

THE FEDERALIST PAPERS

JAMES MADISON (1751–1836) was the fourth President of the United States and became known as the ‘father’ of the Constitution because of his influence in planning it and drawing up the Bill of Rights. He was Secretary of State under Jefferson, and his main achievement in this role was the purchase of Louisiana from the French. He lived in Montpelier, Virginia, for eighty-five years, two of which he spent on the governor’s council. He was elected President in 1809 and again in 1812. During his terms in office he worked to abolish slavery, to disestablish the Church and to seek peace, although under his command the war against Britain resulted in a U.S. triumph.

ALEXANDER HAMILTON (1757–1804) was born in the West Indies and served during the War of Independence as a captain. His military brilliance was recognized, and he was sent on several important military commissions. He was George Washington’s secretary and aide-de-camp and in 1787 became a Member of the Constitutional Convention. From 1789 to 1795 he was the first Secretary of the Treasury, and in 1801 he held the casting vote against Burr and for Jefferson. He fought a duel with Burr and died the next day.

JOHN JAY (1745–1829) served the new nation in both law and diplomacy and established important judicial precedents as first Chief Justice of the Supreme Court. A New York attorney from 1768, he won a wide reputation with *The Address to the People of Great Britain*, which stated the claims of the colonists. He did not sign the Declaration of Independence in 1776 but helped to ensure its approval in New York. In 1789 he was appointed the first U.S. Chief Justice and shaped the Supreme Court procedures. The Jay Treaty of 1794 with Great Britain made him unpopular, and his hopes of succeeding Washington as President faded. After a spell as Governor of New York he retired to a farm, where he spent twenty-seven uneventful years.

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Bolingbroke and His Circle, The Rage of Edmund Burke and numerous articles on eighteenth-century topics. He has edited William Godwin's *Enquiry Concerning Political Justice*, Thomas Paine's *Common Sense* and, with Michael Foot, *The Thomas Paine Reader* for Penguin Classics. He is also the author, with Barry Sheerman, M.P., of *Laski: A Life on the Left*. His most recent book is *The Godless Constitution*, co-authored with R. Laurence Moore (Norton).

JAMES MADISON
ALEXANDER HAMILTON
and JOHN JAY

THE FEDERALIST PAPERS



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THE CONSTITUTION OF THE UNITED STATES OF AMERICA

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EDITOR'S INTRODUCTION

NEW YORK AND "PUBLIUS": 1787

Few readers of the New York *Independent Journal* on October 27, 1787, could have realized that the essay appearing on page two of their newspaper that day, "The Federalist No. 1," would inaugurate a series of eighty-five papers, which thirteen months later Thomas Jefferson would call "the best commentary on the principles of government which ever was written." Nor would the luster wear off those eighty-five papers. Two centuries, and scores of editions of *The Federalist*, later, the distinguished American scholar Clinton Rossiter would pronounce *The Federalist* "the most important work in political science that has ever been written, or is likely ever to be written, in the United States. It is, indeed," he concludes, "the one product of the American mind that is rightly counted among the classics of political theory."¹

The Federalist was the brainchild of Alexander Hamilton, who enlisted James Madison and John Jay in his journalistic effort to persuade the voters of the New York State ratification convention that they should ratify the new Constitution of the United States, drafted that very summer in Philadelphia. For the next ten months, with but a two-month break in the spring of 1788, two and sometimes three times a week a new number of *The Federalist* would appear in as many as four New York City newspapers. Ultimately, "Publius," the collective pseudonym used by Hamilton, Madison and Jay, would produce some 175,000 words in defense of the new federal Constitution.

All across the thirteen states Americans were, as Hamilton put it on October 27, "called upon to deliberate on a new Constitution for the United States of America." They were proving, he insisted, that men could create their own governments "by reflection and choice instead of forever having to depend on "accident and force." This debate over the Constitution was by no means a model of decorous and genteel discourse. Much too much was at stake, and, as Hamilton conceded, "a torrent of angry and malignant passions" were let loose in the "great national discussion." *The Federalist*, Hamilton promised, would provide a different voice in the national dialogue; it would rise above "the loudness of their declamations and the bitterness of their invectives."

