

Gentlemen Revolutionaries:

Power and Justice in the New American Republic, 1781-1787

by Tom Cutterham

In the aftermath of the American revolution, elites sought to defend their power and status against newly empowered popular governments and egalitarian demands. They developed new discursive and political strategies, transforming pre-revolutionary ideas about authority and legitimacy, moving from traditional forms of hierarchy based on deference and allegiance, towards a structure of power relations based on the inviolability of property and contractual rights. A new American ruling class began to constitute itself through these strategies and ideas during the 1780s, replacing structures of British imperial rule. It did so in response to threats from popular and (white male) egalitarian politics—that is, class struggle and class formation drove each other. Both, in turn, generated identities and ideologies that were central to the development of capitalist ideology in the following century.

This thesis gives an account of that process from the perspective of a variety of American elites, focusing on the fragmented and contradictory nature of elite discourse and strategy as well as on the emergence of commonalities and the role of class interests. It deals with the formation and early controversy around the Society of the Cincinnati; with the development and debate over new conceptions of public education; with the elaboration of various legal and discursive mechanisms for the defence of property rights; with the interrelated roles of land claims, banking, corporations, and the rights of contract; and with the elite sense of the dual threat posed both by state legislative democracy (tyranny) and by rural insurrection (anarchy). It also assesses the role of the 1787 constitutional convention within this process, as a radical move that can be seen as both a culmination and a break from prior elite strategy.

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Abbreviations

ASC D.C.	Archive of the Society of the Cincinnati, Anderson House, Washington
Evans	Early American Imprints, Series I: Evans, 1639-1800.
JCC	John Fitzpatrick et al. eds., <i>Journals of the Continental Congress, 1774-1789</i> (Government Printing Office: Washington, 1904-37)
PAH	Harold Syrett & Jacob Cooke, eds., <i>The Papers of Alexander Hamilton</i> , (Columbia University Press: New York, 1961-1987)
PGW	W.W. Abbot et al. eds., <i>The Papers of George Washington</i> (University of Virginia Press: Charlottesville, 1987-), Confederation Series
PJJ	Henry Johnston ed., <i>The Correspondence and Public Papers of John Jay</i> , (G.P. Putnam's Sons: New York, 1890-93)
PJM Chicago	Robert Rutland et al. eds., <i>Papers of James Madison</i> (University of Press, 1956-)
WGW	John C. Fitzpatrick ed., <i>The Writings of George Washington from the Original Manuscript Sources, 1745-1799</i> (United States Government Printing Office: Washington, 1931-44)

Introduction

There is nothing more common than to confound the terms of *the American revolution* with those of *the late American war*. The American war is over: but this is far from being the case with the American revolution. On the contrary, nothing but the first act of the great drama is closed.¹

The legend of Cincinnatus tells of a Roman senator of great wisdom and virtue, living humbly on his own estate, who was one day called upon to lead his city in a struggle for survival. Granted the office and powers of dictator, he defended the city and defeated its rivals. Then he laid down his power and returned to his farm. This was why the story of Cincinnatus was worth telling. He did his part to resolve the crisis of his country, without using it to acquire power for himself. The war ended, he returned to his old life, and the city remained just as it had been. This story shaped the legend of George Washington in the years after the American War for Independence, when he resigned from his command of the army and returned to private life on his Virginia estate, Mount Vernon. But it is not the story of the American revolution. Washington relinquished office and became America's Cincinnatus, but his country could never return to the way it was. The struggle for independence was only one act of a greater drama—the struggle for order, justice, and power in the new republic.

In his eight years as Commander-in-Chief, Washington paid little attention to his own affairs. Back in Virginia in late 1783, he was faced with the task of putting his estate on an orderly and profitable footing, as well as a flood of correspondence and social

¹ Benjamin Rush, "Address to the People of the United States," *American Museum*, Philadelphia, January 1787, in Coleen A. Sheehan and Gary L McDowell eds., *Friends of the Constitution: Writings of the "Other" Federalists, 1787-88* (Liberty Fund: Indianapolis, 1998), p. 1.

expectations. Eighteen of his slaves had escaped during a British raid in 1781, and nine others had been sold to raise money for taxes.² Mount Vernon, like the American economy as a whole, ran on the exploitation of slave labour. But just as concerning to Washington as the loss of his slaves was the condition of his lands in the west, holdings he had built up throughout his life and investments he expected to provide a good return. There, on the edge of an empire built on the expropriation of Native Americans, the meaning of property and the rule of law were far from secure. As an absentee landlord and speculator, Washington faced a challenge from the settler families who lived and worked on the land he owned.³

'It was my full intention to have made you a visit so soon as the summer's heat should be over,' he wrote to Virginia's Governor, Benjamin Harrison, in late July 1784, 'but the situation of my affairs, and attempts to take from me the property I have in the back-country are such that I am obliged to visit the latter in September...'⁴ The general intended to confront the squatters face to face and force them to agree terms of sale or legal tenancy. His trip, not exactly a success, had far-reaching effects on his thinking. Seeing the situation in the west up close gave Washington a new perspective on the present state and future prospects of the new nation. In fact, it made him doubt whether America was a nation at all. What he saw, and what he made of it, raised the very questions that defined the political and social struggles of the 1780s. Even more importantly, it set the mood, the feeling that characterised that decade for Washington and

² Douglas Southall Freeman, *George Washington: A Biography* (London: Eyre and Spottiswood, 1954), vol. 6, p. 4.

³ 'By 1775 he laid claim to over 37,000 acres in the West'; *PGW*, vol. 2, pp. 338-9 ed. note. For Washington's slave estate, see Henry Wienceck, *An Imperfect God: George Washington, His Slaves, and the Creation of America* (Macmillan: London, 2004). For the tensions and politics of class and race on the frontier, see Patrick Griffin, *American Leviathan: Empire, Nation, and Revolutionary Frontier* (Hill & Wang: New York, 2007).

⁴ George Washington to Benjamin Harrison, 10 October 1784, in *PGW*, vol. 2, pp. 89-96.

many like him. That was not a mood of triumph, but one of anxiety. For American elites, the 1780s were a time of crisis.

Shortly after he returned from his trip westward, Washington wrote again to Harrison describing the situation. 'The western settlers (I speak now from my own observation) stand as it were upon a pivot,' he wrote. 'The touch of a feather would turn them any way.' The vision Washington expressed in this letter is jarring to those who look back on it from the twenty-first century. It is a vision of the precariousness of the new republic, and the limits of the victory won by Washington's army. 'I need not remark to you, sir,' he told Harrison, 'that the flanks and rear of the United States are possessed by other powers—and formidable ones, too.'⁵ Washington's letter placed the western territory at the centre of geostrategic rivalry with the Spanish and British empires. At the same time, it situated Virginia in a context of 'rival states,' not the competing empires but the newborn republics of America, loosely bound together under the Articles of Confederation. In the weakness of the ties between east and west, even more than the ties between states, Washington saw a threat to independence itself.⁶

Washington's analysis rested not only on the persistence of global imperial rivalry, but also on his understanding of a crucial historical change: the rise of commerce. The future of the west would be determined not so much by force of arms, predicted

⁵ Washington to Harrison, 10 October 1784, in *PGW*, vol. 2, p. 92.

