of democracy: that some check therefore was to be sought for against this tendency of our governments: and that a good senate seemed most likely to answer the purpose.”¹¹ Historian Arthur Lovejoy concludes that the intention of the Framers in adding a senate to the legislative branch was to insure that “the poor” could never get a law passed which would be unfavorable to the economic interests of “the rich.” But for a general view, we need to come back to Madison, Father of the Constitution:

The landed interest, at present, is prevalent, but in process of time...when the number of landholders shall be comparatively small...will not the landed interests be overbalanced in future elections? and, unless wisely provided against, what will become of our government? In England, at this day, if elections were open to all classes of people, the property of landed proprietors would be insecure. An agrarian law would take place. If these observations be just, our government ought to secure the permanent interests of the country against innovation. Landholders ought to have a share in the government,

to support these invaluable interests, and to balance and check the other. They ought to be so constituted as to protect the minority of the opulent against the majority.

As Veron Parrington states, the “revolutionary conception of equalitarianism, that asserted the rights of man apart from property and superior to property, did not enter into their thinking....”¹²

Separation of Powers

Separation of powers refers to the fact that the Framers scattered each type of national power (legislative, judicial, and executive) among the various branches of government. For example, the President has the legislative power of the veto (Article I, Section 7), the Senate has the executive power of confirming certain appointments made by the President (Article II, Section 2), and the Congress and President are checked by judicial review (Article III, Section 2).¹³ The separation of powers accomplishes several things. First we see that it is a continuation of checks. Some of the checks are upon the other branches as well. One reason for this is that the Framers, as elites within the private economy, sought mainly to protect their individual freedom as property owners from state intrusion. So they checked the legislative branch as well as the other branches through the separation of powers to insure protection from a “misguided” executive (which very well could be an executive responding to the demands of the people). The point is that as the national government was purposefully made inefficient, it would leave private power, or the power of business or corporate elites untouched. As Charles Beard points out, “None of the powers conferred by the Constitution on Congress permits a direct attack on property.” Thus Madison argued in *Federalist No. 51*, “The constant aim is to divide and arrange the several offices in such a manner as that each may be a check on the other - that the private interest of every individual may be a sentinel over the public rights.”

The check upon the executive branch by the legislative branch is not like the check by the other branches upon the legislative. It is not a distrust or an indictment of the virtue and wisdom of a class of poor people. It is a simple distrust of the government or public power and a belief that private or what we today would call corporate power or

business is virtuous. Clearly, fear of the ability of common people to work their way through the legislature was far greater than the potential tyranny of the President. When asked how a system so inefficient could make any progress, Gouverneur Morris appears to have placed his faith in the paternalistic potential of the President: “It is necessary...that the Executive Magistrate should be the guardian of the people, even of the lower classes, against Legislative tyranny, against the great and wealthy who in the course of things will necessarily compose - the Legislative body.”

The separation of powers was also intended to prevent the majority from “carry[ing] into effect schemes of oppression,” that is, the egalitarian projects many small farmers had in mind. It does this because a majority of common people who gain control of the House can easily be checked by men of property who are (or were) not directly elected by the people: the Senate (elected by state legislatures then, Article I, Section 3), the President (elected by an electoral college appointed by the states, Article II, Section 1), or the Judiciary (appointed by the President and confirmed by the Senate, Article II, Section 2). Here we find full expression given to Madison's well known defense of the Constitution in *Federalist No. 10*: “Extend the sphere and you take in a greater variety of parties and interests; you make it less probable that a majority of the whole will have a common motive to invade the rights of other citizens; or if such a common motive exists, it will be more difficult for all who feel it to discover their own strength and to act in unions with each other.” Empowerment of common people was not one of the aims of the Framers.

Representation

Veron Parrington notes that the Constitution represented the first written safeguard against tyranny, “but it was aimed at the encroachments of agrarian majorities rather than at Tory minorities....An honest appeal to the people was the last thing desired by the Federalists....”¹⁴ Similarly, J. Allen Smith has stated that “[I]t was the almost unanimous sentiment of the convention that the less the people had to do with the government the better.”¹⁵ This is a terribly important point for it goes to the heart and soul of the Constitution. We know, for example, that the Framers understood that a very large segment of the voting population, perhaps a majority, had wanted paper money or tender laws. Yet in Article I, Section 10, the impairment clause which we noted above

prevents states from emitting bills of credit or interfering with contracts, and therefore quite clearly violates popular if not majority sentiment on this point. The Framers, while hoping to incorporate a broad range of views, wanted to create a political system in which the views of the “virtuous,” “more industrious,” “better” people - those with “established characters,” the rich and wealth property owners, could easily dominate and overcome popular will when necessary. The Framers sought to design a political system that would end the opportunity of the bulk of small property owners to meet at the grassroots level, engage in prolonged discussions, and exercise considerable political influence. This was done through the creation of a system of representation in which, using Madison's words, the “opulent” minority would be protected from the majority by “isolated compartments,” “refinement,” “enlarged spheres,” and “filtration.”

Most people were not permitted to vote. The Framers, with some exceptions, particularly Franklin, wanted to restrict the suffrage to those who owned property. But they could not agree on how much or what kind of property should be counted. So in Article I, Section 2, they let the states decide. Women (except in New Jersey), slaves, Native Americans, and many poor people were excluded. One may say that all this has changed, that the exclusion of the majority reflected eighteenth-century thinking. And while it is true that no ethnic group or gender is legally barred from voting, the elitist principles that run through the Constitution and influence it at every turn to favor the propertied class still leave “the people” without a powerful voice. Just how little the people were to be consulted was framed in the following way by Madison: “The danger of disturbing the public tranquility by interesting too strongly the public passions is a still more serious objection against a frequent reference of constitutional questions to the decisions of the whole society.” While amendments to the Constitution might empower people superficially in the short-term, they do not change or alter its character, purpose, the general values which it embodies, or its fundamental design.¹⁶ Never has a U.S. president been elected by a majority of the nation's adult citizens. And, to a large degree, this is due to the fact that the Constitution was designed to discourage, not encourage, the participation of the majority.

The Father of the Constitution explains the meaning of representation in *Federalist No. 10* this way: The effect of a representative system, as opposed to a democracy, is “to refine and

enlarge the public views by passing them through the medium of a chosen body of citizens, 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...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....” Understanding that the public good and private rights (or property rights) are equated for Madison, and understanding the value which the Framers placed upon economic development, privilege, and the linkage of individual freedom and affluence, we may conclude that one function of elected representatives is to guard the “better people” against the majority when the majority entertains ideas which challenge inequality, privilege, and/or private property. To put it more simply, representatives were never intended to be among us, carrying our views forward. They were intended (given the checks and balances, separation of powers, and the indirect election of the President and Senate) to be among the “better people” who are above us, who speak and think for us, and tell us what we need.

Whenever “the people” do make demands and become active, it is always a crisis for elites. The demands of the people at the time of the convention were described as “excess democracy” by Elbridge Gerry and “rampant democracy” by James Madison. We shall note in Chapter 5 that after a number of previously disaffected groups such as blacks, students, women, Chicanos, and Native Americans became politically active during the 1960s and 1970s, corporate elites referred to the fuller participation among disadvantaged constituencies as a form of “distemper” and a “crisis of democracy.” Elites, quite consistent with the values of the Framers, have always perceived the active political engagement of people without property as a crisis. John Quincy Adams, in a bit of understatement, reminds us that the Framers did not profess to be “slavish adorers of our sovereign lords the people.”¹⁷

The Majority Does Not Rule

Kenneth M. Dolbeare and Murray J. Edelman have identified several ways in which the “Framers built into the Constitution layer upon layer of obstacles to simple majority rule” because they feared the “redistribution of property by the masses.” In addition to the built-in checks and balances, separation of powers, the property-biased system of representation, they add: 1) “Amendment of the

Constitution is very difficult, requiring a vote of two-thirds of both houses of Congress and ratification by three-quarters of the states,” (Article V); and 2) “The electoral college is a device designed to give discretionary power to the elected delegates and deny the people direct choice of the President,” (Article II, Section 1).¹⁸

Note also that the principle found in the Declaration of Independence that revolution is a right of people (“That whenever any Form of Government becomes destructive of these ends [life, liberty, and the pursuit of happiness] it is the Right of the People to alter or to abolish it.”) has been eliminated altogether in the Constitution. To be sure, the Framers in 1776 only had the white male middle to upper classes in mind when they framed the right to revolt. The Constitution, however, not only eliminates any encouragement to revolt, it makes revolution virtually impossible. With the state militia under federal jurisdiction, with the creation of a national army, the authorization to suspend *habeas corpus* (or lock people up without giving a reason), and put down domestic insurrections, the risks entailed in challenging political authority are greatly enlarged.

Also, given the system of checks and balances and separation of powers, the Framers believed that the citizen was adequately safeguarded from the abuse of governmental power and therefore the citizen's right to revolt is made invalid. Remember this was the reason Sam Adams gave for suggesting that participants in Shays Rebellion ought to be killed on the spot. It is ironic, although not surprising, that the Framers entertained no safeguards against *private* power or what today is called corporate power. It is ironic also that the Framers would exaggerate to rather hysterical proportions the threat to their privileges posed by the legislative demands put forward by small farmers and the political participation of common people in general. Surely had any of them been enslaved or made to endure the discipline and despotism of the nineteenth-century factories, or the everyday abuse many citizens today experience on the job, they would have found their own justification of withdrawing the right to revolt, namely that the citizen is protected from *public* power, to be wholly irrelevant. In the words of one anti-federalist, because the national government would have its own army and would be able to command the state militia, “the last Resource of a free People is taken away.”¹⁹

Anti-federalist Opposition

Although most common people were against the creation of a national government, opposition to the Constitution extended into all classes. Many slaveowners, for example, feared the creation of a national government, whose power was greater than the states, would be able to interfere with the private practice of human enslavement. In Connecticut the ideas of the nationalists were feared because they were:

founded on Principles Subvertive of a Republican Government Tending to Destroy that Equality among the citisans which [is] the only permanent foundation on which it can be supported to throw an excessive Power, the constant attendant of property into the Hands of the Few, to cherish those anti-republican Principles & feelings which are now predominant in many of the states and finally to dissolve our present Happy and Benevolent Constitution & to erect on the Ruins, a proper Aristocracy: wherein the Body of the People are excluded from all share in the Government, and the Direction & management of the state is committed to the Great & Powerful alone.²⁰

General comments following the Convention were that the Framers had gone too far. “The natural Course of Power is to make the many Slaves to the few.” Another objected to the Constitution because “the bulk of the people can have nothing to say to it. The government is not a government of the people.” The “men of Fortune” would not feel for the “Common People.” An “aristocratical tyranny” would arise, in which “the great will struggle for power, honor and wealth, the poor become a prey to avarice, insolence, and oppression.” Even John Quincy Adams would write in his diary that the Constitution was “calculated to increase the influence, power and wealth of those who have any already.” In South Carolina, when the “backcountry” learned of ratification, “the people had a Coffin painted black, which borne in funeral procession, was solemnly buried, as an emblem of the dissolution and internment of publick Liberty....”

More specifically, anti-federalists felt that the House of Representatives had been made too weak and should control the

legislative process as well as the executive and complained that it was now nothing but an “assistant Aristocratical Branch.” They thought that the President had been given too much power, that “he” was an elective king “vested with power dangerous to a free people” and that the electoral college was “an aristocratic junto.” They complained that the general structure seemed “to verge too much toward the British plan,” that the relation between the Senate and President looked too much like a king and a House of Lords, that it equaled an oligarchy, and that the House was nothing but a “pretended concession to democracy.”

They believed that “In a free Government there never will be Need of standing Armies,” that the Framers appropriated both the “powers of the purse and sword” because they “knew this was not a free government,” and that “By far the greater part of the different nations, who have fallen from the glorious state of liberty, owe their ruin to standing armies.”

And we find that criticisms of the Constitution were explicit with regard to its failure to respect democracy, although the term was used to mean a variety of political systems. Frequently anti-federalists said that they preferred a “democratick” system to an “aristocratick” and that the Constitution did not erect a “Democratick or Republican,” government where democracy was generally defined as a political system that gave space to “the great body of the people, the middle and lower classes,” as contrasted with “the few men of wealth and abilities” who comprised the “natural aristocracy.”²¹

It is interesting to note that our own complaints of an “imperial presidency,” that we feel powerless and that our votes do not count, that the “military-industrial complex” has too much power, that government seems distant and far away, or that corporations seem to dominate all aspects of our lives echo the complaints heard 200 years ago. It is not surprising. After all, it is still the same system, and in so many important respects the debate surrounding the adopting of the Constitution underlies contemporary class and racial divisions as well as debates over militarism, the environment, secret governments, and the spiritual well-being of our country.