The Federalist did succeed. It has endured long after the bitterness of the "great national

discussion” has been forgotten. It has transcended its polemical origins to “be counted among the classics of political theory.” So, indeed, was it seen by the editors of Blackwell’s “great political texts” in 1948 when it was published in a series that included the writings of Aquinas, Hobbes and Locke. But *The Federalist* and the historical debate over the United States Constitution are inextricably related. *The Federalist* is still, as Madison pointed out, “the most authentic exposition of the text of the Federal Constitution, as understood by the Body which prepared and the authority which accepted it.”² We shall return in this Introduction to the fascinating publishing history of *The Federalist* and its endurance as a towering monument in American cultural and political history. We shall also return to the problem of how such a revered text is to be read two hundred years later, but for now we must examine in depth that “great national discussion” which produced *The Federalist* as its second most enduring legacy. Pride of place must go, of course, to the Constitution itself.

FROM REVOLUTION TO CONSTITUTION: AMERICA FROM 1776 TO 1787

“The greatest exertion of human understanding”

Understanding the significance of America’s Bicentennial celebration of the Constitution (and *The Federalist*) requires an appreciation of the very special veneration the Constitution, drafted in Philadelphia that summer of 1787, receives in American life. Along with the flag, the Constitution stands alone as a symbol of national unity. America has no royal family, no heritage of timeless and integrative state institutions or symbols, no national church. Add to that America’s history of being peopled by diverse religious, national and racial stocks, many of whom came long after the founding, and one can see how the Constitution could become such a focus of national identity and loyalty. There is precious little else to compete with it as an integrative and symbolic evocation of America. To this day, in fact, to become an American citizen it is traditional for immigrants to have to pass a test on the Constitution. Unlike the American flag, however, which has changed dramatically over the years, with the constantly expanding number of states, the Constitution has endured virtually unchanged for two hundred years. This is, surely, another important source of its status as the focus of American identity, its stability and unchanging quality.

No other nation’s constitution has lasted that long, even in countries where, as in the United States, to change the constitution would challenge what little sense there is of nation-

unity. The world's second written constitution was Poland's of May 3, 1791; the third was France's of September 3, 1791. No one can claim endurance for either of them. The world's second oldest written constitution still in existence is Norway's, dating from 1814. There are now some 160 national constitutions, nearly two-thirds of which have been adopted or revised since 1970. Only fourteen predate World War II.

So much for the symbolic significance, longevity and stability of the United States Constitution, which speaks to why America would so enthusiastically celebrate its Bicentennial in 1987. The main concern here, however, is 1787 and the then new Constitution.

For many who lived through those years it seemed that the American Constitution was a unique and metahistoric achievement, of flawless, wondrous, perhaps even divine, inspiration. James Wilson, one of the framers at Philadelphia, wrote: "After the lapse of 6,000 years since the creation of the world, America now presents the first instance of a people assembled to weigh deliberately and calmly, and to decide leisurely and peaceably, upon the form of government by which they will bind themselves and their posterity." For George Washington, who presided over the Constitutional Convention, it appeared "little short of a miracle that the delegates from so many different states... should unite in forming a system of national government so little liable to well founded objections."³

Thomas Jefferson was not at the Convention, but he later referred to the group in Philadelphia as "an assembly of demigods." He described the Constitution itself as "unquestionably the wisest ever yet presented to man." John Adams, also absent from Philadelphia and like Jefferson on diplomatic assignment in Europe, was equally moved; the Constitution of 1787 was, "if not the greatest exertion of human understanding... the greatest single effort of national deliberation that the world has ever seen." James Madison, who was very much present at the Convention and who should have known better—since he, if anyone, was the author of the Constitution—saw another author at work; his "fellow Americans must perceive in the Constitution a finger of that almighty hand which has been so frequently extended to our relief in the critical stages of the revolution."⁴