⁶ This dual international context has informed some recent interpretations of the politics of the 1780s, which argue that military, diplomatic, and commercial pressures drove the transformation of the United States and especially the adoption of the federal constitution. See Max Edling, *A Revolution in Favor of Government: Origins of the U.S. Constitution and the Making of the American State* (Oxford University Press: New York, 2003); David Hendrickson, *Peace Pact: The Lost World of the American Founding* (University Press of Kansas: Lawrence, 2004); Eliga Gould, *Among the Powers of the Earth: The American Revolution and the Making of a New World Empire* (Harvard University Press: Cambridge, 2013). For older versions of similar arguments, see Frederick Marks, *Independence on Trial: Foreign Affairs and the Making of the Constitution* (Louisiana State University Press: Baton Rouge, 1973); Peter Onuf and Nicholas Onuf, *Federal Union, Modern World: The Law of Nations in an Age of Revolutions, 1776-1814* (Madison House: Madison, 1993). For a full analysis of this body of work and its relationship to the distinct interpretation set out in this thesis, see Tom Cutterham, "The International Dimension of the Federal Constitution," *Journal of American Studies* (forthcoming, 2014).

Washington, as by the forces of international trade. It was vitally necessary to 'apply the cement of interest, to bind all parts of the Union together by indissoluble bonds—especially,' he added, the parts to the west of Virginia and the middle states. The way to win the west was to create the conditions for a thriving commercial economy, to 'smooth the road, and make easy the way' for the interests and industry of the settlers themselves.⁷ No traditional sense of allegiance, no national feeling, no bonds of kinship would hold the emerging American empire together or prevent defection to its rivals. Instead, a new kind of polity had to be constructed, one that would tie citizens together through political economy.

For all the grand strategy in Washington's letter to Harrison, his encounter in the back-country had resonances close to home. It reflected tensions of class, property, and power within American society. The root of his anxiety was not the British or Spanish threat, but the disaffection of Americans whose interests differed from his own. Washington expressed the hope that, by linking east and west with a canal that would facilitate commerce, those interests could be unified. A general prosperity would make class distinctions irrelevant and secure the integrity of the new nation.⁸ But such buoyant rhetoric could hardly obscure the fact that Washington's land claims conflicted with those of the western settlers, and that protecting his property and securing his own prosperity meant excluding and exploiting others. If the men and women he met in the west were unconvinced about the national experiment, if their allegiance would turn on the touch of a feather, it was because the social and economic structure embodied by men like Washington offered them little. Up and down the country there were ordinary people,

⁷ Washington to Harrison, 10 October 1784, in *PGW*, vol. 2, p. 92.

⁸ On the rhetoric of unity through commercial prosperity, see Cathy Matson and Peter Onuf, *A Union of Interests: Political and Economic Thought in Revolutionary America* (University Press of Kansas: Lawrence, 1990).

urban artisans and rural farmers as well as frontier settlers, who saw in the revolution the chance to make something different of their world.

In the years that followed the war for independence, different visions of America's future grew in continual dynamic interaction with each other. The politics of the new republic were driven by the tensions in American society, tensions we can glimpse in the fraught relationship between Washington and his sometime tenants. In this thesis, I treat both political and cultural institutions, from law and citizenship to literature and historical memory, as sites of struggle in which relations of power and the ideas connected to them were reproduced, fought over, and changed. I am concerned as much with class formation as I am with state formation. I have tried to write a history of ideas that depicts their embeddedness in social conditions and processes, as well as in intellectual and discursive traditions. I have also tried to write a history of class struggle that takes culture and ideas seriously. At the same time, it takes seriously the impact of revolution. Ideas and choices are questions of identity, and the formation of identity is an act of political imagination that must be continually reiterated and adjusted. The revolution was a major turning-point in this process of identity-formation, both individually and collectively. Americans made the revolution, and whether they wanted it or not, the revolution helped make them.

Gentlemen... and Revolutionaries

The visionaries and actors I follow in this thesis thought of themselves as gentlemen. They were not all very rich (and sometimes even the richest pleaded poverty), nor were they all born to high status families. In fact many of them, from the West-Indian-born immigrant Alexander Hamilton or the Irish-born Aedanus Burke, to the struggling, itinerant teacher Noah Webster and the poet-turned-printer Joel Barlow, could claim

relatively humble backgrounds and told stories of heroic self-creation. But they all shared a degree of privilege that separated them from the majority of their fellow Americans. They belonged to a category—designated by the title, gentleman—which bestowed on its members freedom and power unattainable even to ordinary property-holding white men, let alone to women, tenants, servants, or slaves. To be a gentleman was not just to belong to a sociological category: it was an identity, and it brought membership in a network of communication, respect, and mutual support. Though they had many arguments among themselves, gentlemen were a self-identifying group. They were a class, with class interests as well as individual ones.⁹

Beginning over a century ago, many scholars have understood the history of the 1780s, and especially the origins of the federal constitution, as a process of class struggle.¹⁰ They sometimes sought to identify specific economic interests and to trace ideas and political action directly to those interests. Their work was a powerful challenge to the veneration of the constitution, and helped raise important questions about the nature and justice of American society. In the last decade, this vein of scholarship has been reinvigorated by an increased attention to the ideas and strategies of non-elites, of 'the lower sort,' of women, slaves, and minority racial, ethnic, and religious groups.¹¹

⁹ The term 'gentlemen' pre-dates what Keith Wrightson calls 'the emergence of the "discourse of class" in the later eighteenth century'; Wrightson, "Class," in David Armitage and Michael Braddick eds., *The British Atlantic World, 1500-1800* (Palgrave Macmillan: Basingstoke, 2002), p. 134. Rather than an objective relationship to the means of production, 'gentlemen' signifies a self-consciously distinct group whose membership and social power derived from a variety of social, cultural, and material conditions (see note 12 below). See William Doyle, *Aristocracy and its Enemies in the Age of Revolution* (Oxford University Press, 2009), p. 89.

¹⁰ Most importantly Charles Beard, *An Economic Interpretation of the Constitution of the United States* (New York: Free Press, 1913); Merrill Jensen, *The New Nation: A History of the United States During the Confederation, 1781-1789* (New York: Knopf, 1950); Jackson Turner Main, *The Antifederalists: Critics of the Constitution, 1781-1788* (Chapel Hill: University of North Carolina Press, 1961); Staughton Lynd, *Class, Conflict, Slavery, and the United States Constitution* (Indianapolis: Bobbs-Merrill, 1967).

¹¹ See especially Gary Nash, *The Unknown American Revolution: The Unruly Birth of Democracy and the Struggle to Create America* (Viking: New York, 2005); Terry Bouton, *Taming Democracy: The People, The Founders, and the Troubled Ending of the American Revolution* (Oxford University Press: New

Gentlemen did not make the post-revolutionary world alone; they did so in struggle. My thesis owes a great debt to scholars who have uncovered the worlds of the non-elite. I have tried to do something different. I have returned to the gentlemen, in an attempt to understand them in light of what we have learnt about the threats and challenges they faced. This is a story of shifting alliances, internal divisions, and changing ideas and strategies among an emerging national elite—it is the story of the formation of an American ruling class.

Rather than treating the new republic's elite as constituted fundamentally by quantifiable economic interests, my understanding of class formation and class interest is much more diverse. Rather than reducing all relations of power to purely economic ones, I have tried to appreciate the many different forms such relations could take.¹² It was precisely the shifts in the role and importance of different types of power relations that, I argue, were the most important outcomes of class struggle in the 1780s. While the categories of race and gender continued to underpin the basic organisation of American society, this thesis tells a story of transformation among the white male elite.¹³ That story begins with notions of virtue, heredity, and aristocracy as the organising themes of

York, 2007); Woody Holton, *Unruly Americans and the Origins of the Constitution* (Hill & Wang: New York, 2007). As Simon Middleton and Billy G. Smith have argued, reports of the death of class 'as a mode of historical analysis of early North America and the Atlantic World' have been greatly exaggerated, and the scholarship cited here is proof of a revitalisation to which I hope this thesis will contribute; Middleton & Smith, *Class Matters: Early North America and the Atlantic World* (University of Pennsylvania Press: Philadelphia, 2008), p. 1.