Ratification

The majority of the people were against the Constitution. Not surprisingly, those who stood to gain from it directly, the wealthier and more professional, were enthusiastic. Before the Constitution was ratified, Hamilton noted that the supporters of the Constitution were “the good will of the commercial interest...[who want a government] capable of regulating, protecting and extending the commerce of the Union...[and] the good will of most men of property who wish a government of the Union able to protect them against domestic violence and the depredations which the democratic spirit is apt make on property....” General Knox, in a letter to Washington, wrote, “The new constitution is received with great joy by all the commercial part of the community.” Numerous letters among elites share a similar conclusion. And it was clear that the Framers understood where the opposition came from and the nature of that opposition. Rufus King, a member of the Massachusetts ratifying convention wrote to Madison that the opposition arose chiefly “from an opinion that is immovable, that...the system is the production of the rich and ambitious, that they discover its operations and that the consequences will be the establishment of two orders in the Society, one comprehending the opulent and great the other the poor and illiterate.”

Keep in mind that the Framers, in order to overcome the majority opposition, first wrote into the Constitution that it would not have to be ratified by all the states to become law (as stipulated in the Articles) but that only nine states had to ratify it. That meant that as many as five states would have to oppose ratification in order for the Constitution to be rejected. The strategy of the Framers was to move quickly before opposition could organize properly. The first step was to get the approval of Congress (sitting in New York under the Articles) to approve the Constitution and to pass it on to ratifying conventions that would have to be selected. Charles Mee observes that before “opposition could gather its forces...the plan was slipped dexterously past Congress.” They did this by sending the Constitution to Congress (one-third of whom who were present had been delegates to the Constitutional Convention) only eight days after it had been signed. They also got Congress to put the words “Resolved unanimously” on the resolution calling for the ratifying conventions, giving the impression that Congress had supported the new Constitution unanimously. Richard Henry Lee, a member of Congress who opposed the Constitution, said that the Framers had stampeded the Congress and that they had begun the ratification process with a nasty piece of trickery. There was more

to come.

Even before the Constitution had reached New York, some of the Framers in Philadelphia were busy at work trying to get the Pennsylvania state legislature or Assembly to quickly set up a ratifying convention before they adjourned, for their session was about to end. Opponents objected, arguing that there was no rush, that the people had not even seen the Constitution. Nineteen assemblymen who had supported (what was then considered) the radically democratic Pennsylvania Constitution of 1776 decided to block the allies of the Framers by abstaining from the Assembly, thus preventing a quorum and forcing an adjournment. The delaying strategy worked for a time, but when news arrived the following day from New York that Congress had called for the states to select delegates for ratifying conventions, a federalist mob went into the homes of two of the more radical assemblymen and dragged them, protesting, through the streets of Philadelphia and into the Assembly hall, their clothes torn, their faces “white with rage.” One of the physically restrained assemblymen tried to escape but they barred his exit. They then voted to set the date for selecting the delegates to the ratifying convention.²²

Meanwhile in Philadelphia, as Mee observes, “Roving bands of supporters of the new constitution roamed the streets, banging on doors and lobbing rocks through windows.”²³ The Constitution was eventually ratified in Pennsylvania. Anti-federalists, in an address to the people, however, noted that members had been “dragged to their seats and kept there against their wills, and so early a day was set for the election of delegates that many a voter did not know of it until it was passed...Of the seventy thousand freemen entitled to vote but thirteen thousand voted.”

In Massachusetts, a less forceful but somewhat manipulative strategy was used by Constitutional supporters. When it appeared that the anti-federalists would easily reject the Constitution, federalists came up with a plan called a Conciliatory Proposition. Although the Framers had decided that there would be no second constitutional convention and that the ratification conventions were to simply ratify or reject the Constitution with no changes, the Conciliatory Proposition asked that amendments to the Constitution be proposed. The suggestion was that the amendments would be taken up as the first order of business for the new government. Knowing that their proposals were not binding, but believing that

amending the Constitution was feasible, anti-federalists suggested nine amendments that would have, among other things, altered the federal government's power to tax and to govern elections. A proposal stating that Congress could not establish a “company of merchants with exclusive advantages of commerce” was also advanced. The strategy worked. The resistance was broken and Massachusetts ratified the Constitution. The proposed amendments were, for the most part, later pushed aside.²⁴

A similar situation unfolded in Virginia when it was pointed out that Massachusetts had proposed amendments to be adopted at a later date. In long and very heated exchanges and with the outcome uncertain, the federalists, perhaps ingenuously, accepted every amendment put forth by the anti-federalists. The federalists won in Virginia by a vote of 89 to 79.

In New Hampshire, a majority of the delegates opposed the Constitution and they indicated that they would vote the way they had been instructed by their constituents even though they had begun to change their minds after having discussions with federalists. The federalists simply adjourned the convention and after a few months work were able to convert their opponents. The Constitution was supported by a vote of fifty-seven to forty-seven.

In New York, two-thirds of the selected delegates were opposed to the Constitution. The strength of the opposition in New York had moved Madison, Hamilton, and Jay to write the now famous *Federalist Papers* urging ratification of the Constitution. In any case, the federalist were able to secure yet another victory (by a vote of thirty to twenty-seven), this time by promising to work at once to call a second constitution convention, at which the Constitution could be revised.

In Maryland, the Constitution was ratified, again with the proposed opportunity for amendments. North Carolina, however, rejected the Constitution and in Rhode Island, where small farmers had gained control of the state, federalists faced formidable opposition. There, copies of the Constitution were distributed among the towns to give the people ample time to study it and unlike all the other states, the question of ratification was submitted directly to the people (who were enfranchised). The result was that 237 votes were cast in favor of the Constitution; 2,708 were cast against it.

In the end the Constitution was ratified by eleven states. But we should note that two states rejected it while in three other states, as measured by delegate strength, voters disapproved of it. Therefore, it appears that there were at least five states (enough to block ratification) in which there was majority opposition among the *active* enfranchised population (which was a minority of the adult population). The emphasis on the “active” voter is important here because the active voter tended to be more conservative. Ratifying conventions were held in the capitals which were mostly coastal towns where merchants and professionals were more numerous and prominent. Rural communities, given the property restrictions, their self-contained spirit and their resentment toward merchant and planter elites, and the cost of travel, often did not send delegates to the conventions. Moreover, their participation rates in delegate elections were low. In Maryland, for example, there were 25,000 eligible voters. Only 6,000 voted in the delegate selection process for the ratification convention and 4,000 of them were from Baltimore. In a study of voter participation and eligibility at the time, Charles Beard concludes that “it seems a safe guess to say that not more than 5 percent of the population in general...expressed an opinion one way or another on the Constitution...[and] it is highly probable that not more than one-fourth or one-fifth of the adult white males took part in the election of delegates to the state conventions. If anything, this estimate is high.”²⁵

A Great Compromise?

The notion that the Constitution was the result of great compromises suggests, quite inaccurately, that there was great diversity and great debate at the convention. We have seen that the movement toward the Constitutional Convention resembled more the scheming of an elitist cabal than a popular movement anxious to correct the defects of the Articles of Confederation. The “Great Compromise” that historians refer to is the compromise between the large states which sought (in the Virginia Plan) to base congressional representation on population. It was the Madison-Hamilton conception of a very strong central government in which the states were reduced to the level of provinces. The small states presented the New Jersey Plan which was much more a simple modification of the Articles. There would be no Senate and the states would be represented equally in the unicameral Congress, much the way it was at the time under the Articles. The Great

Compromise was the acceptance by the Madison-Hamilton wing of the notion of equal state representation in the Senate. Thus each state is equally represented in the Senate and in the House, state representation is based upon population. We must also note that it was in the context of this “great compromise” that the decision was made to count slaves as three-fifths of a person for the purpose of figuring out the population of the slave states.

The significance of the compromise was that the nationalist cabal that had wanted a strong central state ever since the War of Independence could not quite achieve the kind of national system they had envisioned, at least not entirely. Even among a convention of nationalist minded delegates there was strong sentiment for the idea of federalism in the sense of confederation. Therefore, limited sovereignty of the states was preserved and in at least one congressional chamber there was state equality. Much significance is attached to this compromise because it was around this issue that there was great emotion and division among the delegates. Had a compromise not been worked out, it is quite probable that the convention would have broken up.

But around issues that separated rich from poor, white from black, and men from women, there was considerable agreement. There was no need for compromise when it came to deciding that the suffrage would be restricted to white men with property. There was no need for compromise regarding the unusual authority given to the national government to tax directly, to guarantee contracts, to restore public credit, to regulate commerce, to promote the general welfare (market expansion), to raise a national army, to suspend *habeas corpus* during periods of rebellion, to forcibly put down domestic insurrections, or to use force to compel states to comply with congressional edicts. Indeed, there was a shared understanding that the use of force was a necessary feature of the kind of government they had in mind. Stated George Washington, “We have probably had too good an opinion of human nature in forming our Confederation. Experience has taught us, that men will not adopt and carry into execution measures that are best calculated for their own good, without the intervention of a coercive power.” The idea that there was a need for a federal bill of rights was rejected, *unanimously*.

And that is the rub. There was no debate over whether or not it was the right of the “better,” more “virtuous” people to decide what our

interests and needs are. There was no debate over the fugitive slave law (Article IV, Section 2). There was no debate over the perceived need to check the democratic tendencies of common people. *The reason for the Constitution was to empower people of property over common people. Indeed, our definition of self-government and freedom have become linked, if not equated, to the interests of the corporation.* Stated President Carter during the “energy crisis” of the late 1970s, “on the battlefield of energy...we can seize control again of our common destiny...every gallon of oil [saved] gives us more freedom...solutions to our energy crisis can also help us to conquer the crisis of the spirit in our country.... We are talking about the United States of America and those who count this country out as an economic superpower are going to find out just how wrong they are.” Spoken like a true Framers.

Finally property owners had secured a document, the Constitution, that would permit them to push ahead with their vision of vast state sponsored markets, expanded state sponsored trade, state assisted development of “cheap” labor and capital, and of state assisted accumulation of material abundance. Property owners were now free from King George, the Catholic Church, from rebellious small farmers, from slaves, people without property with “levelling” tendencies, and debtors who would violate their contracts; in short, property owners were now free from personal relations and the moral constraints that flow from them. Property owners were now free to pursue a fully rationalized, calculating, self-interested quest for empire which, of course, from their point of view was the simple unfettered exercise of self-government. Thomas Jefferson captured the idea quite nicely: “I am persuaded no constitution was never before as well calculated as ours for extensive empire and self-government.”

The point of course is that if you wish to become part of the self-governing class, accumulate property. That is your freedom. That is the American dream and by all accounts Lee Iacocca stands as an example of the kind of opportunity the Constitution affords the common person. But there are other visions of opportunity which conflict with those of empire and the kind of self-government which accommodates it. They form the basis of oppositional politics today as they did then. Some anti-federalists advanced alternatives to the Constitution, alternatives which they argued embodied true federalist principles. They said, why don't we have something more like the Swiss Confederation or the United Dutch Provinces. They

had local liberties, virtuous citizens, a republican self-defense coupled with a love of peace. They are not powerful nations but republicanism on a small scale may avoid the political rule by a few that comes with continental expansion. And then they asked of the Framers, “What, fellow citizens, are your true aims: are they liberty and republicanism; or are they, perhaps, expansion and glory?”²⁶

Notes

Chapter 3

- [1.](#) William Appleman Williams, *Empire As A Way of Life* (New York: Oxford University Press, 1980), viii, 43.
- [2.](#) Charles L. Mee, Jr., *The Genius of the People* (New York: Harper & Row) 284.
- [3.](#) See Merrill Jensen, “The Articles of Confederation,” in Earl Latham, *The Declaration of Independence and the Constitution* (Boston: D.C. Heath, 1956), 15-19.
- [4.](#) Gordon S. Wood, “Democracy and the Constitution,” *How Democratic Is the Constitution?* Robert A. Goldwin and William A Schambra, eds. (Washington, D.C.: American Enterprise Institute for Public Policy Research, 1980), 12.
- [5.](#) Jackson Turner Main, *The Antifederalists* (New York: W. W. Norton & Co., 1961), 105.
- [6.](#) See Andrew C. McLaughlin, “The Confederate Period and the Federal Convention,” in Latham.
- [7.](#) Margit Mayer and Margaret A. Fay, “The Formation of the American Nation-State,” *Kapitalistate*, No.6. Fall 1977, 72.
- [8.](#) Kenneth M. Dolbeare and Linda Medcalf, “The Dark Side of the Constitution,” in John F. Manley and Kenneth M. Dolbeare, *The Case Against the Constitution* (New York: M.E. Sharpe, Inc., 1987),

128-130. Dolbeare and Medcalf are making these claims in the context of the translation which Hamilton made of the Constitution into financial and legal institutions.