So it would go on in the next century. Justice Johnson of the Supreme Court wrote in 1823: "In the Constitution of the United States, the most wonderful instrument ever drawn by the hand of man, there is a comprehension and precision that is unparalleled." John Fiske, a

important historian of the founding era, wrote in 1888 of “the wonderful Constitution... an *Iliad*, or Parthenon, or Fifth Symphony of statesmanship.” Nor have only Americans waxed rhapsodic and hyperbolic about the Constitution. On its Centennial in 1887 William Gladstone, the English statesman, asserted that the United States Constitution “was the most wonderful work ever struck off at a given time by the brain and purpose of man.”⁵

The point is a simple one. There seems to be a consensus that the Constitution was the inspired product of an Olympian congress of wise and virtuous men, the likes of which history had never seen before and would seldom see again. It should follow, then, that all Americans in 1787, seeing the Constitution for what it was, much the most brilliant instrument of government ever devised, must have thankfully and dutifully accepted it, grateful for the divine gift, albeit given human shape in a steamy hot Philadelphia summer.

That, alas, was not the case. There were, indeed, many dissenting, ungrateful Americans critical of this “greatest exertion of human understanding.” There was John Lansing of New York State, who denounced the Constitution as “a triple headed monster, as deep and wicked a conspiracy as ever was invented in the darkest ages against the liberties of a free people.” There was Amos Singletary of Sutton, Massachusetts, who asked at his state’s ratification convention:

Does not this Constitution... take away all we have, all our property? Does it not lay all taxes, duties, imports, and excises? And what more have we to give? These lawyers and men of learning, and moneyed men that talk so finely, and gloss over matters so smoothly, to make us poor illiterate people swallow down the pill, they expect to get into Congress, themselves. They expect to be managers of this Constitution, and get all the money into their own hands. And then they will swallow up us little fellows, like the Great Leviathan, Mr. President, yes, just as the whale swallowed up Jonah.⁶

Lansing and Singletary were but two of legions of Americans who opposed the Constitution of 1787. The myth of divine inspiration tends to gloss over the bitterness of the controversy surrounding the Constitution in 1787 and 1788. This future symbol of American unity itself divided Americans in those years as they have seldom been divided since. Nor should it be thought that the opponents of the Constitution were all unknowns like Lansing and Singletary. Some of America’s most important and best known public figures opposed it. In Virginia there were Patrick Henry, George Mason and Richard Henry Lee. In New York there was the Governor, George Clinton. In Massachusetts there were Sam Adams and Elbridge Gerry. Moreover, the Constitution would be ratified by the narrowest of margins. At ratifying conventions in state after state, as we shall see, often only a handful of votes separated the

pro-Constitution forces (Federalists, as they were called) and the defeated opponents of the Constitution (known as Anti-Federalists).

To understand the bitterness of the “great national discussion” it is necessary to see the drafting of the Constitution not as an isolated event but as the last act in the total drama that was the American Revolution, which had begun nearly twenty-five years earlier with the Stamp Act and the series of other tax and customs regulations imposed by the British Parliament on the colonies, leading to the Declaration of Independence in 1776. The American Revolution was not simply a conflict between Americans and British over home rule. It was also a struggle between Americans, about who would rule at home. That particular feature of the American Revolution, in fact, intensified with the achievement of home rule in 1776 and with its solidification on the battlefield in 1781.

For many Americans in the middle 1770s independence from the British was all the American Revolution meant. For many others, however, the Revolution involved that and more, the repudiation in an independent America of traditional colonial forms of government and, most significantly, the repudiation of the traditional elites who had dominated political and social life in colonial America. It was this latter perspective, a leveling and more democratic ideal, which tended to dominate after 1776, during the period of America’s first constitution, the Articles of Confederation. After 1776 there would indeed be new men, quite humble men in many cases, who came to rule in America. It was to a great extent the power of these new men and the leveling policies they pursued in their base of strength—the state legislatures—which, along with the sense of anarchic crisis in the state-centered Articles of Confederation, prompted the drafting of the Constitution, as we shall see.