¹² In this sense I have drawn on a post-Marxist tradition with a debt to Edward Thompson, *The Making of the English Working Class* (Victor Gollancz: London, 1963). My understanding of power relations, their role in class formation, and their relationship to political and social thought, also derives in part from Nikolas Rose, *Powers of Freedom: Reframing Political Thought* (Cambridge University Press: Cambridge, 1999) and Corey Robin, *The Reactionary Mind: Conservatism from Edmund Burke to Sarah Palin* (Oxford University Press: New York, 2010). Robin defines conservatism as 'a meditation on—and theoretical rendition of—the felt experience of having power, seeing it threatened and trying to win it back'; Robin, *The Reactionary Mind*, p. 4. Albeit with less meditation and more action, this is the same drive of which I have sought to give account among the American revolutionary elite of the 1780s.

¹³ For the politics of a racialised masculine identity in the revolutionary era, see Mark Kann, *A Republic of Men: the American Founders, Gendered Language, and Patriarchal Politics* (New York University Press: New York, 1998).

gentlemanly identity and power. It ends with the incomplete but substantial replacement of these themes by juridical, contractual, and economic forms. Revolution changed not just the rulers, but how they ruled.

The gentlemen of the new American republic faced a delicate situation. On one hand, they had for the most part gained status and power as a result of the revolution. They had risen as the empire and its loyalists fell. On the other, that power was threatened by the very revolutionary movement that created it. The revolution's challenge to traditional power structures, and their related systems of justification and reproduction, spread beyond the common British enemy to encompass American society at large. At the same time, the tumult of social and political change offered paradoxical opportunities for advancement within a structure that was already beginning to crumble. Men like Henry Knox and Hugh Henry Brackenridge could no sooner come to see themselves as formally superior to other Americans than the very concept of such differentiation came under attack. This was an important part of the class dynamic of the 1780s. It was not the gentlemen most secure in their status, wealth, and privilege who drove forward the politics of the elite. It was most often those who were one rung above the ordinary.

It was this very insecurity that gave these gentlemen their revolutionary edge. In the first place, it was their *lack* of power, their peripheral role in imperial society, that had made them the leaders and cheerleaders of so risky an endeavour as a revolutionary war. In the second, after the war was won, it was the weakness of the whole elite position that drove them to continue the transformative political effort—that led Benjamin Rush, for example, to declare that only the first act of the great drama was closed. Among the whole group of gentlemen, it was the newest and the lowliest who tended to work hardest and shout loudest to secure the privileges of their class. This made them innovative, and it

made them daring. It made their critical eyes sharp and tilted their ideas towards strategy and practice. They were no complacent, backward-looking aristocracy. Their time was a time of creativity, the birth of a new nation, and the transformation of a political world. The gentlemen of the 1780s were after all, proudly and avowedly, gentlemen revolutionaries.

Power... and Justice

The revolution was a struggle for power, not only against the British empire but, inevitably, among Americans themselves.¹⁴ At the same time, the revolution was a process of redefining the nature and value of power itself. In various ways, and with differences marked by geographical, ethnic, and religious lines, the revolution brought into question relations of power well beyond the colonies' imperial bond, including the power of men over women, masters over slaves, and that of gentlemen over the rest of society.¹⁵ Just like the revolution against the British empire, the challenge to other relations of power was not simply a formal political one. It involved social and cultural practices outside the realm of conscious political thought, and it was deeply tied to questions of identity at individual and collective levels. Just as the British responded to the American threat to their imperial power, American gentlemen reacted individually and as a class to the challenges posed by revolutionary upheaval. How they did so is a complex story, and it is the story I have tried to tell in this thesis.

¹⁴ This restates Carl Becker's classic distinction between 'the question of home rule' and of 'who should rule at home,' in Carl Becker, *The History of Political Parties in the Province of New York, 1760-1776* (University of Wisconsin Press: Madison, 1909), p. 22.

¹⁵ Such dynamics are analysed in, e.g. Stephen Rossurm, *Arms, Country, and Class: The Philadelphia Militia and the "Lower Sort" During the American Revolution, 1775-1783* (Rutgers University Press: New Brunswick, N.J., 1987); Woody Holton, *Forced Founders: Indians, Debtors, Slaves, and the Making of the American Revolution in Virginia* (University of North Carolina Press: Chapel Hill, 1999); Michael McDonnell, *The Politics of War: Race, Class, and Conflict in Revolutionary Virginia* (University of North Carolina Press: Chapel Hill, 2007).

Long before the close of the war, questions of social order and the proper role of hierarchy, respect, and distinction in the new republic had begun to press upon some American gentlemen. While army life itself, especially for Washington's Continentals, was a lesson in the virtue of precisely these things—rank, deference, chain of command—the exigencies and disorder of the war effort also taught a contrary example.¹⁶ Whatever ideas about the American character gentlemen professed to have in the first days of the revolution, by the war's end most felt disillusioned about the American people's supposedly superior virtue. Ordinary citizens, gentlemen tended to feel, had been lacking in every possible way: in sticking to non-importation and non-trading agreements, in paying their taxes, in acquiescing to the army's requisitions, in the performance of their armed service, and not least in their obedience to government and their superiors. Just how to construct an ordered and virtuous society from such materials, in the wake of the war, was the great political and philosophical question of the 1780s.

As I argue in the first chapter, some American gentlemen imagined using notions of friendship, honour, and military virtue to lend structure and leadership to society in the new republic. Gendered ideals and the role of family life, including the heritability of status, were central to this vision among certain army officers, who formed the Society of the Cincinnati in 1783. In the second chapter I recount how other gentlemen, especially in the north-eastern states, saw in the church and in the formal education system tools for asserting social order and instilling virtue in the populace. Many varieties of republican thought prized education as a central pillar in the constitution of any republican society;

¹⁶ See John Shy, *A People Numerous and Armed: Reflections on the Military Struggle for American Independence* (Oxford University Press: New York, 1976); E. Wayne Carp, *To Starve the Army At Pleasure: Continental Army Administration and American Political Culture, 1775-1783* (University of North Carolina Press: Chapel Hill, 1984); Gregory Knouff, *The Soldiers' Revolution: Pennsylvanians In Arms and the Forging of Early American Identity* (Pennsylvania State University Press: University Park, 2004).

and of course, many socially and financially vulnerable gentlemen filled the ranks of the teaching profession and the clergy. But neither the Cincinnati nor the visionary educationalists of the new republic succeeded in winning for their projects the backing of gentlemen as a class, at a national level. Their real importance lay in revealing the contradiction and variety of elite strategies and ideas, while also uncovering their common ground.

The following three chapters elaborate that common ground—which centres on the notions of property, contract, and law—and the ways it developed both through an ongoing conversation in letters, pamphlets, and legislative debates, and through the unfolding of political activity and strategy in congress, in state courts and governments, and ultimately in the movement for the constitutional convention.¹⁷ Individually, each of these chapters tells the story of a particular moment when gentlemen's power in property and contract, and their hold on the apparatus of the law, was threatened and ultimately defended. Together, they build a complex picture of how the development of institutions, instruments, and practices occurred alongside and in interaction with the development of ideas and discourses. There was no single, stable set of ideas, or even a tradition, that united American gentlemen from the beginning and gave them the intellectual tools to entrench their power in the revolutionary settlement. Rather, it was the long and uneven process of defending and restoring that power that helped clarify a set of unifying ideas and a usable collective identity.

None of this means, however, that they did not engage seriously with questions of political and social philosophy, that they were not earnestly seeking truth and justice.