9. David Smith, *The Convention and the Constitution* (New York: St. Martin's Press, 1965), 13.

10. Vernon L. Parrington, "The Great Debate," in Latham, 63.

11. Quoted by Mee, 111-112.

12. This and the Madison quote are from Parrington, 63,64.

13. The issue of judicial review was not settled until *Marbury v. Madison* in 1803.

14. Parrington, 66, 61.

15. Quoted by Dolbeare and Medcalf, 124.

16. Amendments 15 and 19 to the Constitution broadened the franchise considerably. They stated that "the right of citizens of the United States to vote shall not be denied or abridged on account of race" (Amendment 15) and "on account of sex." (Amendment 19) This appears to significantly alter the racism and sexism of the Constitution and certainly these amendments are steps in that direction. But notice the language, "shall not be denied on account of." Nowhere does it say that blacks or women or even whites shall be guaranteed the right to vote, just that whatever requirements the state decides that one must meet in order to vote cannot be explicitly based upon race or sex. Therefore, voting is still a privilege granted by the state for which we must qualify and because the language of the amendments are negatively ("shall not be denied") instead of positively ("women and people of color shall be guaranteed the right"), there is ample opportunity for discrimination based upon race and sex. For example, the poll tax and the literacy test (abolished because of the Civil Rights movement) while they did not explicitly prohibit any specific group from voting and therefore did not directly violate Amendment 15, was used intentionally to prevent many blacks and poor people from voting throughout most of this century. Racism, sexism, and

classism is still at the heart of the Constitution and will be until democratic participation is specifically guaranteed.

[17.](#) Michael J. Cozier, Samuel P. Huntington, Joji Watanuki, *The Crisis of Democracy* (New York: New York University Press, 1975), 75, 113, 114.

[18.](#) Kenneth M. Dolbeare and Murray J. Edelman, *American Politics* (Boston: D.C. Heath, 1974), 253, 254.

[19.](#) Main, 147.

[20.](#) All quotes from anti-federalists unless otherwise specified are drawn from Main, Chapters V-VII.

[21.](#) In addition to Main, a good source on anti-federalist sentiment is Ralph Ketcham, *The Anti-Federalist Papers and the Constitutional Convention Debates* (New York: New American Library, 1986).

[22.](#) See Mee's account of the ratification process.

[23.](#) Mee, 288, 289.

[24.](#) Many of the less radical amendments advanced under these circumstances did contribute to the mounting pressure for a Bill of Rights. See Chapter 4.

[25.](#) See Charles A. Beard, *An Economic Interpretation of the Constitution of the United States* (New York: The Macmillan Company, 1948), Chapter IX

[26.](#) Sheldon S. Wolin, "The People's Two Bodies," *Democracy*, January, 1981, p. 22.

[Go on to Chapter 4](#) | [Table of Contents](#)

Toward an American Revolution

Exposing the Constitution and other Illusions

Jerry Fresia

Part 2

A System of Injustice

What shall we think of a government to which all the truly brave and just men [and women] in the land are enemies, standing between it and those whom it oppresses? A government that pretends to be Christian and crucifies a million Christs every day!
- **Henry David Thoreau**

Chapter 4

The Lie

I do not think, for example, that it is too much to suggest that the American vision of the world - which allows so little reality, generally speaking, for any of the darker forces in human life...owes a great deal to the battle waged by Americans to maintain between themselves and black men a human separation which could not be bridged. It is only now beginning to be borne in on us - very faintly, it must be admitted, very slowly, and very much against our will - that this vision of the world is dangerously inaccurate, and perfectly useless. For it protects our moral high-mindedness at the terrible expense of weakening our

grasp of reality. People who shut their eyes to reality simply invite their own destruction, and anyone who insists on remaining in a state of innocence long after that innocence is dead turns himself into a monster.

- James Baldwin, 1953

James Baldwin's warning is not specific to racism. It can and should be made applicable to a more general claim. Racism is one form of domination and subordination and in 1787 domination by a few and the subordination of the many was made the law of the land. A battle was waged by the Framers to maintain between themselves as property owners and common people as non-property owners a political separation which could not be bridged. We call this relationship democracy and it is this vision of the world that is dangerously inaccurate.

This is not a widely held interpretation, to be sure. In fact, most of us believe quite the reverse, that in 1787 a political system of, for, and by the people was given life. It is somewhat odd, however, that the more sympathetic view is so strong. It is odd because many of the same people who accept this view will complain, if given the opportunity, that they feel powerless. How often do you hear people say in one way or another, "Voting doesn't really do anything?" Or, "Why bother, you really can't change anything. Look at the 60s." Or, the famous, "You can't change city hall." Most revealing is the fact that those of us who are really outraged by what our government is doing in our name spend quite a bit of time asking the question, "But what can we do?" This is hardly the refrain of an empowered people who believe that they govern themselves.

A theme which I shall draw out in this chapter is that far from being a government of "the people," ours is a government which rests on the assumption that "the people," especially when they become politically excited, interested, and alive, are thought of as subversive. Any serious student of political surveillance and repression in this country knows this to be true.¹ But we seem to prefer to protect our moral high-mindedness by permitting elites, virtually at every chance they get, to persist in the lie that it is "we the people," and not "we the largest property owners," who govern this country. In so doing we risk weakening our understanding of the ways in which our lives are systemically made subordinate to the interests of the rich and politically powerful. And in so doing, we invite our own destruction.

“We the People”

The most familiar part of the Constitution is the preamble:

We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessing of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

Since the bicentennial year, the preamble appears on postage stamps and is everywhere raised up as evidence of this nation's “democratic” beginnings. Yet the “ordaining” and “establishing” of the Constitution was perhaps one of our history's most *un-democratic* moments. Remember many common people openly resisted the principles which were to be embodied in the Constitution and most had no idea that the Constitutional Convention meant to scrap the Articles of Confederation.

While the Preamble did not reflect the truth, it did serve two important political goals for the Framers. One is it signaled that the Articles had been replaced by a national system. If the confederation had been left alone, it may have begun “We the States.” The committee of detail had suggested a preamble which read as follows: “We the People of the States of New Hampshire, Massachusetts...and Georgia, do ordain, declare and establish the following Constitution for the government of ourselves and our posterity.” However, Gouverneur Morris, who was the chair of the committee of style, went over the entire first draft and gave the Constitution the style that it has today. He was responsible for the preamble's final form. And although it was intended to signal to its readers that a national system had been established, the word “national” was never used (much in the same way Madison, as slaveowner, saw to it that the word “slave” was never used).

Secondly, Morris, the undisputed champion of aristocracy, anticipated the broad opposition to the Constitution and sought to begin the document with a little phrase that might give the document broader appeal. There is multiple irony in this. Morris, the great egalitarian phrase-maker, may have had more contempt for

the common person than anyone at the convention. The phrase which is most well known and which is used to color the Constitution is *legally meaningless* and it falsely suggests that the Framers were either common people themselves or identified with them to the degree that they respected, even celebrated their political wisdom. The suggestion is totally false. However, perhaps the greatest irony stemming from this almost mythic phrase is that it was originally coined by the Iroquois, a people against whom the Framers were committing genocide.

For the Iroquois, the concept of “the people” meant something very different from what the Framers had in mind. Their law and custom provided for the relatively equitable distribution of wealth, universal suffrage, and a confederation of states similar to the one described in the Articles. An observer in 1727 noted, they “allow no kind of Superiority of one over another, and banish all Servitude from their Territories.” Iroquois leaders were regarded as servants of their people and were generally “poorer than the common people, for they affect to give away and distribute all the presents or Plunder they get in their Treaties or War, so as to leave nothing for themselves.” The Framers, who approved the enslavement of human beings and who sought to prevent the political participation of the poor, women, and Native Americans, are considered by many as terribly progressive for the eighteenth century.² Ideological managers would have us forget that the phrase borrowed from the Iroquois by the Framers, and exploited, (“We, the people, to form a union, to establish peace, equity and order...”) was taken from the Iroquois Treaty of 1520.³

The Bill of Rights

Following the colonial experience, both the Framers and the common people shared a fear of tyranny or oppressive government and the tyranny of an imperial power which exploited the productive and trade opportunities of its colonies. It is upon this fear that the Bill of Rights rests. The Bill of Rights guarantees individuals *protection* from the government but it is the kind of protection that individual entrepreneurs, merchants, creditors, property owners, and speculators sought after having escaped the grip of British capitalists. As Staughton Lynd reminds us, “The First Amendment was not intended to protect the rights of wage workers...Rather the amendment sought to safeguard the rights of

property-owning middle-class citizens to read, speak, meet and publish, prior to the formation of public policy.”⁴ Therefore, once the Framers had created a government that protected their interests as property owners, it seemed to many of them that a Bill of Rights was unnecessary. “Why, for instance,” argued Hamilton, “should it be said that the liberty of the press shall not be restrained, when no power is given by which restrictions may be imposed?”

But some of the Framers, particularly as property owners, still feared the potential power of government. In a republic, the threat posed to private power by common people could not, apparently, be overstated. After all, argued Madison, if there were to be an invasion of private rights, the injury would result “not from acts of Government contrary to the sense of its constituents [owners of property], but from acts in which the Government is the mere instrument” of a popular majority. Jefferson seemed to share this view when he said that he appreciated the “legal check it [the Bill of Rights] puts into the hands of the judiciary.”⁵ In addition, there was support in the House of Representatives for a Bill of Rights. Remember that some anti-federalists endorsed the Constitution believing that their suggested amendments were to be taken up by the House of Representatives. But several of the proposed amendments, because they challenged private power, clearly ran counter to the purpose of the Constitution. In Massachusetts, for example, a proposed amendment urged that no monopolistic “company with exclusive advantages of commerce” be erected by Congress. In Maryland, a proposed amendment suggested that “in all actions on debts or contracts and controversies respecting property, trial of the facts shall be by jury if either party choose; and that it be expressly declared that state courts have concurrent jurisdiction...”⁶ In order to keep decision making regarding contracts and property in private hands and out of the hands of the people, a motion in the House to consider all proposals of the states during the ratification process was defeated.

The first ten amendments to the Constitution that were eventually adopted, or the Bill of Rights, did encompass many of the proposals regarding protection that had been put forward by anti-federalists during the ratification process. Proposals which attempted to make private power accountable, even in limited ways, however, were rejected. Consequently, while we have protection as individuals from the government (in principle but not in practice),* the Bill of Rights does not protect us from corporations or from our employers.

The point here is that the Bill of Rights is quite consistent with the enhancement of private power intended by the Constitution.

Corporations, themselves considered individuals (given a 1943 ruling by the Supreme Court), are often shielded by the Bill of Rights from public demands. The recent effort by the tobacco industry to prevent the government from prohibiting their advertisements in magazines by pointing to the Bill of Rights is a case in point.⁷

*The richer and the whiter “we” are the more the principle holds. If you wish to look into the reality of “Amerikan” justice, see *Assata* by Assata Shakur (Westport, CT: Lawrence Hill and Co., 1987).

While few would disagree that the Bill of Rights affords certain individuals important protection from the government and therefore ought to be celebrated and carefully guarded, one could also argue that there is more to citizenship than protection. The Bill of Rights says not a word about guaranteeing participation. This is especially true with regard to investment decisions, the use of national resources, and workplace practices (there is no right to strike, for example). It is also true with regard to simple political participation. Despite all the talk about our “right to vote,” voting is not a right guaranteed by the Constitution. It is a privilege granted by the state for which we must qualify, and much of U.S. political history has been the struggle of the underclasses to do just that. As Sheldon Wolin points out, the Bill of Rights is “couched in such a language that was less suggestive of what a citizen might actively do than what government was prohibited from doing. (‘Congress shall make no law...abridging the freedom of speech...’ ‘No person shall...be deprived of life, liberty, or property, without due process of law...’)”⁸ Indeed, the protection afforded by the Bill of Rights is quite conditional as we shall see in a moment.