In shifting power from the states, where new men dominated, to a new central government, the Constitution would reverse the verdict of 1776 on who would rule in America. In a sense, then, 1787 and the Constitution represent the triumph of one reading of the American Revolution over another—the spirit of ’76 as enshrined in the Articles of Confederation. The bitterness of the debate over ratification stemmed, in part, from the Constitution’s unabashed radicalism, its radical departure from virtually every aspect of American politics as practiced in America’s first ten years, and to that we must now turn.

The “politics of liberty”: America under the Articles

One of the few things that both sides agreed on in the fight over the Constitution was that it represented a victory for “government,” “authority” and “power” over “liberty.” Much as the men of ’76 had used older radical Whig paradigms—which saw the ever encroaching power of rulers, in general, and of Britain, in particular, extinguishing the flame of liberty represented by the American colonists—so the participants in the “great national discussion” of ’87 conceptualized their conflict in similar terms. What is striking is how this was true of both defenders and critics of the Constitution.

In *Federalist* No. 26, for example, Hamilton wrote of the too ardent “zeal for liberty” in post independence America and of the need for “the greater energy of government.” In *Federalist* No. 1 he wrote of “an enlightened zeal for the energy and efficiency of government.” His collaborator Madison described in *Federalist* No. 37 the need for “stability” and “energy” in government as well as attention “due to liberty.” Madison also wrote in *Federalist* No. 63 of liberty endangered “by the abuses of liberty” as well as by “the abuses of power.” But the *locus classicus* of this Federalist argument is found in Hamilton’s speech to the New York ratifying convention in 1788, where he placed it firmly in the context of the entire revolutionary experience:

In the commencement of a revolution which received its birth from the usurpations of tyranny, nothing was more natural than that the public mind should be influenced by an extreme spirit of jealousy. To resist these encroachments, and to nourish this spirit, was the great object of all our public and private institutions. The zeal for liberty became predominant and excessive. In forming our Confederation this passion alone seemed to actuate us, and we appear to have had no other view than to secure ourselves from despotism. The object certainly was a valuable one, and deserved our utmost attention; but Sir there is another object, equally important, and which our enthusiasm rendered us little capable of regarding. I mean a principle of strength and stability in the organisation of our government, and vigor in its operations.⁷

A pro-Constitution newspaper, the *Pennsylvania Packet*, declared similarly in September 1787 “The year 1776 is celebrated for a revolution in favor of liberty. The year 1787 it is expected will be celebrated with equal joy, for a revolution in favor of government.” The theme was repeated by Benjamin Rush, the great Philadelphia physician and patriot, and a friend of Jefferson. Very much a defender of the Constitution, Rush wrote in June 1787 to his English friend Richard Price that “the same enthusiasm now pervades all classes in favor of government that actuated us in favor of liberty in the years 1774 and 1775.”⁸

Critics of the Constitution saw the same forces at work. For Patrick Henry, “the tyranny of Philadelphia” was little different from “the tyranny of George III.” An Anti-Federalist told the

Virginia ratification convention that “had the Constitution been presented to our view ten years ago... it would have been considered as containing principles incompatible with republican liberty, and, therefore, doomed to infamy.” But the real foil to Hamilton, using the very same Whig language, was Richard Henry Lee, who wrote in 1788:

It will be considered, I believe, as a most extraordinary epoch in the history of mankind, that in a few years there should be essential a change in the minds of men. Tis really astonishing that the same people who have just emerged from a long and cruel war in defense of liberty, should now agree to fix an elective despotism upon themselves and their posterity.⁹