¹⁷ The scholarship that has most shaped my understanding of property and law in this period is Jennifer Nedelsky, *Private Property and the Limits of American Constitutionalism: The Madisonian Framework and its Legacy* (Chicago University Press: Chicago, 1990); and Christopher Tomlins, *Law, Labor, and Ideology in the Early American Republic* (Cambridge University Press: Cambridge, 1993).

Political discourse was not merely a cover for self-interested conspiracy. When scholars in the middle of the last century reacted to the overtly materialist interpretations of the period, they brought about a flowering of interest in the ideas and theories of America's gentlemen revolutionaries. It was these scholars' declared intention to take what people in the past had said as a serious indication of what they thought. According to this approach, the context that mattered was an intellectual rather than a social one, and the development of political language and discourse was directed and constrained primarily by factors internal to itself.¹⁸ Yet the best work of this period aimed to reintegrate a serious attention to the language and thought of its historical subjects into an understanding of their social and economic context.¹⁹ That is the line of inquiry I have followed here. My premise is that social and political structures develop in conjunction with ideas and discourses, and that identity and class form at this intersection.

¹⁸ Among the most influential work was that of Bernard Bailyn, in e.g. Bailyn, *The Ideological Origins of the American Revolution* (Harvard University Press: Cambridge, 1967), and of Douglass Adair, who edited the *William & Mary Quarterly* from 1944-1955, collected in Trevor Colbourn ed., *Fame and the Founding Fathers: Essays of Douglass Adair* (W. W. Norton: New York, 1974). By the 1970s this kind of work came to be heavily influenced by the methodological contributions of Quentin Skinner and J.G.A. Pocock.

¹⁹ On the theoretical point, see Gordon Wood, "Rhetoric and Reality in the American Revolution," *William & Mary Quarterly*, Third Series, vol. 23 (1966), pp. 3-32. Although its notion of communitarian republicanism as the defining feature of revolutionary politics was overdrawn (as he and others have since pointed out; see Milton Klein et al. eds., *The Republican Synthesis Revisited: Essays in Honor of George Athan Billias* [American Antiquarian Society: Worcester, Ma., 1992]), no book has surpassed Wood's first as an account of political and social discourse in this period. 'Only an examination of the Federalists' social perspective, their fears and anxieties about the disarray in American society, can fully explain how they conceived of the Constitution as a political device designed to control the social forces the Revolution had released'; Wood, *The Creation of the American Republic, 1776-1787* (University of North Carolina Press: Chapel Hill, 1969), p.476. Yet implicit in the conclusion to that book, and fully revealed in his later work, was the argument that the elites and their social perspective were in the end irrelevant to the development of American society and politics, and especially of American capitalism, which he saw as a force of mass democratisation, at least for white men. In framing the Federalists as backward-looking aristocrats, and the constitution as a paradoxical defeat for its own advocates, Wood passed over the way the elite's struggle to maintain power generated the very ideology and set of strategies that would be central to the capitalist class system. My own project exists in the shadow of Wood's, a condition which may have helped me to see better into darker corners. See Wood, "Interests and Disinterestedness in the Making of the Constitution," in Richard Beeman et al. eds., *Beyond Confederation: Origins of the Constitution and American National Identity* (University of North Carolina Press: Chapel Hill, 1987), pp. 69-109; Wood, *The Radicalism of the American Revolution* (Vintage Books: New York, 1991); Wood, *Empire of Liberty: A History of the Early American Republic, 1789-1815* (Oxford University Press: Oxford, 2009).

To put it another way, people give their own answers to the questions that confront them, and they tend to try to give the *right* answers, but they do not do so under conditions of their own choosing. In their pursuit of justice, in their efforts to construct the best possible society and government, American gentlemen faced real and genuine philosophical problems, including the roles of education and property in society, and the proper protection of minorities from political majorities. To say, as I have done, that their responses were determined not just by the intellectual and discursive conditions of their time, but by the nature of the class struggle in which they were engaged, is not to impugn the nobility of their motives nor the reach of their imaginations. Instead, it is to situate this thesis not just in the world of ideas, but in history, where justice is a stranger, and power is everywhere you look.

1. The Crisis of Patriarchal Imagination

Such is the infirmity of human nature, that every *appearance* of superiority (however necessary to the policy and government of a state) naturally excites sullen suspicion in the breasts of the subordinate.¹

Forging Revolutionary Identities, 1780-81

At noon on the 14th December, 1780, a wedding ceremony began in traditional Dutch fashion in the south-east parlour of a family home outside Albany, New York. Light reflecting from the snow outside made the room brighter even than it would have been in summer. The house, a three-storey brick mansion in plain Georgian style, stood among eighty acres of home farm and gardens with a view onto the Hudson. Those guests who were not already staying at the mansion probably arrived by sleigh, just as they had travelled between the dances and parties of Morristown, New Jersey the previous winter, when the bride and groom were courting.² In short, there was little to distinguish the festivities from any that had taken place before the first stirrings of the imperial crisis in America, two decades earlier.

Colonel Alexander Hamilton was, by his own complaint, 'a stranger in this country. I have no property here, no connections. If I have talents and integrity, (as you say I have) these are justly deemed very spurious titles in these enlightened days, when

¹ An Obscure Individual [Stephen Moylan], *Observations on a Late Pamphlet, entitled Considerations upon the Society or Order of the Cincinnati* (Robert Bell: Philadelphia, 1783), Evans #18073, p. 4, emphasis in original.

² Accounts of the wedding appear in Broadus Mitchell, *Alexander Hamilton: Youth to Maturity, 1755-1788* (Macmillan: New York, 1957), p. 206, and Ron Chernow, *Alexander Hamilton* (Penguin: New York, 2004), p. 148; the house is photographed in Hugh Howard, *Homes of the Founding Fathers* (New York: Artisan, 2007), pp. 156-163.

unsupported by others more solid.³ This description, written in the depths of winter and before he won the hand of his impressive bride, was a morose and misleading picture of Hamilton's standing, for he had enjoyed the support and friendship of the very best of New York society since his arrival there eight years before, bearing letters of recommendation from his home in the Caribbean. He was fortunate to find, on the tiny Danish outpost of St Croix, sponsors who could give a bright and ambitious boy entrée into a very different world.⁴

By the end of 1780, at the age of about twenty-five, Hamilton could count among his friends and colleagues some of his adopted country's most important men, including his direct superior George Washington, and his new father-in-law Philip Schuyler. Indeed, Hamilton considered himself eligible for, and deserving of, all that the world had to offer. As early as April 1779 he wrote playfully to his friend and fellow officer John Laurens, 'upon the subject of a wife, I empower and command you to get me one in Carolina.' He sardonically supplied a comprehensive shopping list: 'She must be young, handsome (I lay most stress upon a good shape) sensible (a little learning will do), well bred... As to religion a moderate stock will satisfy me... But as to fortune, the larger stock of that the better.'⁵

Elizabeth Schuyler fit this bill. She could hardly have been better connected in the social hierarchy of New York. Her father, Philip, held the rank of General in the Continental Army and estates comprising some tens of thousands of acres. Her grandmother was a Van Cortlandt and her mother a Van Rensselaer; her relatives therefore included the Lieutenant Governor of New York and the Governor of New Jersey. Through the Livingstons and the Van Cortlandts, she was also related to Hamilton's New York

³ Hamilton to John Laurens, 8 January 1780, *PAH*, vol. 2, p. 255.

⁴ Mitchell, *Hamilton*, p. 45.

⁵ Hamilton to John Laurens, April 1779, *PAH*, vol. 2, p. 37.

friend, John Jay, then in Spain as America's ambassador. At the wedding, the groom's party consisted only of himself and a fellow staff-officer, James McHenry. Especially with Miss Schuyler's three sisters, the young gentlemen found themselves severely outnumbered.