First let us put all the parts together. A political-economic document, the Constitution was supposedly designed to “preserve the spirit and form of popular government” (Madison) even as the substance of popular government was taken away and the participatory politics flourishing at the local level was weakened. This was done out of fear and distrust of the political tendencies of common people or what Madison called an “unjust and interested majority.” Having established the political supremacy of property

owners, the Constitution was then able to authorize the state to encourage economic expansion through the regulation of commerce, the protection of industry, trade, and private property the guarantee of contracts, and the development of a capital market. In other words the state was placed at the service of private elites and made an instrument of private power. The token usage of such egalitarian phrases as “we the people,” as Wolin correctly points out, was “a formula to give the Constitution a legitimate basis, not to encourage an active citizenry.” The vitality of the state would come not from a politically astute and engaged citizenry but from a highly productive and efficient economy. “Getting the economy moving again,” not “liberation,” would become the slogan of candidates running for political office. And here we come to the heart of the crisis which infects our political order. The concept of a reflective, politically active and community oriented citizen (a Ben Linder) must be displaced by the concept of the responsible citizen (a Lee Iacocca): one who gives “a due obedience to its [the federal government's] authority” (Hamilton) and who appreciates and longs for the imperial reward for obedience: material wealth and protection.⁹

What does this mean? It means that as long as we value the accumulation and protection of property, and a judiciary to protect us from the government *more than we value playing a meaningful role in the decisions that affect our lives*, we obey. We don't ask questions. We learn to care more about how much we earn than about what we do and even less about the impact that our work has on others. In fact, obedience implicitly means that when we go to work we leave our conscience at home. It also means that we agree not to care so much about the details of politics as long as the form of popular government and the appearance of democracy is maintained. We agree when we consider political issues to think primarily in terms of self-interest and consumer sovereignty. The Middle-East? That means the price of oil. Central America? There is the potential for more Spanish-speaking refugees to pour across our border. Social programs? Unless I am a recipient, they have a bad effect on my taxes and interest rates. We learn to admit that we are selfish and materialistic, as though it could not be otherwise, and then take pride for being honest in this admission. But notice: it is *in the context of this obedience* that I may claim my rights as a responsible citizen and expect the government to deliver to me as a responsible citizen the real opportunity to acquire affluence and comfort. It is in this *context of obedience* that my freedom of speech

is protected. For if I don't obey, if I persist in valuing real democracy and community higher than the opportunity to obtain private power and affluence, then I am a subversive and my freedom of speech cannot be protected. The truth is that if we insist that we, the homeless, people of color, women, Native Americans, and workers - the majority - must govern ourselves, or, for example, if we agree that we are willing to do with less in order that we might genuinely share economic resources and power with the peoples of the Third and Fourth Worlds or in order that we might live in a cleaner environment, then we threaten the privilege and power of the few who have it as well as the entire system that makes their privilege possible. The Framers understood this levelling tendency, this distaste of empire. In 1798, the Sedition Act was passed which made it a crime to “write, print, utter or publish...any false, scandalous and malicious writing or writings against the government of the United States, or either house of the Congress of the United States or the President...with intent...to bring them...into contempt or disrepute.” A mechanic was sentenced to eighteen months in jail and a \$400 fine for writing the following: “Here is the 1,000 out of 5,000,000 that receive all the benefit of public property and all the rest no share in it. Indeed all our administration is as fast approaching to the Lords and Commons as possible - that a few men should possess the whole Country and the rest be tenants to the others...[the few have] invented every means...to destroy the labouring part of the Community...”¹⁰

When the administration of Thomas Jefferson took power in 1801, the repression of political opponents continued. Over 2,000 were prosecuted including a minister who criticized Jefferson in a Thanksgiving Day sermon. Many served substantial prison terms. A worker who put up a sign that protested the tax laws and urged “peace and retirement to the president” served two years.¹¹

Historian Leonard Levy has stated that the Framers “assumed that...freedom should be available only to believers,” a kind of *quid pro quo*. One hardly expects free speech to be absolute; as former Supreme Court Justice Vincent has stated, “The societal value of free speech must, on occasion, be subordinated to other values and considerations.” Yes, but what values and what considerations? Former Supreme Court Justice Abe Fortas helped answer this question when he declared that the government was permitted by the Constitution to prevent speech which “[interferes] with the preparation of the nation's defense or its capacity to wage

war...[damages] property...[or disrupts] work.” Yet Howard Zinn points out, the Supreme Court has restricted speech even more severely than that. The symbolic act of burning one's draft card in 1968, for example, was forbidden.¹²

David Kairys points out that “the founding fathers were an economic and political elite who were more interested in promoting commerce and restraining the democratic impulses of the public than in any new notions of free speech. Hamilton, Madison, Washington, Franklin - even Jefferson and Paine - all supported criminalization of seditious libel.”¹³ The Constitution, it is clear, was erected upon the fear of levelling tendencies. The claim that common people govern ourselves in the United States is a false claim. And the claim that common people can freely and fundamentally criticize our political and economic system *and work to build one that is more democratic without risking reprisal* is a lie.

The Citizen As Subversive

In 1950, George Kennan, head of the State Department planning staff, gave a briefing to Latin American ambassadors in which he said that a major concern of foreign policy must be “The protection of our raw materials” - in fact, more broadly, the material and human resources that are “ours” by right, require that we combat a dangerous heresy which has been spreading through Latin America, namely “the idea that the government has direct responsibility for the welfare of the people.”¹⁴ This “heresy ” is simply and most often referred to as “communism,” whether it bears any relationship to that particular ideology or not. This condemnation of the idea that government has a direct responsibility for the welfare of the people captures wonderfully the legacy of the vision of empire and the Lockean notion of rights: 1) The globe is up for grabs. It is all potentially private property, suitable for development. *You are free* to try and acquire it and if you do, you own it. And what you do with it once you own it is up to you. It's your right, unless, that is, 2) a group of people, Church-based groups, unions, or popular coalitions who believe in community more than in *free* enterprise, gain control of a government and define limits to acceptable individual activity in accord with ethical standards. 3) The greatest threat to *private power* (free enterprise, the market system, contracts, production for profit and private ownership of productive property) has primarily been *public power* (a government controlled

by common people for the welfare of the common people in the interest of community). Noam Chomsky has made the point well: “If segments of the usually irrelevant and apathetic public begin to organize and try to participate in some meaningful fashion in shaping affairs of state, that is not democracy, that is called a crisis of democracy as liberal elites in fact call it and it's a crisis that must be overcome by various means.”¹⁵ The common person then who is not responsibly obedient but who is politically active, who is a *citizen*, is subversive. And to an important degree the crisis of democracy has been confronted by elites in the United States, as in many other countries, through reform and through political repression.

Political Repression

Kairys states that, “Our glorification of the history and modern reality of free speech has masked the lack of substantial participation in the decisions that effect our lives...The mythic version of freedom of speech is a central element of our national identity. It can be easily manipulated to legitimize the lack of adequate means of expression or participation, enlarged power for the already powerful and even military intervention abroad.”¹⁶ There are two issues, then. One is the clarification of the nature and degree of political repression in the United States and the second is the suggestion that our belief that we live in a country free from political repression is itself a necessary condition of political repression. Our discussion, like all politically engaged intellectual work, must be seen not only as a process of discovery, but as a process of self-discovery, of liberation.

Political repression in the United States, also contrary to popular myth, has been constant and widespread. And the depth and persistence of political repression in the United States, in light of our nation's self-understanding as a free and innocent people, is, in a word, shocking.¹⁷ According to Robert Justin Goldstein, “Political repression contributed significantly to the failure of the labor movement as a whole to achieve major power until the 1930s, the destruction of radical labor movements, the destruction of radical political movements, and the continuing self-censorship which Americans have imposed upon their own exercise of basic political freedoms.” According to Robert Justin Goldstein, “Political repression contributed significantly to the failure of the labor

movement as a whole to achieve major power until the 1930s, the destruction of radical labor movements, the destruction of radical political movements, and the continuing self-censorship which Americans have imposed upon their own exercise of basic political freedoms.”¹⁸ According to Robert Justin Goldstein, “Political repression contributed significantly to the failure of the labor movement as a whole to achieve major power until the 1930s, the destruction of radical labor movements, the destruction of radical political movements, and the continuing self-censorship which Americans have imposed upon their own exercise of basic political freedoms.” Let us look briefly at each of these themes.

The repression of American labor from 1870 to the mid-1930s, which was “massive and continuous,” took the form of government toleration of company towns, private police, private armies and private arsenals, the denial of basic political freedoms to millions of workers, the abuse of force by local police, state militia, and federal troops, and used techniques of harassment, mass arrests, and court injunctions. The most severe repression was directed at workers organizing within key sectors of the economy such as in the railroad, steel, textile, mining, lumber, and agricultural industries. In certain instances, such as in the Pullman strike of 1894 and the Steel Strike of 1919 where these major strikes could not have been broken without repressive measures, political repression prevented labor from becoming “a major power in American society” for at least twenty to forty years.¹⁹

Radical unions were “literally smashed by political repression or severely adversely affected by it, at the peak of their strengths.” Four of the leaders of the communist-anarchist movement which had achieved considerable strength in Chicago by 1886, for example, were hanged “without any reasonable proof” that they were involved in an alleged bombing. The Western Federation of Miners, a socialist-oriented industrial union which by the early twentieth century had 50,000 members was “physically decimated by arbitrary arrests and deportations.” The Industrial Workers of the World (IWW) which had a membership of 100,000 workers by 1917 had its entire top leadership jailed due to government raids and conspiracy prosecutions. Goldstein describes the repression of the IWW as “vicious” and states, “Indeed, the entire history of the IWW is simply a history of political repression....” The union movement affiliated with the Communist Party (CP) elicited a legislative response that was openly repressive: the “1947 Taft-

Hartley requirement that all union officers swear non-Communist oaths to qualify for Wagner Act benefits, the 1954 Communist control act provisions removing Wagner Act benefits from 'communist-infiltrated' organizations, and the 1958 Landrum-Griffin ban on CP members serving as union officers were all designed to completely destroy CP strength among American workers. Combined with CIO ousters (under strong government pressure) of CP-dominated unions, these measures decimated communist influence in the American labor movement.”²⁰

Goldstein points out that not just labor movements but basic political movements as well have been damaged because of political repression. The Socialist Party (SP) during World War I suffered intense political repression in the form of “arrests of party leaders, post office bans on SP publications, and physical attacks on party members by police and vigilantes.” This repression completely destroyed about 30 percent of local party organizations and generated divisions within the party which led to its demise. The Communist Party, also during the post-World War I era, was driven underground by means of raids and mass arrests, deportations, and criminal syndicalism prosecutions. When it showed signs of renewed strength in the mid-1930s, the CP was targeted by the 1940 Smith Act (the first peacetime sedition act since 1789), and during the 1940 elections, the CP “was barred from the ballot in fifteen states.” During 1939-1941, the party was investigated by Congress and three state legislatures. The FBI's counter-intelligence program or COINTELPRO, the program of repression with which most contemporary activists are familiar, was created to destroy the CP in 1956, even though the party was already decimated. Goldstein notes that given the threat posed, “the American repression of the CP exceeded that of any other democratic nation.”²¹

During the Vietnam Era, with citizens becoming involved in a very broad range of issues that extended well beyond traditional left/labor oriented frameworks (some of which were environmentalism, animal liberation, gay and lesbian liberation, a multi-faceted feminism, new forms of black nationalism, American Indian liberation, anti-nuclear power, anti-nuclear weapons, and spiritualism) and with citizens often moving from the language of “rights” to the language of “power” and “liberation,” the government's response at one level was massive covert surveillance and the use of *agents provocateurs* and burglaries in attempts to foster division and discord within protest organizations.²² By the

mid-1970s the FBI maintained intelligence files on an estimated 6.5 million individuals and groups. The CIA launched domestic surveillance on roughly 10,000 citizens and more than a 100 groups, and kept an index on more than 300,000 citizens and organizations. By the mid-1970s the FBI maintained intelligence files on an estimated 6.5 million individuals and groups. The CIA launched domestic surveillance on roughly 10,000 citizens and more than a 100 groups, and kept an index on more than 300,000 citizens and organizations. By the mid-1970s the FBI maintained intelligence files on an estimated 6.5 million individuals and groups. The CIA launched domestic surveillance on roughly 10,000 citizens and more than a 100 groups, and kept an index on more than 300,000 citizens and organizations.²³

Goldstein believes that political repression in the United States has destroyed the continuity of American radical movements, especially during the 1917-1920 and 1947-1954 periods. He also believes that it has chilled political debate and narrowed the range of acceptable ideas: "One of the most startling aspects of American political life is the virtual exclusion of socialism from any serious consideration as a possible solution to American economic or other problems." Proposals for public control of credit and monetary policy which emerged for a time out of the People's Party 100 years ago (echoing the policy proposals of Shayites 100 years before that) were derailed²⁴ and their advocates purged in much the same way that today's red-baiting and harassment of citizens working in solidarity with the people of Central America helps to legitimize the present Congressional unwillingness to recognize the validity of socialist movements in that region of the world. "The fear of being investigated by the FBI, wiretapped, hauled before legislative committees, deported or prosecuted for sedition has not been unrealistic," notes Goldstein. But it is a reality the obedient and responsible citizen does not know and, perhaps, does not wish to know.²⁵

The Ultimate Check: Secret Police

Consider briefly the experience of blacks in this country. The enslavement of human beings continued for seventy-six years after the signing of the Constitution. In 1865 the Black Codes, which were the slave codes revived, legally restored white supremacy as southern states rejoined the union. In the presidential election of

1876, Democrat Samuel J. Tilden received more popular votes than the Republican candidate Rutherford B. Hayes, but the Democrats agreed to allow the electoral commission to declare Hayes the winner so that they could retain political control and white supremacy in southern states. Following that historic “compromise,” blacks were disenfranchised and the most severe and extended period of racist violence, excepting slavery itself, began. Between 1882 and 1930, a system of state sponsored terror was in operation that resulted in the lynching of 3,386 blacks.