But always there were other and louder voices using this language in defense of the Constitution. Sometimes the dialectic would be expressed differently, but the meaning was the same. Benjamin Franklin, a defender of the Constitution, wrote: “we have been guarding against an evil that old states are most liable to, excess of power in the rulers, but our present danger seems to be defects of obedience in the subjects.” For the *Connecticut Courant* the matter was simple; the principles of 1776 had produced a glaring problem, “a want of energy in the administration of government.”¹⁰

Before examining how the Constitution sought to remedy this “want of energy” we need to look at what was so widely agreed were the “politics of liberty.” We must consider American politics and society under the Articles of Confederation, which were drafted in 1776 and passed by the Continental Congress in 1777. Adopted by all the newly independent states—Maryland being the last in 1781—the Articles, America’s first constitution, remained operative until 1788.

The Articles of Confederation, and American politics during these years, had two overriding characteristics. Power was concentrated on the periphery, in the individual states. And in those separate states power was further concentrated in popular legislatures, at the expense of any commitment to a separation of powers. From 1776 to 1787 America under the Articles was no more than a loose alliance of sovereign and independent states. Article II of this first American constitution declared that “each state retains its sovereignty, freedom and independence.” Most Americans agreed with John Adams, who wrote, looking back on that period: “no one thought of consolidating this vast continent under one national government.”¹¹ There was, after all, little historical experience of unity among the colonies. They had separate histories, separate cultural, religious and institutional traditions. What they had in common was their dependence on Britain since their settlement and a brief ten

years of common cause against the commercial policies of George III's ministers. There were far closer ties between Boston and London, for example, or South Carolina and London, than there were between Boston and South Carolina.

The founders also knew their republican theory and were agreed that liberty flourished only in small states. Monarchy and despotism, the patrons of energetic, intrusive and powerful government, were the products of larger states. The inalienable rights to life, liberty and the pursuit of happiness referred to in the Declaration of Independence were, it was assumed, best protected by small and local state governments. Luther Martin, an opponent of the Constitution, would remind the Constitutional Convention in 1787 that

at the separation from the British Empire, the people of America preferred the establishment of themselves into thirteen separate sovereignties instead of incorporating themselves into one. To these they look up for the security of their lives, liberties and properties. To these they must look up. The federal government they formed to defend the whole against foreign nations in case of war, and to defend the lesser states against the ambitions of the larger.¹²

For many Americans the Confederation was considered merely a temporary expedient, required to wage war against Britain, which would fade away with the coming of peace. The Confederation did wage war and it managed barely to finance Washington's army. With the cessation of hostilities in 1783 the Continental Congress, the one power at the center, became virtually impotent, with all effective power residing in the states.

The Continental Congress was the sole integrative institution created at the center under the Articles. It consisted of one legislative house. No aristocratic second chamber would be tolerated by the spirit of '76. In the Congress each state had one vote. Each state legislature had the power to decide how to appoint at least two and no more than seven delegates from that state to the single-chamber Congress. Each delegate served a one-year term. The annual elections so dear to republican ideology in eighteenth-century England flourished under the Articles. Compensation for the delegates while they sat in Congress was provided by the state they represented.

There was no executive branch provided for the central government by the Articles. The Revolution, after all, was against authority and power, against kings, as Tom Paine put it in his *Common Sense*. The central government was administered by a committee of Congress. When the Congress was not sitting, a committee of states exercised power in its stead. One delegate presided over that committee, but for no more than one year in any three. This

delegate who presided was called “president,” a word which would acquire dramatic new significance in 1787. All power to determine the foreign policy of the Confederacy, even to wage war, was given to the Congress.