Had George Washington spared the time from camp to attend, he might have been reminded of his own wedding nearly twenty-two years earlier. Then a colonel, returning from service in the French and Indian War, he had not merely cemented but spectacularly improved his social and financial standing by marrying the widow of Daniel Custis.⁶ A confluence of fortunes made Washington the richest and most influential man in America, but his marriage to Martha had been one of the most important. The General wrote to Hamilton soon after the New York wedding, 'Mrs Washington most cordially joins me, in compliments of congratulation to Mrs Hamilton and yourself, on the late happy event of your marriage,' though he could not resist adding, 'and in wishes to see you both at headquarters.'⁷

Martha herself had a strong influence on Hamilton's new bride. In the winter of early 1780, the Schuyler family were staying in Morristown, where Washington and the army were encamped. There Elizabeth had first made the acquaintance of Colonel Hamilton, and there their courtship had been conducted amidst the whirl of camp social life. There she had also met Martha Washington for the first time. 'She was then nearly fifty years old,' wrote twenty-two-year-old Elizabeth, 'but quite handsome... and very plainly dressed for such a grand lady as I considered her... She was always my ideal of a true woman.'⁸

⁶ Patricia Brady, *Martha Washington: An American Life* (Penguin: New York, 2005), pp. 63-4; Wiencek, *An Imperfect God*, pp. 67-68, 80-81.

⁷ Washington to Hamilton, 27 December 1780, *PAH*, vol. 2, p. 526.

⁸ Chernow, *Hamilton*, p.131.

The conspicuous plainness of Martha's clothing, her 'brown gown of homespun stuff,' was no accident. It was a symbol of her commitment to the revolutionary cause. Expectations about behaviour, including dress and manners, were never static or straightforward, and in the milieu of eighteenth-century American women like Martha and Elizabeth, class, gender, place, power, and politics helped determine the clothes they wore, the people they admired, and the behaviour they emulated. The young George Washington had once copied out rules for gentlemanly conduct, and he obsessed over protocol and propriety his whole life.⁹ The same kinds of considerations bore on everyone in different ways, for they were essential both to one's identity, and to perceptions and relationships between people. It was in these half-conscious signs, in mutually formed expectations and carefully managed presentation, that the bonds of class identity were formed and reproduced.

Writing to Elizabeth the August before their wedding, Hamilton asked her, 'Do you soberly relish the prospect of being a poor man's wife? Have you learned to think of home spun as preferable to brocade and the rumbling of a wagon wheel to the musical rattling of a coach and six?'¹⁰ Unlike Martha, Elizabeth was no widow, and despite her rich family she brought with her no great estate at her own disposal. Hamilton had reason to be concerned that he could never keep her in her accustomed style, not least because like almost all officers he mistrusted the 'knavery' of army and Congressional paymasters. 'They have already filed down what was in their hands more than one half,' he wrote to Elizabeth around the time of Nathanael Greene's resignation as quartermaster general, 'and I am told they go on diminishing it, 'till I *fear* they will reduce it below my *former*

⁹ Ron Chernow, *George Washington: A Life* (Penguin: New York, 2010), p. 13.

¹⁰ Hamilton to Elizabeth Schuyler, August 1780, *PAH*, vol. 2, p. 398.

fears.'¹¹ Yet neither she nor her family resented the match with him; quite the opposite. 'You cannot my dear sir be more happy at the connection you have made with my family than I am,' wrote Philip Schuyler to his prospective son-in-law.¹²

The Hamiltons' lifestyle was still far more lavish and expensive than that enjoyed by most Americans. At the same time, they shared a set of ideals and unconscious assumptions—an ideology—that made their wishes more complicated than simple wealth. As Hamilton put it, 'An indifference to property enters into my character too much.'¹³ In contrast, one friend wrote bluntly to Hamilton congratulating him on his 'conquest,' saying, 'You will be in a very easy situation, and happiness is not to be found without a large estate.'¹⁴ Ways of thinking about property, propriety, and happiness were never simple or stable, all the less so in the aftermath of the revolution. Martha Washington's plain dress did nothing to diminish her status as a 'grand lady' in Elizabeth's eyes, only enhanced it. The older woman's willingness to give up fashion and comfort for her country, which was of course itself a kind of fashion, made her a 'true woman.' It confirmed an understanding the two women shared about themselves, which was informed by both their place in wealthy elites and their female gender. Both roles involved them in an ideology of responsibility and sacrifice. Elizabeth was prepared to be, at least compared to her mother and sisters, 'a poor man's wife,' just as her husband (and her father, implicitly) declared their 'indifference to property.'

There were old and new elements in this way of thinking. The Schuyler family's aristocratic lineage brought with it not only wealth, status, and power, but also a sense of responsibility and duty towards the people on whose labour their lives were built, and

¹¹ Ibid., emphasis in original. See Carp, *To Starve the Army*, pp. 158-9, 194-5.

¹² Mitchell, *Hamilton*, p.202.

¹³ Hamilton to Elizabeth Schuyler, August 1780, *PAH*, vol. 2, p. 399.

¹⁴ Marquis de Fleury to Hamilton, 20 October, 1780, *ibid.*, p. 481.

more generally, towards their country, however that could be defined at any given moment. Alexander, for his own part, adopted this paternal attitude as he adapted to the life of a gentleman and a position among the American elite. Both men believed, in short, that they sacrificed more to their society than they took out of it.¹⁵ Such *noblesse oblige* has been a perennial part of apologias for inequality. But as Martha Washington's homespun gown illustrates, the revolution provided new opportunities to demonstrate aristocratic privilege, and new forms for doing so. The shifting grounds of politics and war were integral to Americans' changing markers of class and gender in the late eighteenth century.¹⁶

A Princeton student of 1780 celebrated in his commencement-day speech 'the virtue of our ladies,' which was itself partly comprised of 'their admiration of military virtues.' If revolutionary femininity involved 'the sufferings of virgin and matron innocence,' as well as 'generous contributions to relieve the wants of the defenders of their country,' its masculine counterpart was strongly identified with armed service.¹⁷ For Alexander Hamilton in 1780, anxiety about his military role combined with his concerns about becoming a husband, and joining a family whose social rank far outmatched his. Glory and status as an officer were central to his identity, and no doubt important in his appeal to Elizabeth and her father. He let her know he intended, with her permission, to wear uniform at their wedding.¹⁸

Hamilton's insecurity was heightened by his fear that as a staff-officer, essentially an executive secretary to Washington, he was not properly fulfilling the requirements of

¹⁵ Mitchell, *Hamilton*, p. 207.

¹⁶ Linda Kerber, *Toward an Intellectual History of Women* (University of North Carolina Press: Chapel Hill, 1997), p. 104; see also Carol Smith-Rosenberg, *This Violent Empire: The Birth of an American National Identity* (University of North Carolina Press: Chapel Hill, 2010).

¹⁷ Quoted in Linda Kerber, *Women of the Republic: Intellect and Ideology in Revolutionary America* (University of North Carolina Press: Chapel Hill, 1980), p. 106.

¹⁸ Hamilton to Elizabeth Schuyler, 5 October 1780, *PAH*, vol. 2, p. 456.

martial masculinity. Despite the influence and political education that his staff desk gave him, he constantly petitioned for a role on the front line. Even in late November, weeks before his wedding, Hamilton wrote to Washington pleading for a command in the expected attack on northern Manhattan Island. 'Sometime last fall,' he wrote, '... I explained to you candidly my feelings regarding military reputation, and how much it was my object to act a conspicuous part in some enterprise that might raise my character as a soldier above the mediocrity.'¹⁹ It was not until Yorktown almost a year later that Hamilton got his chance to lead troops into battle; in the meantime his eagerness to do so almost provoked a permanent falling-out between him and the Commander-in-Chief.²⁰

For many of the young men of the Revolution, the war was an opportunity to create military reputation in particularly favourable circumstances, and thus raise themselves 'above the mediocrity.'²¹ In 1758, Colonel Washington had resigned his commission shortly before marrying Mrs Custis, after being frustrated in his efforts to gain a regular army commission instead of his inferior Virginia one.²² An ambitious officer could expect to rise only so high within the British army if he lacked other qualifications to recommend him. The Continental Army, on the other hand, created from scratch, in haste, with little experience and few resources, was of necessity more open to spectacular ascents.