Racism, of course, still continues. The median household net worth for whites in 1984 was \$39,135. For blacks, it was \$3,397. The poverty rate for whites was 11.5 percent while for blacks it was 33.8 percent. Infant mortality rate in 1982 for whites was 10.1 percent while for blacks it was 19.6. The male murder rate for blacks that year was four times that of whites. Blacks have been victims of medical experimentation, particularly in prison but not always. The state of Georgia during the early 1970s, for example, sterilized several “mentally deficient” black girls.²⁶ Numerous other data, measure, and personal testimony could be wheeled into place to further make the case that the systematic denial of the humanity of people of color is taking place in our society. And similar claims could be advanced, and are done so regularly, that other categories of people in our society experience systematic oppression.

The key word here is *systematic*. That is, the oppression in question is linked to the web of ideas, values, beliefs, assumptions, and practices that help to make up the social relationships in which we are all implicated. Or as Hegel has stated, the world which is outside us has its threads in us to such a degree that it is these threads which make us what we really are. The problem is not just that there is *systematic* racism and/or massive inequality in an otherwise free society. If there is systematic racism and/or massive inequality in a society that is believed by most of its members to be basically free, it means that the humanity of the non-oppressed, as well as the oppressed, is diminished. One can hardly be thought of as a healthy person if one has lost the ability to understand (and act on that understanding) the oppression of another.

The legacy of the Framers in this regard, in addition to the remarkable achievement of ideological managers who have followed them, needs to be highlighted here. We have unreflectively accepted the idea that freedom means the right of a few individuals to control

the lives of millions of people by virtue of their private ownership of community, national, and international resources. We have unreflectively accepted the idea that democracy refers to a political system in which the marginal participation of common people is designed to protect the political and economic power of the propertied class. The key political values that emerge from the Constitution are frozen in the ice of eighteenth-century elitism. We allow the privileged to rest comfortably in a set of social relations that call exploitation freedom and the empowerment of the rich democracy. Given these conceptual blinders, the oppression of others becomes harder to see and the corruption of our own humanity, particularly if we are among the privileged, becomes invisible. Lies about who we are and what we do become more palatable than the truth, denial more palatable than confrontation.

In this context, those people who want to expose corruption or who attempt to challenge power are perceived by guardians of the order as very dangerous, as threats to freedom and democracy and the “good life” we share. The voices of blacks and other marginalized but active and critically minded citizens need to be silenced, if the hierarchy of privilege and power in this country is to be preserved. Correspondingly, it is their voices that need to be heard if fundamental change is to come about.

It is not surprising, then, that even the reformist, anti-communist black organization, the National Association for the Advancement of Colored People (NAACP) was infiltrated by the FBI for a twenty-one year period. The government's response to more militant, radical black organizations, such as the socialist Black Panther Party (BPP), suggests that movements by oppressed people that have a real chance of ending that oppression simply is not tolerated. The BPP which attempted to build “survival” or community service programs which included health clinics, children's breakfast programs, busing, as well as police patrols on which BPP members brandished legally-acquired firearms, was smashed by the government in a manner which Donner describes as “all-out warfare” and a “reign of terror.” Twenty-eight BPP members were assassinated by the FBI and/or various local police departments.²⁷ In addition to attacks made by the FBI (which was later found to be “criminally complicit in violence” - including assassination),²⁸ Internal Revenue Service harassment, CIA surveillance, Internal Security Division of the Department of Justice grand jury abuse, and the harassment of lawyers defending the BPP by federal urban

intelligence teams or “red squads” were all brought into play in the government's campaign to eliminate the BPP.

The strategy behind this repression tells us a good deal about the purpose of the repression itself. “The effectiveness of the BPP newspaper, the eloquence of its leaders, the appeal of its children's breakfast program, and the emergence of a sympathetic white constituency, placed a high priority on actions to...discredit them through unfavorable publicity,” notes Donner. In other words, they posed the threat of a good example or of an alternative community in which common people demonstrate clearly that they are capable of governing themselves. Similarly Fred Hampton was targeted and then murdered by the FBI because he was a “highly effective leader, his charisma enabled him partially to overcome the Bureau's divisive efforts....He had instituted a number of successful community welfare, medical, and educational programs...he was slated for national leadership.” Or sample the remarks made about Martin Luther King, Jr. by William Sullivan, head of the FBI's Domestic Intelligence Division:

Martin Luther King must, at some propitious point in the future, be revealed to the people...as what he actually is - a fraud, demagogue, and scoundrel. When the true facts concerning his activities are presented, such should be enough, if handled properly, to take him off his pedestal and reduce him completely in influence. When this is done, and it can and will be done, obviously much confusion will reign...The Negroes will be left without a national leader of sufficiently compelling personality to steer them in the proper direction. This is what could happen, but need not happen if the right kind of national Negro leader could at this time be gradually developed so as to overshadow Dr. King and be in the position to assume the role of leadership of the Negro people when King has been completely discredited.²⁹

Sullivan had Samuel Pierce in mind, currently Reagan's Secretary of Housing and Urban Development who has been accused of racism by other blacks in the government. It is clear the government did not want blacks to demonstrate the capacity of self-government, or the converse, to expose the pervasiveness and hideousness of white supremacy. More importantly, the government did not want the lie

that we live in a free country to be revealed. In a FBI communication dated March 4, 1968, J. Edgar Hoover stated, in reference to black nationalism and black leaders, that there is a need to “pinpoint potential troublemakers and neutralize them.” The names of black leaders discussed in this particular communication have been deleted, but as Perkus notes, the names of Malcolm X and Martin Luther King, Jr. “fit perfectly in the spaces censored by the bureau.” The communication issued one month before the King assassination “raises questions about the FBI complicity in the murders” of both black leaders. It also raises questions of our identity as U.S. citizens and our unreflective acceptance of a way of life and a set of ideas which are celebrated for their encouragement of free expression.³⁰

The BPP was just one of 1,100 groups spied on by the FBI in 1975. The FBI's effort to create internal violent disruption within the BPP also was not an isolated effort. Between 1956 and 1971 there were 2,340 COINTELPRO operations. One-third of them were intended to either disrupt the functioning of a particular group or promote conflict between groups. And it has not been just the labor or civil rights movements that have been considered dangerous. J. Edgar Hoover, in the early 1970s, identified a new target, the “WLM.” Wrote Hoover, it is “absolutely essential that we conduct sufficient investigations to clearly establish the subversive ramifications of the WLM and to determine the potential for violence presented by the various groups connected with their movement as well as any possible threat they may represent to the internal security of the United States.” The WLM was the women's liberation movement.³¹

The women's liberation movement and other political movements pose a threat to the legitimacy of the Constitution. Women, after were not thought of as “people” by the Framers, nor were people of color, nor were wage laborers, or anyone for that matter who did not demonstrate their worth by having accumulated specified amounts of property. Even though the concept of “the people” has been broadened since 1787 and the franchise extended, the essential features of the Constitution (centralized power at the national level, a system of checks and balances which strengthens private power, a system of separation of power which prevents simple majority rule, a Bill of Rights which protects property and individuals in their pursuit of property but which fails to guarantee participation) still cohere in a way that continues to express in 1987 terms one fundamental purpose of the Constitution of 1787 which was to

effect a “national political system in which commercial and financial interests were assured that new and potentially unpopular rules and practices would nevertheless be enforced reliably and consistently....”³² Moreover, since the Constitution several steps have been taken to further insulate political and economic policymaking processes from public pressure. According to Kenneth M. Dolbeare and Linda Medcalf, Alexander Hamilton “placed the reins of power as far from the people as he could” through the creation of a “centrally guided financial and development system that would be as hard to identify as it would be to reach and change” and by “transferring as much policymaking as possible into the far less visible and apparently neutral and mechanical hands of courts and lawyers.” Dolbeare and Medcalf identify several other steps such as the passage of the Federal Reserve Act which shifted monetary policy out of the public arena into the hands of private bankers that serve to update the Framers' design, frustrate popular movements, and protect private power. And once “this system was consolidated in World War I, participation could actually be encouraged because there was little chance that popular majorities could do much damage.”³³

We may read “We the People” convinced that the Framers were truly democrats, but our political institutions are locked within an eighteenth-century celebration of empire. The most important of our public policies are fashioned by private elites and have their origin in impenetrable boardrooms and in places which lie deep within the bowels of a huge and distant bureaucracy. Therefore, ideas or systems of thought which “steer Negroes in a proper direction” (and undermine the privilege of “better” people) or which suggest that workers should control their work lives (and undermine the privilege of “better” people) or which confront the many forms of patriarchy (and undermine the privilege of “better” people) do, indeed, threaten the security and power of privileged elites who define our needs for us. Of course such ideas are subversive. J. Edgar Hoover made the point in 1938: “Subversive alien theories and `isms' are not only a drastic contrast to American ways of thinking, feeling and acting, but they stand for a complete overthrow of established ideas of American life and philosophy of government to which America is dedicated.”³⁴

Elites cannot combat citizenship openly any longer. The “We the People” lie has become too big. Thus, the FBI and other governmental agencies slip quietly and covertly away from their

jurisdiction, in this case crime fighting, into intelligence gathering and thought control operations, replete with dirty tricks, violence, and assassination.³⁵ In other words, the Constitutional imperative that a few “better” people rule in the interest of economic development today requires the establishment of covert military operations to check the threat of democracy. The FBI began domestic surveillance during the 1930s when the leftist orientation of many labor unions alarmed J. Edgar Hoover and President Roosevelt. By 1953, 13.5 million persons (or one out of every five workers) were required to pass loyalty/security tests. Today, the new FBI building in Washington devotes 35,000 linear feet to domestic intelligence files. The rest of the FBI's work takes up 23,000 linear feet. Crime fighting, in the case of the FBI one could argue, is a front for political surveillance and repression.

It is ironic but understandable that because we are supposed to be a government of the people, much the work of our government's “secret police” is concerned with making sure that the people do, in fact, support what the government is doing. The early FBI “countersubversive” campaign during the post-World War I era was part of a “public relations” or “educational” effort (which involved working with the press to distribute false information about subversives) to simultaneously rally support for countersubversive operations. The strategy of using thought control emerged out of the government's propaganda campaign during World War I. In the 1920s, Edward Bernays, who served on the government propaganda commission during World War I wrote, “The conscious and intelligent manipulation of the organized habits and opinions of the masses is an important element in democratic society.” During the same period, Walter Lippmann devised the term “manufacture of consent” which he also called an essential “art” in “the practice of democracy.”³⁶ Donner states that it was no accident that the congressional anti-subversive committees following World War I “uniformly singled out ‘propaganda’ as their target...The spoken and written word...became a prime intelligence target...” “Educational” institutions themselves have become centers of indoctrination. From 1952 to 1966, the CIA spent \$3,300,000 on the National Student Association in an attempt to favorably influence the student community toward CIA policies. The CIA monitored faculty members under consideration for grants and recruited professors, administrators, and other covert allies within the university community for purposes of political control. The CIA also funneled \$12,442,925 to labor, business, church, and cultural groups. One

million dollars was directly given over to “intellectuals, writers, and artists.” Between 1949 and 1972, the CIA spent \$25,000,000 on mind-control and brain-washing experiments. The CIA has recruited journalists, including correspondents for the *New York Times*, “CBS News,” *Time* magazine, and other organizations, in order to plant stories (many of which are false) and popularize policies which might otherwise enjoy little public approval.³⁷

John Stockwell, who worked for the CIA thirteen years, was Chief of the Angolan Task Force in 1975-1976. In that position he was a subcommittee member of the National Security Council as well as manager of CIA covert operations in Angola. He has stated that one-third of his staff of over 140 personnel consisted of professional propagandists who fed false stories about Cuban and Soviet aggression to the press, the State Department spokesperson, and Ambassador to the United Nations (Daniel Patrick Moynihan, now U.S. Senator from New York). Stockwell, referring to information revealed by the Church Committee investigations of the CIA, noted that the “CIA had co-opted several hundred journalists, including some of the biggest names in the business, to pump its propaganda stories into our media, to teach us to hate Fidel Castro and Ho Chi Minh and the Chinese and whomever...Leslie Gelb, the heavyweight with the *New York Times*, was exposed for having been working covertly with the CIA in 1978 to recruit journalists in Europe to print stories that would create sympathy for the neutron bomb...Freedom of the press doesn't mean that the *New York Times* is required to print the truth, it means that they have the freedom to print lies if they want to.”³⁸