In addition to the absence of an Executive branch there was under the Articles no judiciary at the center. There was simply the single-chamber legislature, the Continental Congress. Of even more significance was the fact that the Articles gave to that legislature virtually no power. The Congress had no power to regulate commerce and no power to lay taxes. This was by no means an oversight on the part of the drafters of the Articles. It was, after all, what the Revolution had been about, the resistance of a free people to the claims of governmental power to tax and to regulate commerce. It was this experience that gave reality to the colonial tendency to counter-pose “government” and “liberty.” If a war had been fought to prevent Parliament from taxing distant colonies and regulating their commerce, the newly independent states were hardly going to invest a central government with such powers; they were reserved for the states. The lack of power at the center would be a principal shortcoming of the Articles and would play a crucial role in producing the call for reform in the middle 1780s.

For any legislative action to be taken by the Congress the approval of at least nine of the thirteen state delegations was required. Each state, regardless of population—and there were great variations, for example between Pennsylvania, Massachusetts, New York and Virginia, on the one hand, and Rhode Island and Delaware, on the other—had one vote. Of singular importance was the provision in the Articles which required that any change in its terms be agreed to by all thirteen state legislatures. Revenue was raised by Congress through requisitions from the states. Some states would pay, and others would not, rendering the finances of the Confederacy uncertain and precarious. George Washington, Commander in Chief of the American Army fighting the British from 1776 to 1782, who himself served without pay through the entire war, was forever complaining that this was no way to run a war. After the peace treaty of 1783 even fewer states met their financial obligations to the Congress.

In 1781 the Congress passed an amendment to the Articles allowing the levy of a 5 percent customs tax on imported goods as a way of stabilizing and regularizing a source of revenue for the central government. One state, Rhode Island, which was a maverick in every respect during this period, sending no delegates to the Constitutional Convention in 1787, failed to

agree to the change; it never went through. This failure would ultimately prove fatal to government under the Articles. In 1783 and 1784 efforts were again made to impose customs duties and to require states to appropriate one and a half million dollars annually for Congress. These reforms were defeated in the first case by Delaware's veto and in the second by only two states ratifying the amendments made in Congress.

As a result of this vacuum of power at the center the thirteen states were beset by rivalries, general confusion and numerous variations and duplications. They acted, in short, like the sovereign and independent entities they assumed they were. Seven of the thirteen states, for example, printed their own money. Many passed tariff laws against neighboring states. Nine of the thirteen had their own navies, which often seized ships of other states. The states continually argued over their boundaries and their claims to land in the western territories. Even the terms of the peace treaty with Britain in 1783 were held to be binding on the individual states only if they chose to accept them.

For George Washington the Articles had produced "a half-starved, limping government, that appears to be always moving upon crutches, and tottering at every step."¹³ In *Federalist* No. 15 Hamilton pleaded for "something... to be done to rescue us from impending anarchy." The Articles had produced, he wrote in No. 9, nothing but "little, jealous, clashing, tumultuous commonwealths, the wretched nurseries of unceasing discord." The manifest shortcomings of the Articles, according to Hamilton in No. 22, had spawned "a system so radically vicious and unsound" as to require not "amendment but... an entire change in its leading features and character."

Turning to the periphery, the states, where power was concentrated, one sees how the "politics of liberty" worked. Its most dramatic and obvious manifestation was reflected in what the states did after 1776 with the institution of governor, which had played so important a role in the colonial period. In one after another state constitution drafted after 1776 a clear expression of the "politics of liberty" was the fear of rulers and of magisterial authority. In every state constitution the legislative branch was clearly dominant. In the Pennsylvania and New Hampshire constitutions there would, in fact, be no governor, and under eight other state constitutions the governor was to be chosen by the legislature. The new state constitutions also severely limited grants of executive authority. With the exception of one state, South Carolina, all the new state constitutions totally eliminated any role for the governor in the legislative process. In six states the power of making political appointments

was reserved almost entirely to the legislature. In all thirteen states the legislatures retained the right of final approval of appointments. Nearly a century of English country and opposition rhetoric criticizing royal and ministerial corruption lay behind these state constitutional provisions. Indeed, all the constitutions of 1776 (again with the exception of South Carolina) excluded all government office holders from sitting in the legislature.