One such rise was that of Henry Knox, who began the war as a bookseller and ended it a Major-General. Knox had, like Hamilton, married into a family of wealth and status. But unlike the Schuylers, they had opposed the match from the beginning, deeming young Henry's social status impossibly inferior. Thus, from his marriage in

¹⁹ Hamilton to Washington, 22 November 1780, *ibid.*, p. 509.

²⁰ Mitchell, *Hamilton*, pp. 228-230; Chernow, *Hamilton*, pp. 151-153.

²¹ Stanley Elkins & Eric McKittrick, "The Founding Fathers: Young Men of the Revolution," *Political Science Quarterly*, vol. 76, no. 2 (Jun., 1961), pp. 181-216.

²² Brady, *Martha Washington*, pp. 56, 63.

1771, Knox strove to prove to his wife and her family that she had made a good match: that she had married, if not a scion of the nobility, then a natural aristocrat.²³ He possessed the necessary intellect and social grace. After all, he had won Lucy's hand. But achieving military glory would add immeasurably to his gentlemanly credentials. Like Hamilton, he felt strongly the entanglement of gender, class, and power in revolutionary America. Both men knew the importance of signs, symbols, and rituals. For example, they both established themselves and their families in new homes after the war: Knox at the enormous 'Montpelier' on his estate in Maine; Hamilton at 'the Grange,' high up Manhattan Island.

From the beginning of the imperial crisis in America, a set of ideals and practices came to bear on American women that we now refer to as 'republican motherhood.'²⁴ Drawing on classical Roman models, republican mothers were to be the fount of virtue in their families. Their role was to nurse and educate future citizens, as well as to support their husbands in economic and public duties. It was emphatically not a role that acknowledged women as equal individuals. While assigning political importance to the domestic sphere, republican motherhood also emphasised the boundary between women and public life. Engagement with politics might include 'generous contributions' like the two-thousand shirts that the Ladies Association of Philadelphia sent to the army in the winter of 1780.²⁵ More commonly for elite women, it meant the exchange of letters among private networks of friends and relatives.

In her famous letter to John in March 1776, Abigail Adams began by discussing Virginia, alluding to Lord Dunmore's call to slaves there to join the British war against

²³ Alan Taylor, *Liberty Men and Great Proprietors: the revolutionary settlement on the Maine frontier, 1760-1820* (University of North Carolina Press: Chapel Hill, 1990), p. 47.

²⁴ Kerber, "The Republican Mother: Female Political Imagination in the Early Republic," in *Women of the Republic*, pp. 265-288.

²⁵ Kerber, *Women of the Republic*, p. 106.

their colonial masters. Echoing the sentiment of Samuel Johnson's anti-revolutionary pamphlet, she wrote, 'I have sometimes been ready to think that the passion for liberty cannot be equally strong in the breasts of those who have been accustomed to deprive their fellow creatures of theirs.'²⁶ This thought joined up easily, however coyly expressed, with the topic of women. In legislating for the new nation, Adams told her husband, 'I desire you would remember the ladies, and be more generous and favourable to them than your ancestors. Do not put such unlimited power into the hands of the husbands.'²⁷ Yet the revolution supplied none of the radical change this letter suggested, either for slaves or for women. Its effects on gender, race, and power relations were much subtler.

Elizabeth Schuyler, wilful in her own way, was no Abigail Adams. Few men or women were able to so boldly challenge what seemed to be the natural and divinely ordained state of things. If Elizabeth met Alexander's specifications in beauty and family, it was fortunate that he had little interest in a political wife. In his letter to Laurens, Hamilton had written, 'In politics, I am indifferent what side she may be of; I think I have arguments that will easily convert her to mine.' As much as this shows faith in his own persuasive abilities, Hamilton's indifference is striking in contrast with the politicisation of social life elsewhere during the war. Some women refused to court, or even to dance with young men who positioned themselves on the wrong side of the imperial dispute. Those with husbands were often among the first to encourage them to enlist in the army.²⁸

After their engagement, Alexander began to encourage his fiancée to adopt the role of republican mother-in-waiting. He wrote to her the summer before the wedding,

²⁶ Samuel Johnson, *Taxation No Tyranny* (T. Cadell: London, 1775); Abigail Adams to John Adams, 31 March 1776, *The Adams Papers Digital Edition*, ed. C. James Taylor (University of Virginia Press, Rotunda: Charlottesville, 2008).

²⁷ *Ibid.*; Woody Holton, *Abigail Adams* (Free Press: New York, 2009), pp.99-102.

²⁸ Glenda Riley, *Inventing the American Woman* (Harlan Davidson: Wheeling, IL, 2007, 4th ed.), vol. 1, p. 54.

rebuking her for asking him to visit from camp soon. 'I am obliged to sacrifice my inclination to my public character. Even though my presence should not be essential here, yet my love I could not with dignity and honor leave the army during the campaign.'²⁹ In another letter, he pressed his point, charging her to take other women's examples of 'fortitude and patriotism.... I know,' he wrote, 'that if you saw me inclined to quit the service of your country, you would dissuade me from it. I have promised you, you recollect, to conform to your wishes. It remains with you to show whether you are a *Roman* or an *American* wife.'³⁰

The image Hamilton wished to form of Elizabeth as a republican mother and a '*Roman* wife' was the counterpart to his own self-image as a republican gentleman. In spite of the republican rhetoric, it was not an egalitarian image: it placed them both above the ordinary '*American* wife' and her husband. Military reputation was not the only aspect of Hamilton's ideal, but it did serve to represent its key qualities. Both sacrifice and command, both diffidence and influence, both humility and glory, were required of such latter-day heroes. George Washington's unassailable public legend embodied these virtues. He was America's Cincinnatus; the father of his country. To shape themselves in this image, men like Hamilton and Knox, as well as Washington himself, had to give constant attention not just to their property and prospects, but to their own public conduct, appearance, and reputation.

Army and Officers at the Close of the War, 1781-83

The year of Elizabeth and Alexander's courtship had been a disastrous one for the Continental Army. In May, General Benjamin Lincoln had surrendered an army of more

²⁹ Hamilton to Elizabeth Schuyler, 31 August 1780, *PAH*, vol. 2, p. 388.

³⁰ Hamilton to Elizabeth Schuyler, August 1780, *ibid.*, p. 397.

than three thousand men at Charleston, the largest single loss of American soldiers during the revolutionary war.³¹ Then in August, General Horatio Gates, the man who had controversially succeeded Philip Schuyler in command of the northern department in 1777, led his army to a defeat at Camden, South Carolina, in which over a thousand Continental soldiers died. Many more simply failed to return to the army after the battle. Along with these defeats the soldiers suffered from a more basic problem: lack of money and supplies. Hamilton had complained to his fiancée in August about his financial straits. The same sentiments were echoed by many a fellow officer, in spite of the opportunities for fun and romance that the spring of 1780 at Morristown evidently offered.