That the entire political structure of the United States, including the Bill of Rights, is located within a swamp of contempt by elites for the general public is amply revealed by the MK Ultra Program. This was not a program which targeted specific political constituencies but one which dealt with the development of general social control techniques and one which used the general public, again and again, as guinea pigs. For example, during a twenty year period, the CIA, working through 200 medical schools and mental hospitals including those at Harvard and Georgetown universities, experimented with disease and drugs on citizens without their knowledge. “They [the CIA] dragged a barge through San Francisco Bay,” stated Stockwell, again basing his claims on congressional testimony, “leaking a virus to measure this technique for crippling a city. They launched a whooping cough epidemic in a Long Island

suburb to see what would it would do to the community if all the kids had whooping cough. Tough shit about the two or three with weak constitutions who might die in the process...”³⁹

The secret police operations under the Reagan administration have moved us a step closer to the actual implementation of government run by the military. On April 6, 1984, President Reagan issued National Security Decision Directive #52 authorizing Federal Emergency Management Agency (FEMA) to initiate a secret, nationwide, “readiness exercise” called REX 84. This exercise would test the readiness of a plan to enlist the personnel of the Department of Defense, all fifty state National Guard units, and many state-based “State Defense Force” units (which were to be created at the behest of FEMA by state legislatures) in the event that President Reagan chose to declare a “State of Domestic National Emergency” following a nuclear war, violent dissent or, most probably, national opposition to a military invasion abroad. The exercise also included a plan to take into custody some 400,000 undocumented Central American refugees throughout the United States and to intern them in ten detention centers, already prepared or under construction. Louis Guiffreda, while at the Army War College in Pennsylvania in 1970, had written a paper advocating martial law in the event that resistance by black militants escalate nationally. The 1970 scenario also included the roundup and transfer to “assembly centers or relocations camps” of at least 21 million “American Negroes.” Directive #52, of course, is the 1970 plan modified to provide current readiness for martial law. An alarmed and active citizenry always poses the threat of democracy and majority rule.⁴⁰

The Tendency of “Better People”

As we have seen, concepts such as “better” people, or “more virtuous,” or “more established” people and other judgments of superiority were concepts shared by the Framers. The design of the Constitution and its attendant rights expresses the notion that only the “better” few are fit to govern themselves and the rest of the people are fit to participate in meaningful political decisions, primarily, in indirect and carefully checked ways. The responsible citizen obeys. The democratic citizen is subversive.

The concept of “better” people, of course, did not begin with the

United States. It is a concept which is necessary whenever a society, such as ours, accepts massive inequality as normal. The term “better” people is not used today in just the same way it was when George Washington was the richest man in America. Today we come up with different criteria of “better” - IQ test scores, education levels, credentials, competency and merit tests, various measures of efficiency, productivity, and accumulation, and so on. It follows, obviously, that when there are “better” people (and remember .5 percent own 35 percent of the nation's wealth), there are less than “better” people. That is why our own political history has consisted of repeated and explicit attempts to “purify” the electorate. To mention one example, by the 1920s, when the FBI was being created, many dissidents were called reds (reds are not “better” people) and reds in turn were “attacked as godless, bestial, dirty, and depraved...” Attorney General Palmer, in 1920, referred to his program of illegal mass deportation as the removal of “alien filth.” J. Edgar Hoover referred to radicals as “termites.”⁴¹ As Governor of California, Ronald Reagan called political activists “mad dogs.” We find that citizens with critical ideas are easily described in terms that cast them as enemies of the “freedom” and “democracy” and make their elimination seem natural and desirable. The Constitution, while at one level is designed to protect the citizen from arbitrary authority, embodies within it values, assumptions, and procedures which insure that the government will come down ruthlessly upon those who wish to challenge what the Framers understood as “self-evident” truths. Donner, in reference to the FBI operations directed against blacks, suggests that they “plunge us into a den of horror, a nativist Final Solution, justified as violence prevention and bureaucratically programmed in a stunning gloss on Hannah Arendt's ‘banality of evil.’”

In spite of the bicentennial celebrations of our political freedom, it appears that we are a nation where citizens who disturb, upset, disrupt, and challenge the Framers' definition of freedom and democracy are people whose existence is ultimately regarded as an insufferable provocation.

Notes

Chapter 4

1. The literature, fortunately, is voluminous in this area. For those who are new to the subject I would suggest going to the nearest good library and looking under the heading “United States. Federal Bureau of Investigation.” A good general overview is provided by David Wise, *The American Police State* (New York: Random House, 1976).

2. Clinton Rossiter, in *1787: The Grand Convention* (New York: Macmillan Company, 1966), 138, notes that several newspapers at the time expressed great praise of the Framers for their forward thinking such as they were the “collective wisdom of the Continent.” The French *charge d'affaires* stated that they were “the most enlightened men of the continent.” Charles M. Lee, Jr. in his *Genius of the People* (New York: Harper & Row, 1987), 4, provides us with an example of a contemporary tribute: the Framers were “representative of what they themselves often referred to as the genius of the people - that cumulative body of knowledge and intuition formed by living for centuries under the legacy of the Magna Carta and the rule of common law.”

3. For a discussion of the Iroquois and their relation to the Framers see Bruce E. Johansen, *Forgotten Founders* (Ipswich, Massachusetts: Bambit Incorporated, 1982).

4. Staughton Lynd, “The Constitution and Union Rights,” *In These Times*, Sept. 30-Oct. 6, 1987, 13; Lynd goes on to say that such rights are also critical for workers but they are not all the rights that workers need given their dependency in the workplace.

5. Edward Dumbauld, *The Bill of Rights* (Norman, Oklahoma: University of Oklahoma Press, 1957), 8,9.

6. Dumbauld, 14-16.

7. *The Philip Morris Magazine* recently sponsored an essay contest (first prize, \$15,000) that asked for essays which explored “First Amendment's application to American business<193>and questions the ramifications of a tobacco advertising ban.”

8. Sheldon S. Wolin, “What Revolutionary Action Means Today,”

in *Democracy*, Fall 1982, 21.

[9.](#) For a discussion of the concept of citizen as it relates to the intention of the Framers see Sheldon S. Wolin, "The People's Two Bodies," *Democracy*, January 1981; Madison, Federalist No. 10; Hamilton, Federalist No. 27.

[10.](#) Philip S. Foner, *History of the Labor Movement in the United States*, Vol. I, New York: International Publishers, 1975), 88, 89.

[11.](#) David Kairys, "The Tortured History of Free Speech," *In These Times*, Aug. 5-18, 1987, 12.

[12.](#) Howard Zinn, *Disobedience and Democracy* (New York: Vintage Books, 1968), 77; Kairys, 12.

[13.](#) Kairys, 12.

[14.](#) The example is used by Noam Chomsky, *Turning the Tide* (Boston: South End Press, 1985), 50.

[15.](#) Delivered in a talk at the University of Colorado at Bolder, December 1986.

[16.](#) Kairys, 13.

[17.](#) I shall present a very rough overview, but I encourage you to explore two rather comprehensive studies, one by Frank Donner and the other by Robert Justin Goldstein, upon which this, admittedly thin, overview is based: see Frank J. Donner, *The Age of Surveillance* (New York: Vintage Books, 1980); Robert Justin Goldstein, *Political Repression in Modern America* (New York: Schenkman Publishing Co., 1978).

[18.](#) Goldstein, 548.

[19.](#) Goldstein, 548.

[20.](#) Goldstein, 547-551.

[21.](#) Goldstein, 553-555.

[22.](#) Cathy Perkus, ed., *COINTELPRO: The FBI's Secret War on Political Freedom* (New York: Monad Press, 1975).

[23.](#) Joshua Cohen and Joel Rogers, *On Democracy* (New York: Penguin Books Ltd, 1984), 41.

[24.](#) See Lawrence Goodwyn, *The Populist Moment* (New York: Oxford University Press, 1978).

[25.](#) Goldstein, 556-557.

[26.](#) Joshua Cohen and Joel Rogers, *Rules of the Game: American Politics and the Central America Movement* (Boston: South End Press, 1986), 12; Richard L. Rubenstein, *The Cunning of History: The Holocaust and the American Future* (New York: William Styron, 1978), 54.

[27.](#) Donner, 231. Also see, Arnold Rogow, *The Dying of the Light* (New York: Putnam, 1975); and Assata Shakur, *Assata*, (Westport, Conn.: Lawrence Hill and Co., 1987).

[28.](#) Fred Hampton, a leader of the BPP, was assassinated by police on 4 December 1969 when a fusillade of between eighty-three and ninety-nine shots were fired into his Chicago apartment at 4:00 AM; see Donner, 226-230.

[29.](#) Cohen and Rogers, 42. The rest of Sullivan's is interesting in that it reveals the degree to which the federal government attempts to manipulate movement leadership. It continues: "For some months I have been thinking about this matter. One day I had an opportunity to explore this from a philosophical and sociological standpoint with [name deleted] whom I have known for some years<193>I asked him<193>if he knew any Negro of outstanding intelligence or ability<193>[He] has submitted to me the name of the above©captioned person. Enclosed with this memorandum is an outline [deleted] biography, which is truly remarkable<193>On scanning this biography, it will be seen that [deleted] does have all the qualifications of the kind of a Negro leader to overshadow Martin Luther King. If this thing can be involved, I think it would

be not only a great help to the FBI, but would be a fine thing for the country at large.” See David Wise, *The American Police State* (New York: Random House, 1976), 303.

[30.](#) Donner, 226-230; Cohen and Rogers, 42, 43; Perkus, 22

[31.](#) Cohen and Rogers, 41,42.

[32.](#) Kenneth M. Dolbeare and Linda Medcalf, “The Dark Side of the Constitution,” in John F. Manley and Kenneth M. Dolbeare, eds., *The Case Against the Constitution* (New York: M.E. Sharpe, Inc.,1987), 128.

[33.](#) Dolbeare and Medcalf, 138.

[34.](#) Donner, 55.

[35.](#) In his televised debate with Walter Mondale, President Reagan acknowledged the “Assassination Manual” and attributed it to the CIA station chief in Tegucigalpa, Honduras. One of the best sources for documentation of U.S. sponsored assassinations abroad is the Hearings Before The Select Committee to Study Government Operations With Respect to Intelligence Activities of the United States Senate, 94th Congress, First Session, 1975, Volumes I-VII. Perhaps the most infamous involvement of the U.S. government in domestic assassinations was in the murder of JFK. I refer you to The Final Assassination Report of the Select Committee on Intelligence, U.S. House of Representatives, 1979 and to an unpublished work, “Nomenclature of an Assassination Cabal,” by Torbitt, available at Tom Davis Books, P.O. Box 1107, Aptos, CA 95001-1107.

[36.](#) Chomsky, 235.

[37.](#) Donner, 49, 269, 270.

[38.](#) John Stockwell, in a talk delivered at the University of California, at Santa Barbara, 8 April, 1986. The tape is available through The Other Americas, UCSB, Santa Barbara, CA.

[39.](#) For a complete discussion of the MK Ultra Program see John

Marks, *In Search of the Manchurian Candidate* (New York: New York Times Books, 1979). Also see the documents in the appendix of George Katsiaficas, *The Imagination of the New Left* (Boston: South End Press, 1987).

[40.](#) Because Congress forbids the use of military personnel for domestic law enforcement purposes, FEMA planned to deputize military personnel. This information was drawn from several sources: an affidavit prepared by the Christic Institute which was filed for a federal civil lawsuit (available from The Christic Institute, 1324 North Capitol Street, Washington, DC 20002); *Miami Herald*, July 5, Alexander Cockburn, "Ashes & Diamonds," *In These Times*, July 22-August 4, 1987, 17; Stockwell.

[41.](#) Donner, 17-20.

[Go on to Chapter 5](#) | [Table of Contents](#)

Toward an American Revolution

Exposing the Constitution and other Illusions

Jerry Fresia

Appendix A

The Constitution of the United States of America

We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

ARTICLE I

SECTION 1. All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

SECTION 2. The House of Representatives shall be composed of members chosen every second year by the people of the several states, and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

No person shall be a representative who shall not have attained to the age of 25 years, and been seven years a citizens of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

Representatives and direct taxes shall be apportioned among the several states which may be included within this union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those taxed, three-fifths of all other persons. The actual enumeration shall be made within

three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every 30,000, but each state shall have at least one representative; and until such enumeration shall be made, the state of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

When vacancies happen in the representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies.

The House of Representatives shall choose their speaker and other officers; and shall have the sole power of impeachment.

SECTION 3. The Senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof, for six years; and each senator shall have one vote.

Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year; and if vacancies happen by resignation, or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

No person shall be a senator who shall not have attained to the age of 30 years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

The vice president of the United States shall be president of the Senate, but shall have no vote, unless they be equally divided.