This same imprint of English country ideology is seen in how these new state constitutions in the era of the Articles dealt with second chambers. Unlike the Articles itself, most state constitutions after 1776 did provide for a second legislative house. Pennsylvania was the exception. Its constitution of 1776, the most radical of all the new constitutions, had but one chamber. Elsewhere, however, there would be no hereditary senates. Most Americans were still convinced of the need for a chamber that would represent superior talent and wisdom, where the more contemplative and learned in the community could revise the more hasty actions of the people. In this sense many Americans were like Thomas Jefferson in his belief both in the integrity and good sense of the common man, and in the existence of a “natural aristocracy,” as he called it, as opposed to the artificial aristocracy which opposition rhetoric had attacked. The latter was a crown-created aristocracy which received its jobs and positions from connections and influence, not from merit and talent. All the same, the state constitutions still made the senates distinctly secondary and advisory to the principal legislative body, the lower houses. Equally significant is that virtually all the senates were elected by the people at large, rather than appointed by an intermediary body. In the “politics of liberty” the people themselves were assumed capable of picking the best among them.

The “politics of liberty” in the states meant the absolute dominance of the legislature. Not only was the governor, representing the principle of magisterial rule, stripped of most of his power, but the judiciary in many states was made subservient to the state legislatures as well. Judicial appointments and terms of service were controlled by legislatures, as were salaries and fees. State legislatures regularly overturned judicial findings and often took over traditional judicial duties such as rulings on probate, debt and even marriage and divorce.

Virtually all traditional notions of the separation of powers were abandoned in the states. The ruling assumption was that a free government was one where the people’s legislature governed. Indeed, in most states it was assumed that the only appropriate check on the people’s legislature was the people themselves. Thus, virtually every state constitution during

the Articles period required annual elections for their legislators. Rhode Island and Connecticut required half-yearly elections! The state constitutions also mandated rigorous rotation schemes, setting out quite strictly how long one individual could hold any office.

Even more indicative of the pervasive “politics of liberty” under the Articles than the unchallenged assumption of legislative supremacy in the states were the ever more radical suspicion and fear of these very legislatures and their members on the part of the people at large. Gordon Wood has brilliantly recreated the widespread criticism of all elected officials, even the people’s own representatives annually or semi-annually elected, that flourished in the states under the Articles. Many radical democrats assumed that only the people present themselves could really legislate—be it in mobs, district committees or conventions. In the Pennsylvania constitution, the most radical of all, the unicameral legislature was, in fact, seen as an upper house, with the people out of doors retaining the fundamental power of legislation. Bills could not become law under this constitution until, after their first reading in the legislature, they were publicized throughout the state, discussed and approved by local conventions and then voted upon again in the next legislative session. As Benjamin Rush, a critic of the radical Pennsylvania constitution, noted, this reserved to the people “the right of making and of judging of all their laws themselves.”¹⁴

The very notion of representation, of being governed by officials, even elected officials, however frequently elected, came under attack in the states. In western Massachusetts many farmers claimed that each town had a right to reverse and annul any action taken by the state legislature. In state after state it became common practice to require that any changes in the state constitution be approved not by the state legislatures but by the people themselves in convention, or at least through delegates chosen just for that task. For those who could not even contemplate choosing representatives it was as if the Revolution and its victory for the “politics of liberty” left Americans, as one Bostonian put it, “literally placed on the broad field of nature.” This reading of the “spirit of liberty” led the little town of Ashfield, Massachusetts, to vote at a town meeting in 1776: “we do not want any goviner but the goviner of the universe.” As in the English Revolution, so in America, latent antinomian voices of puritanism, intoxicated with the prospect of realizing true Christian freedom, were joined to radical theories of a state of nature and expressed in the vocabulary of paradisiacal and anarchic bliss. Tom Paine had reached those voices in the American polity in his *Common Sense* with its constant use of prophetic Old Testament assaults on kingship. All authority wa

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