Among officers, pay and reputation were not separate questions. Rather, pay functioned as a quantifiable indicator of respect and honour within the army. It was part of a gentleman's sense of self-worth, and part of how he could judge himself against others. One example was given by surgeons and their mates at Morristown that year, who united to demand equal pay with line officers. If they were not satisfied, they wrote, 'whatever may be our feelings with respect to our patriotism, we shall be obliged in defense of our honour, however unwillingly, to quit a service in which we have been treated with such obvious indifference and neglect.'³² This kind of language indicates the importance of concerns, such as honour, beyond pay itself. But it also shows how the discourse of honour was made to serve the pursuit of wealth. The same pattern was repeated, and at larger scale, in the years following the war, as material interests, the pursuit and defence of property and its rights, coalesced and integrated with the search for political order and justice.

³¹ Carp, *To Starve the Army*, p. 196.

³² Resolutions of the surgeons and mates to Congress, 2 May 1780; quoted in Carp, *To Starve the Army*, p. 166.

Continental officers always had access to food, and often plenty besides. The same could not be said, however, for the rank and file. In May 1780, mutiny in the Connecticut line demonstrated the depth of the shortage crisis. 'It is with infinite pain that I inform you,' wrote Washington from headquarters to Connecticut governor Jonathan Trumbull, 'that we are reduced to an extremity for want of meat... [T]here are certain bounds, beyond which it is impossible for human nature to go. We are arrived at these.' The men had been prevailed upon, in the end, to remain in camp, 'but this without relief can only be momentary.'³³ Washington's frantic requests for help could only have been matched in desperation by the starving men themselves. In such circumstances the surgeons' demands on behalf of their honour in the same month, and Hamilton's claims of poverty, look different. They help draw the line more sharply between gentlemen and mere men.

By the end of the year, the situation had hardly improved. Washington wrote to Gouverneur Morris, 'it would be well for the troops, if like chameleons, they could live upon air, or like the bear, suck their paws for sustenance during the rigour of the approaching season.' It was this lack of provisions, he explained to Morris, that had prevented the attack on Manhattan and deprived Hamilton of his chance for glory. As much as the general had wished to end the year 'with some degree of *éclat*... I found the means inadequate to the end.'³⁴ Four days after this letter, Hamilton was married at the Schuyler mansion, while Continental soldiers continued to freeze and starve in their barracks at Morristown. It was one of the lowest points of the war effort.

When Robert Morris was appointed Congress's Superintendent of Finance in May the following year, he had no immediate intention of resolving the supply crisis.³⁵ Two further mutinies, in the Pennsylvania and New Jersey lines, had shaken the army that

³³ Washington to Jonathan Trumbull, 26 May 1780, *WGW*, vol. 18, pp. 425-6.

³⁴ Washington to Gouverneur Morris, 10 December 1780, *WGW*, vol. 20, p. 459.

³⁵ Carp, *To Starve the Army*, p.206.

January. In the latter case Washington had 'ordered a large detachment to march from West Point to compel the mutineers to submission,' when only five days before he had bemoaned 'the distressed condition of the troops at West Point' to the President of Congress.³⁶ '[S]ome errors may have been committed in the administration of our finances, to which part of our embarrassments are to be attributed,' wrote Washington that January, 'yet they are principally to be ascribed to an essential defect of means, to the want of a sufficient stock of wealth.'³⁷ These errors and defects were what Robert Morris was appointed, in a spirit of grave optimism, to resolve.

Yet Morris' attitude was somewhat different to Washington's. It was closer to what Thomas Paine had written the previous October: 'such are the resources of America, that she wants nothing but system to secure success.'³⁸ To Congress in March 1781, Morris declared, 'I take to be the most essential part of the duty of the Superintendent of Finance... to reduce the expenditures as nearly as possible to what in reason and justice they ought to be.' For that reason, he said, he would need the power to fire officers if he was to accept the appointment. As Joseph Reed put it, writing to former quartermaster Nathanael Greene, Morris was 'a pecuniary dictator,' appointed 'in wretched extremity.'³⁹ Congress simply felt that it had no choice. Morris claimed that disorganised administrative practices and extravagant, wasteful spending were the causes of the country's financial difficulties. He intended to rescue it by reorganising the army's

³⁶ Washington to Colonel Frederick Frelinghuysen, 21 January 1781, *WGW*, vol. 21, p. 125; Washington to President of Congress, 15 Jan 1781, *ibid.*, p.102.

³⁷ Washington to John Laurens, 15 January 1781, *ibid.*, p.106.

³⁸ [Thomas Paine], *The Crisis Extraordinary*, (Philadelphia, 1780), Evans #16918.

³⁹ Robert Morris to a Committee of Congress (Thomas Burke, William Churchill Houston, and Oliver Wolcott), 26 March 1781, in E. James Ferguson ed., *The Papers of Robert Morris, 1781-1784* (Pittsburgh: University of Pittsburgh Press, 1973), vol. 1, p. 22; Joseph Reed to Nathanael Greene, 1 Nov 1781, quoted in *ibid.*, p.21. For the most thorough account of Morris' official activities during the 1780s, and of congressional finance more generally, see Ferguson, *The Power of the Purse: A History of American Public Finance, 1776-1790* (Chapel Hill: University of North Carolina Press, 1961).

administration, keeping tighter control of its accounts, and most importantly, slashing expenditure.⁴⁰

Washington believed that Congress lacked the money necessary to bring the war to a successful conclusion. More would have to be got from France, which is why he trusted this opinion to John Laurens who was then about to depart for Paris. Morris and Paine, on the other hand, held that resources were sufficient, just badly administered. Paine was writing about the wealth of America as a country, not of Congress as such, and his opinion was subjoined to a plan for raising more revenue through taxation. Morris, though, declared it his business only to cut expenditure. It was for Congress to raise taxes. In any case, Morris predicted that his austerity measures would restore public credit, and new loans would then fill the shortfall in provisions and pay. In this sense his plan joined up with Washington's. Both hoped for further injections of French cash. The question was what would most help attain that goal: a balanced Congressional budget, or a functioning Continental Army?

The Continentals' startling victory at Yorktown that October saved anyone from finding out how the army, already demoralised and weakened to the point of mutiny, would have responded to Morris' cost-cutting plan. Washington prevailed on the Financier at private meetings in camp to put the rationalisation on hold while his force undertook its rapid march southward.⁴¹ In these two months, Morris was invaluable, using his personal connections and credit to support the logistics of transferring the entire northern division to the south, where they would join with French Admiral DeGrasse to besiege Cornwallis' British army. It was here, finally, that Hamilton got his chance at glory and command, at

⁴⁰ Carp, *To Starve the Army*, p. 209.

⁴¹ Carp, *To Starve the Army*, p. 212.

the head of a bayonet assault that resulted in five times as many Continental casualties as British.⁴² Both men could look on Yorktown as the making of their wartime reputations.

Cornwallis' surrender would prove to be the end of the fighting, but it was not the end of the war. That the British would offer no further initiative became clear only gradually, and both New York and Charleston remained under occupation. Meanwhile, the Continental Army still had to be fed and maintained. Most difficult of all, the shift in military fortunes meant that a shift was also possible in the attitudes of the officers. Where once many had been driven to resign, or at least threaten resignation, now they were willing, even determined, to stay in camp under arms until proper arrangements were made for their payment. Rank and file soldiers had little choice but to seek sustenance where they could, and if it was not forthcoming from the army they were forced to go home, and to sell Congress's paper promises at fractions of the face value. It was officers who had the wherewithal to resist the army's dissolution. As peace drew closer in 1783, so the feeling of crisis at headquarters in Newburgh, New York, became more acute.

To certain officers, the army was an imagined community that felt more real than the United States. With some reason, they claimed it had been through a quite different experience of the war. This sense of separateness pervaded their petitions and addresses, illuminating the problem of what it means to treat something equally. As one group of senior officers wrote to Congress in December 1782, 'our hardships are exceedingly disproportionate to those of any other citizens of America.'⁴³ On one hand, they asked only to have this difference redressed; on the other, the greater sacrifice they had made was central to their claim. Those involved treated the issue as one of honour and status as

⁴² Mitchell, *Hamilton*, p. 258.