The Senate shall choose their other officers, and also a president *pro*

tempore, in the absence of the vice president, or when he shall exercise the office of president of the United States.

The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the president of the United States is tried, the chief justice shall preside: And no person shall be convicted without the concurrence of two-thirds of the members present.

Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honour, trust or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law.

SECTION 4. The times, places and manner of holding elections, for senators and representatives, shall be prescribed in each state by the legislature thereof; but Congress may at any time by law make or alter such regulations, except as to the places of choosing senators.

The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

SECTION 5. Each house shall be the judge of the elections, returns and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties as each house may provide.

Each house may determine the rules of its proceedings, punish its members for disorderly behaviour, and, with the concurrence of two-thirds, expel a member.

Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either house on any question shall, at the desire of one-fifth of those present, be entered on the journal.

Neither house, during the session of Congress, shall, without the

consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

SECTION 6. The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States, shall be a member of either house during this continuance in office.

SECTION 7. All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills.

Every bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a law, be presented to the president of the United States; if he approve, he shall sign it, but if not, he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. After the bill is reconsidered, it shall be sent together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house, it shall become a law. But in all cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the president within ten days, (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.

Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives, according to the rules and

limitations prescribed in the case of a bill.

SECTION 8. The Congress shall have the power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States:

To borrow money on the credit of the United States:

To regulate commerce with foreign nations, and among the several states, and with the Indian tribes.

To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States.

To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures.

To provide for the punishment of counterfeiting the securities and current coin of the United States.

To establish post-offices and post-roads.

To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive rights to their respective writings and discoveries:

To constitute tribunals inferior to the supreme court:

To define and punish piracies and felonies committed on the high seas, and offences against the law of nations:

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water.

To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years.

To provide and maintain a navy.

To make rules for the government and regulation of the land and naval offices.

To provide for calling forth the militia to execute the laws of the union, suppress insurrections and repel invasions.

To provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress.

To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of Congress, become the seat of the government of the United states, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings.

And,

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof.

SECTION 9. The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808, but a tax or duty may be imposed on such importation, not exceeding 10 dollars for each person.

The privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion of the public safety may require it.

No bill of attainder or *ex post facto* law shall be passed.

No capitation, or other direct tax shall be laid unless in proportion to the census or enumeration herein before directed to be taken.

No tax or duty shall be laid on articles exported from any state.

No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another; nor shall vessels bound to, or from, one state, be obliged to enter, clear, or pay duties in another.

No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

No title of nobility shall be granted by the United States: And no person holding any office of profit or trust under them, shall, without the consent of Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince or foreign state.

SECTION 10. No state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make any thing but gold and silver coin a tender in payment of debts; pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, or grant any title of nobility.

No state shall, without the consent of Congress, lay any impost or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any state on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the Congress.

No state shall, without the consent of Congress, lay any duty on tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II.

SECTION 1. The executive power shall be vested in a president of the United States of America. He shall hold his office during the

term of four years, and, together with the vice-president chosen for the same term, be elected as follows:

Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the state may be entitled in the Congress; but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the Senate. The president of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted. The person having the greatest number of votes shall be president, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for president; and if no person has a majority, then from the five highest on the list, the said House shall, in like manner, choose the president. But in choosing the president, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. In every case, after the choice of the president, the person having the greatest number of votes of the electors shall be the vice president. But if there should remain two or more who have equal votes, the Senate shall choose from them by ballot the vice-president.

The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

No person except a natural born citizen, or a citizen of the United States, at the time of the adoption of this constitution, shall be eligible to the office of president; neither shall any person be eligible to that office, who shall not have attained to the age of 35

years, and been 14 years a resident within the United States.

In case of the removal of the president from office, or of his death, resignation or inability to discharge the powers and duties of the said office, the same shall devolve on the vice president, death, resignation, or inability, both of the president and vice president, declaring what officer shall then act as president, and such officer shall act accordingly, until the disability be removed, or a president shall be elected.

The president shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

Before he enter on the execution of his office, he shall take the following oath or affirmation:

“I do solemnly swear (or affirm) that I will faithfully execute the office of president of the United States, and will to the best of my ability, preserve, protect and defend the constitution of the United States.”

SECTION 2. The president shall be commander in chief of the army and navy of the United States, and of the militia of the several states, when called into actual service of the United States; he may require the opinion, in writing, or the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law. But the Congress may by law vest the appointment of such inferior officers, as they think proper, in the president alone, in the courts of law, or in the heads of departments.

The president shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions, which shall expire at the end of their next session.

SECTION 3. He shall, from time to time, give to the Congress information of the state of the union, and recommend to their consideration, such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

SECTION 4. The president, vice president, and all civil officers of the United States shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

ARTICLE III.

SECTION 1. The judicial power of the United States, shall be vested in one supreme court, and in such inferior courts as the Congress may, from time to time, ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office.

SECTION 2. The judicial power shall extend to all cases, in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made under their authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party: to controversies between two or more states, between a state and citizens of another state, between citizens of different states, between citizens of the same state, claiming lands under grants of different states, and between a state, or citizens thereof, and foreign states, citizens or subjects.

In all cases affecting ambassadors, other public ministers and

consuls, and those in which a state shall be party, the supreme court shall have original jurisdiction. In all the other cases before-mentioned, the supreme court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the Congress may by law have directed.

SECTION 3. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attained.

ARTICLE IV.

SECTION 1. Full faith and credit shall be given in each state to the public acts, records and judicial proceedings of every other state. And the Congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

SECTION 2. The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

No person held to service or labour in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labour, but

shall be delivered upon claim of the party to whom such service or labour may be due.

SECTION 3. New states may be admitted by Congress into this union; but no new state shall be formed or erected within the jurisdiction of any other state, nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned, as well as of the Congress.

The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.

SECTION 4. The United States shall guarantee to every state in this union, a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the executive (when the legislature cannot be convened), against domestic violence.

ARTICLE V.

The Congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this constitution, or on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the congress: Provided, that no amendment which may be made prior to the year 1808, shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the Senate.

ARTICLE VI.

All debts contracted and engagements entered into, before the adoption of this constitution, shall be as valid against the United States under this constitution, as under the confederation.

This constitution, and the laws of the United States which shall be made in pursuance thereof: and all treaties made, or which shall be made, under the authority of the United States shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding.

The senators and representatives before-mentioned, and the member of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation, to support this constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

Ratification of the conventions of nine states, shall be sufficient for the establishment of this constitution between the states so ratifying the same.

Done in convention, by the unanimous consent of the States present, the 17th day of September, in the year of our Lord 1787, and of the independence of the United States of America the 12th. In witness whereof we have hereunto subscribed our names.

[Names omitted]

Articles of Amendment

AMENDMENT 1.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

AMENDMENT 2.

A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

AMENDMENT 3.

No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war but in a manner to be prescribed by law.

AMENDMENT 4.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

AMENDMENT 5.

No person shall be held to answer for a capital or other infamous crime unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

AMENDMENT 6.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

AMENDMENT 7.

In suits at common law, where the value in controversy shall exceed

twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any court of the United States than according to the rules of the common law.

AMENDMENT 8.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

AMENDMENT 9.

The enumeration in the constitution of certain rights shall not be construed to deny or disparage others retained by the people.

AMENDMENT 10.

The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

AMENDMENT 11 (1798).

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States, by citizens of another state, or by citizens or subjects of any foreign state.

AMENDMENT 12 (1804).

The electors shall meet in their respective states, and vote by ballot for President and vice president, one of whom at least shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as vice president; and they shall make distinct lists of all persons voted for as President, and of all persons voted for as vice president, and of the number of votes for each, which lists they shall sign and certify, and transmit, sealed, to the seat of the government of the United States directed to the president of the Senate; the president of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and

the votes shall then be counted; the person having the greatest number of votes for President shall be the president, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three, on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a President, whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the vice president shall act as President, as in the case of the death or other constitutional disability as vice president shall be the vice president, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then from the two highest numbers on the list the Senate shall choose the vice president; a quorum for the purpose shall consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of vice president of the United States.

AMENDMENT 13 (1865).

SECTION 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

SECTION 2. Congress shall have power to enforce this article by appropriate legislation.

AMENDMENT 14 (1868).

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property without due process of law; nor deny to

any person within its jurisdiction the equal protection of the law.

SECTION 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for president and vice president of the United States, representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, is denied to any of the male members of such state being of twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such state.

SECTION 3. No person shall be a senator or representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid and comfort to the enemies thereof. But Congress may, by a vote of two-thirds of each House, remove such disability.

SECTION 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

SECTION 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

AMENDMENT 15 (1870).

SECTION 1. The right of citizens of the United States to vote shall

not be denied or abridged by the United States or by any state, on account of race, color, or previous condition of servitude.

SECTION 2. The Congress shall have power to enforce this article by appropriate legislation.

AMENDMENT 16 (1913).

The Congress shall have power to lay and collect taxes on income, from whatever source derived, without apportionment among the several states, and without regard to any census or enumeration.

AMENDMENT 17 (1913).

The Senate of the United States shall be composed of two senators from each state, elected by the people thereof for six years; and each senator shall have one vote. The electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislatures.

When vacancies happen in the representation of any state in the Senate, the executive authority of such state shall issue writs of election to fill such vacancies; provided, that the legislature of any state may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

This amendment shall not be so construed as to affect the election or term of any senator chosen before it becomes valid as part of the Constitution.

AMENDMENT 18 (1919).

SECTION 1. After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors with, the importation thereof into, or exportation thereof from the United States and all territory subject to the jurisdiction thereof, for beverage purposes is hereby prohibited.

SECTION 2. The Congress and the several states shall have concurrent power to enforce this article by appropriate legislation.

SECTION 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several states, as provided in the Constitution, within seven years from the date of submission hereof to the states by the Congress.

AMENDMENT 19 (1920).

The right of the citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of sex.

Congress shall have power to enforce this article by appropriate legislation.

AMENDMENT 20 (1933)

SECTION 1. The terms of the president and Vice-President shall end at noon on the 20th day of January, and the terms of senators and representatives at noon on the 3rd day of January, of the year in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.

SECTION 2. The Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3rd day of January, unless they shall by law appoint a different day.

SECTION 3. If, at the time fixed for the beginning of the term of President, the President elect shall have died, the Vice-President elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President elect shall have failed to qualify, then the Vice-President elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice-President elect shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a president or Vice-President shall have qualified.

SECTION 4. The Congress may by law provide for the case of the death of any of the persons from whom the House of

Representatives may choose a President, whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may choose a Vice-President, whenever the right of choice shall have devolved upon them.

SECTION 5. Sections 1 and 2 shall take effect on the 15th day of October following the ratification of this article.

SECTION 6. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several sates within seven years from the date of its submission.

AMENDMENT 21 (1933).

SECTION 1. The eighteenth article of amendment to the Constitution of the United States is hereby repealed.

SECTION 2. The transportation or importation into any state, territory, or possession of the United States, for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

SECTION 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions in the several states, as provided in the Constitution, within seven years from the date of the submission hereof to the states by the Congress.

AMENDMENT 22 (1951).

No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once. But this Article shall not apply to any person holding the office fo President when this Article was proposed by the Congress, and shall not prevent any person who may be holding the office of President, or acting as President, during the term within which this Article becomes operative from

holding the office of President or acting as President during the remainder of such term.

AMENDMENT 23 (1961).

SECTION 1. The District constituting the seat of Government of the United States shall appoint in such manner as the Congress may direct:

A number of electors of President and Vice-President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a State, but in no event more than the least populous State; they shall be in addition to those appointed by the States, but they shall be considered, for the purpose of the election of President and Vice-President, to be electors appointed by a State; and they shall meet in the District and perform such duties as provided by the twelfth article of amendment.

SECTION 2. The Congress shall have power to enforce this article by appropriate legislation.

AMENDMENT 24 (1964).

SECTION 1. The right of citizens of the United States to vote in any primary or other election for President or Vice-President, for electors for President or Vice-President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax.

SECTION 2. The Congress shall have power to enforce this article by appropriate legislation.

AMENDMENT 25 (1967).

SECTION 1. In case of the removal of the President from office or of his death or resignation, the Vice-President shall become President.

SECTION 2. Whenever there is a vacancy in the office of the Vice-

President, the president shall nominate a Vice-President who shall take office upon confirmation by a majority of vote of both Houses of Congress.

SECTION 3. Whenever the President transmits to the President *pro tempore* of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharge by the Vice-President as Acting President.

SECTION 4. Whenever the Vice-President and a majority of either the principal officers of the executive departments or of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President *pro tempore* of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice-President shall immediately assume the powers and duties of the office as Acting President.

Thereafter, when the President transmits to the President *pro tempore* of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice-President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit within four days to the President *pro tempore* of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office. Thereupon Congress shall decide the issue, assembling within forty-eight hours for that purpose if not in session. If the Congress, within twenty-one days after receipt of the latter written declaration, or, if Congress is not in session, within twenty-one days after Congress is required to assemble, determines by two-thirds vote of both Houses that the President is unable to discharge the powers and duties of his office, the Vice-President shall continue to discharge the same as Acting President; otherwise, the President shall resume the powers and duties of his office.

AMENDMENT 26 (1971).

SECTION 1. The right of citizens of the United States, who are eighteen years or older, to vote shall not be denied or abridged by the United States or any State on account of age.

SECTION 2. The Congress shall have the power to enforce this article by appropriate legislation.

[Federalist Paper #10](#) | [Table of Contents](#)

Go back --> cyberjournal.org/

Toward an American Revolution

Exposing the Constitution and other Illusions

Jerry Fresia

Appendix B

Federalist Paper No. 10:

James Madison

Among the numerous advantages promised by a well constructed Union, none deserves to be more accurately developed than its tendency to break and control the violence of faction. The friend of popular governments never finds himself so much alarmed for their character and fate as when he contemplates their propensity to this dangerous vice. He will not fail, therefore, to set a due value on any plan which, without violating the principles to which he is attached, provides a proper cure for it. The instability, injustice, and confusion introduced into the public councils have, in truth, been the mortal diseases under which popular governments have everywhere perished, as they continue to be the favorite and fruitful topics from which the adversaries to liberty derive their most specious declamations. The valuable improvements made by the American constitutions on the popular modes, both ancient and modern, cannot certainly be too much admired; but it would be an unwarrantable partiality to contend that they have as effectually obviated the danger on this side, as was wished and expected. Complaints are everywhere heard from our most considerate and virtuous citizens, equally the friends of public and private faith and of public and personal liberty, that our governments are too unstable, that the public good is disregarded in the conflicts of rival parties, and that measures are too often decided, not according to the rules of justice and the rights of the minor party, but by the superior force of an interested and overbearing majority. However anxiously we may wish that these complaints had no foundation, the evidence of known facts will not permit us to deny that they are in

some degree true. It will be found, indeed, on a candid review of our situation, that some of the distresses under which we labor have been erroneously charged on the operation of our governments; but it will be found, at the same time, that other causes will not alone account for many of our heaviest misfortunes; and, particularly, for that prevailing and increasing distrust of public engagements and alarm for private rights which are echoed from one end of the continent to the other. These must be chiefly, if not wholly, effects of the unsteadiness and injustice with which a factious spirit has tainted our public administration.

By a faction I understand a number of citizens, whether amounting to a majority or minority of the whole, who are united and actuated by some common impulse of passion, or of interest, adverse to the rights of other citizens, or to the permanent and aggregate interests of the community.

There are two methods of curing the mischiefs of faction: the one, by removing its causes; the other, by controlling its effects.

There are again two methods of removing the causes of faction; the one, by destroying the liberty which is essential to its existence; the other, by giving to every citizen the same opinions, the same passions, and the same interests.

It could never be more truly said than of the first remedy that it was worse than the disease. Liberty is to faction what air is to fire, an aliment without which it instantly expires. But it could not be a less folly to abolish liberty, which is essential to political life, because it nourishes faction than it would be to wish the annihilation of air, which is essential to animal life, because it imparts to fire its destructive agency.

The second expedient is as impracticable as the first would be unwise. As long as the reason of man continues fallible, and he is at liberty to exercise it, different opinions will be formed. As long as the connection subsists between his reason and his self-love, his opinions and his passions will have a reciprocal influence on each other; and the former will be objects to which the latter will attach themselves. The diversity in the faculties of men, from which the rights of property originate, is not less an insuperable obstacle to a uniformity of interests. The protection of these faculties is the first

object of government. From the protection of different and unequal faculties of acquiring property, the possession of different degrees and kinds of property immediately results; and from the influence of these on the sentiments and views of the respective property immediately results; and from the influence of these on the sentiments and views of the respective proprietors ensues a division of the society into different interests and parties.

The latent causes of faction are thus sown in the nature of man; and we have them everywhere brought into different degrees of activity, according to the different circumstances of civil society. A zeal for different opinions concerning religion, concerning government, and many other points, as well of speculation as of practice; an attachment to different leaders ambitiously contending for pre-eminence and power; or to persons of other descriptions whose fortunes have been interesting to the human passion, have, in turn, 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. So strong is this propensity of mankind to fall into mutual animosities that where no substantial occasion presents itself the most frivolous and fanciful distinctions have been sufficient to kindle their unfriendly passions and excite their most violent conflicts. But the most common and durable source of factions has been the various and unequal distribution of property. Those who hold and those who are without property have ever formed distinct interests in society. Those who are creditors, and those who are debtors, fall under a like discrimination. A landed interest, a manufacturing interest, a mercantile interest, a moneyed interest, with many lesser interests, grow up of necessity in civilized nations, and divide them into different classes, actuated by different sentiments and views. The regulation of these various and interfering interests forms the principal task of modern legislation and involves the spirit of party and faction in the necessary and ordinary operations of government.

No man is allowed to be a judge in his own cause, because his interest would certainly bias his judgment, and, not improbably, corrupt his integrity. With equal, nay with greater reason, a body of men are unfit to be both judges and parties at the same time; yet what are many of the most important acts of legislation but so many judicial determinations, not indeed concerning the rights of single persons, but concerning the rights of large bodies of citizens? And what are the different causes which they determine? Is a law

proposed concerning private debts? It is a question to which the creditors are parties on one side and the debtors on the other. Justice ought to hold the balance between them. Yet the parties are, and must be, themselves the judges; and the most numerous party, or in other words, the most powerful faction must be expected to prevail. Shall domestic manufacturers be encouraged, and in what degree, by restrictions on foreign manufacturers? These are questions which would be differently decided by the landed and the manufacturing classes, and probably by neither with a sole regard to justice and the public good. The apportionment of taxes on the various descriptions of property is an act which seems to require the most exact impartiality; yet there is, perhaps, no legislative act in which greater opportunity and temptation are given to a predominant party to trample on the rules of justice. Every shilling with which they overburden the inferior number is a shilling saved to their own pockets.

It is in vain to say that enlightened statesmen will be able to adjust these clashing interests and render them all subservient to the public good. Enlightened statesmen will not always be at the helm. Nor, in many cases, can such an adjustment be made at all without taking into view indirect and remote considerations, which will rarely prevail over the immediate interest which one party may find in disregarding the rights of another or the good of the whole.

The inference to which we are brought is that the *causes* of faction cannot be removed and that relief is only to be sought in the means of controlling its *effects*.

If a faction consists of less than a majority, relief is supplied by the republican principle, which enables the majority to defeat its sinister views by regular vote. It may clog the administration, it may convulse the society; but it will be unable to execute and mask its violence under the forms of the Constitution. When a majority is included in a faction, the form of popular government, on the other hand, enables it to sacrifice to its ruling passion or interest both the public good and the rights of other citizens. To secure the public good and private rights against the danger of such a faction, and at the same time to preserve the spirit and the form of popular government, is then the great object to which our inquiries are directed. Let me add that it is the great desideratum by which alone this form of government can be rescued from the opprobrium under which it has so long labored and be recommended to the esteem and

adoption of mankind.

By what means is this object attainable? Evidently by one of two only. Either the existence of the same passion or interest in a majority at the same time must be prevented, or the majority, having such coexistent passion or interest, must be rendered, by their number and local situation, unable to concert and carry into effect schemes of oppression. If the impulse and the opportunity be suffered to coincide, we well know that neither moral nor religious motives can be relied on as an adequate control. They are not found to be such on the injustice and violence of individuals, and lose their efficacy in proportion to the number combined together, that is, in proportion as their efficacy becomes needful.

From this view of the subject it may be concluded that a pure democracy, by which I mean a society consisting of a small number of citizens, who assemble and administer the government in person, can admit of no cure for the mischiefs of faction. A common passion or interest will, in almost every case, be felt by a majority of the whole; a communication and concert results from the form of government itself; and there is nothing to check the inducements to sacrifice the weaker party or an obnoxious individual. Hence it is that such democracies have ever been spectacles of turbulence and contention; have ever been found incompatible with personal security or the rights of property; and have in general been as short in their lives as they have been violent in their deaths. Theoretic politicians, who have patronized this species of government, have erroneously supposed that by reducing mankind to a perfect equality in their political rights, they would at the same time be perfectly equalized and assimilated in their possessions, their opinions, and their passions.

A republic, by which I mean a government in which the scheme of representation takes place, opens a different prospect and promises the cure for which we are seeking. Let us examine the points in which it varies from pure democracy, and we shall comprehend both the nature of the cure and the efficacy which it must derive from the Union.

The two great points of difference between a democracy and a republic are: first, the delegation of the government, in the latter, to a small number of citizens elected by the rest; secondly, the greater number of citizens and greater sphere of country over which the

latter may be extended.

The effect of the first difference is, on the one hand, to refine and enlarge the public views by passing them through the medium of a chosen body of citizens, 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 consideration. Under such a regulation it may well happen that the public voice, pronounced by the representatives of the people, will be more consonant to the public good than if pronounced by the representatives of the people, will be more consonant to the public good than if pronounced by the people themselves, convened for the purpose. On the other hand, the effect may be inverted. Men of factious tempers, of local prejudices, or of sinister designs, may, by intrigue, by corruption, or by other means, first obtain the suffrages, and then betray the interests of the people. The question resulting is, whether small or extensive republics are most favorable to the election of proper guardians of the public weal; and it is clearly decided in favor of the latter by two obvious considerations.

In the first place it is to be remarked that however small the republic may be the representatives must be raised to a certain number in order to guard against the cabals of a few; and that however large it may be they must be limited to a certain number in order to guard against the confusion of a multitude. Hence, the number of representatives in the two cases not being in proportion to that of the constituents, and being proportionally greatest in the small republic, it follows that if the proportion of fit characters be not less in the large than in the small republic, the former will present a greater option, and consequently a greater probability of a fit choice.

In the next place, as each representative will be chosen by a greater number of citizens in the large than in the small republic, it will be more difficult for unworthy candidates to practise with success the vicious arts by which elections are too often carried; and the suffrages of the people being more free, will be more likely to center on men who possess the most attractive merit and the most diffusive and established characters.

It must be confessed that in this, as in most other cases, there is a mean, on both sides of which inconveniences will be found to lie. By enlarging too much the number of electors, you render the

representative too little acquainted with all their local circumstances and lesser interests; as by reducing it too much, you render him unduly attached to these, and too little fit to comprehend and pursue great and national objects. The federal Constitution forms a happy combination in this respect; the great and aggregate interests being referred to the national, the local and particular to the State legislatures.

The other point of difference is the greater number of citizens and extent of territory which may be brought within the compass of republican than of democratic government; and it is this circumstance principally which renders factious combinations less to be dreaded in the former than in the latter. 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. Extend the sphere and you take in a greater variety of parties and interests; you make it less probable that a majority of the whole will have a common motive to invade the rights of other citizens; or if such a common motive exists, it will be more difficult for all who feel it to discover their own strength and to act in unison with each other. Besides other impediments, it may be remarked that, where there is a consciousness of unjust or dishonorable purposes, communication is always checked by distrust in proportion to the number whose concurrence is necessary.

Hence, it clearly appears that the same advantage which a republic has over a democracy in controlling the effects of faction is enjoyed by a large over a small republic - is enjoyed by the Union over the States composing it. Does this advantage consist in the substitution of representatives whose enlightened views and virtuous sentiments render them superior to local prejudices and to schemes of injustice? It will not be denied that the representation of the Union will be most likely to possess these requisite endowments. Does it consist in the greater security afforded by a greater variety of parties, against the event of any one party being able to outnumber and oppress the rest? In an equal degree does the increased variety of parties comprised within the Union increase this security? Does it consist in the greater obstacles opposed to the concert and accomplishment of the secret wishes of the Union gives it the most

palpable advantage.

The influence of factious leaders may kindle a flame within their particular States but will be unable to spread a general conflagration through the other States. A religious sect may degenerate into a political faction in a part of the Confederacy; but the variety of sects dispersed over the entire fact of it must secure the national councils against any danger from that source. A rage for paper money, for an abolition of debts, for an equal division of property, or for any other improper or wicked project, will be less apt to pervade the whole body of the Union than a particular member of it, in the same proportion as such a malady is more likely to taint a particular county or district than an entire State.

In the extent and proper structure of the Union, therefore, we behold a republican remedy for the diseases most incident to republican government. And according to the degree of pleasure and pride we feel in being republicans ought to be our zeal in cherishing the spirit and supporting the character of federalists.

[Table of Contents](#)

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