⁴³ Henry Knox et al. to Congress, December 1782, *JCC*, vol. 24, p. 291.

well as property and pay. What exactly was due to the army, this 'particular class of citizens,' would become a major political issue that helped to define the development of American thought in the 1780s.⁴⁴ It was also a sign of the way American society could be split not only along geographical lines, but on class lines as well.

'Gentlemen,' began the first anonymous Newburgh Address, circulated in camp in March 1783, 'a fellow soldier, whose interest and affections bind him strongly to you, whose past sufferings have been as great, and whose future fortune may be as desperate as yours – would beg leave to address you.' The author went on to lament the army's treatment by Congress, and by extension, the United States. Officers might have hoped 'more than justice, that gratitude would blaze forth' on them, but it was not so. Peace would only make matters worse. 'When those very swords, the instruments and companions of your glory, shall be taken from your sides, and no remaining mark of military distinction left but your wants, infirmities and scars,' then what? 'Can you then consent to be the only sufferers by this revolution, and retiring from the field, grow old in poverty, wretchedness, and contempt?'⁴⁵ Soldiers, or rather officers and gentlemen, deserved more than that.

The Newburgh affair was a complex machination involving not only disaffected officers in camp, but also key members of the so-called nationalist faction in Congress, including Robert Morris and Alexander Hamilton. Hamilton had left the army almost as soon as the battle of Yorktown was over, and entered Congress in November 1782. His military experience continued to shape his identity and politics. When he wrote to Washington after Newburgh, he wrote partly 'as a soldier who feels what is due to an

⁴⁴ *Ibid.*, p.293.

⁴⁵ To the Officers of the Army, *ibid.*, pp. 295-6.

army which has suffered everything and done much for the safety of America.'⁴⁶ He and Morris, along with Congressional allies like James Madison, had sought to bring pressure to bear on behalf of their plans for an independent revenue, the 'impost.' And they were successful in pushing the plan through Congress, although the state of New York later refused to ratify it.⁴⁷

How close the officers at Newburgh came to renouncing civilian authority is impossible to say, and less important here than the way they expressed their expectations and disappointments. Structures of honour, obligation, and distinction were reconfigured and reassessed in the new nation through events and discourses like these. Newburgh also serves as an example of how closely these matters were tied to questions of money, finance, and politics, at a variety of different angles. Officers' pay and pensions were the clearest measurement of the value and respect society placed in them. The army and its sentiments could operate as an instrument of national financial politics: a dangerous one, as Washington warned Hamilton that April.⁴⁸ These were all factors in an unstable structure of power, which both shaped and was reshaped by events.

Like the mutinies in the winter of Hamilton's wedding, and another in Philadelphia that June, the officers' cause at Newburgh had some of the qualities of a labour dispute. From this point of view, the conspirators could have considered the action a success. Congress voted on the 22nd of March to accede to their key demand: the half-pay for life that had been voted to officers in October 1780 was now commuted to a single lump-sum payment, to be made when the army was disbanded. But despite the passage of the

⁴⁶ Alexander Hamilton to George Washington, 25 March 1783, *PAH*, vol. 3, p. 306.

⁴⁷ A full account of the Newburgh affair is in Richard Kohn, *Eagle and Sword: the Federalists and the Creation of the Military Establishment in America, 1783-1802* (Free Press: New York, 1975). On the historiography, see Markus Hünemörder, *The Society of the Cincinnati: Conspiracy and Distrust in Early America* (Berghahn Books: New York, 2006), p. 13.

⁴⁸ Washington to Hamilton, 4 April 1783, *PAH*, vol. 3, p. 316.

impost, fulfilment of Congress's promise was far from certain. After all, the first impost scheme had been vetoed by Rhode Island; what was to ensure that the new one would succeed? And Major Armstrong, the anonymous author of the Newburgh addresses, had been right: peace and disbandment would leave the officers almost as powerless as the rank and file.

The dynamics of military labour relations at the close of the revolutionary war were the shadow of those envisioned by Radical Whig and republican writers in both Britain and the colonies. Understanding the importance of a monopoly of violence, they saw standing armies as crucial threats to civil government, which could extort benefits for themselves and grant power to their leaders.⁴⁹ The officers of the Continental Army, facing near-total dissolution partly as a result of those very republican ideals, needed to find ways of maintaining their influence, and thus protecting their reputations and pay. To Henry Knox, at least, there was an obvious solution. He proposed to set up a national organisation of officers, to correspond and meet regularly, and to present a united front to the country and Congress. He wrote a draft constitution for such an organisation on the 15th of April. The next day, news of the peace treaty reached camp.

Over the following month, Knox and a few others moved to establish what he had called the Society of the Cincinnati. On the 10th of May they agreed to an 'institution,' which declared the Society's aim 'to perpetuate... as well the remembrance of this vast event [the war], as the mutual friendships which have been formed under the pressure of common danger, and, in many instances, cemented by the blood of the parties.' The Institution also laid down several 'principles' which were to 'form the basis of the society': to preserve 'those rights and liberties of human nature' that the army had fought for; to

⁴⁹ See Bailyn, *Ideological Origins*, pp. 61-3.

promote 'union' between the states, and 'national honor,' essential to 'the future dignity of the American empire;' and to 'render permanent the cordial affection subsisting among the officers.'⁵⁰

With Knox acting as secretary of the Society, copies of the Institution were sent to senior officers in all thirteen states, seeking members. About half of those eligible joined, 2,403 out of 5,795, those in northern and middle states with most alacrity.⁵¹ Doing so was not an inconsiderable commitment, since it meant ordering a draft with the paymaster-general for a month's pay to be sent to the Cincinnati, the money intended to establish a hardship fund for officers or their widows and children.⁵² The Society was organised federally, with each state branch electing its own leadership and holding its own meetings, with a general meeting to be held every four years. It was an ambitiously comprehensive plan, resembling nothing so much as the revolutionary committees of correspondence from before the war. Washington was elected President *in absentia*, by the small group of founders left at Newburgh on the 19th of June, nearly three weeks after Congress had told everyone to go home.⁵³

Reaction to the Cincinnati, 1783-84

As its Institution declared, the Society of the Cincinnati was established to protect and perpetuate friendship between its members. But its critics were soon to wonder, why did such friendship need institutional support? Why did this group of friends have a badge and a ribbon to wear when they met together? And why did they lay down that their 'eldest male posterity [or] in failure thereof, the collateral branches who may be judged

⁵⁰ "Institution of the Society of the Cincinnati," in Minor Myers, *Liberty Without Anarchy: A History of the Society of the Cincinnati* (University Press of Virginia: Charlottesville, 1983), p. 259.

⁵¹ Hünemörder, *Society of the Cincinnati*, p. 18; Myers, *Liberty Without Anarchy*, p. 38.

⁵² Ibid., p. 43.

⁵³ Hünemörder, *Society of the Cincinnati*, p. 17.

worthy,' would be members of the society as well?⁵⁴ Over the following year, and through the rest of the 1780s, the Cincinnati became the subject of controversy, suspicion, and speculation up and down the nation. Readers of newspapers from Boston to Charleston, town meetings and state legislatures, and men and women of affairs across the country and across the Atlantic sustained a debate over the motives and meaning of the society.

The Cincinnati question had all the exciting elements of political intrigue and conspiracy; at the same time, it brought into a new focus the motives and meaning, the structure and future, of the new American republic itself. Fretting and arguing over the Cincinnati was a way of reflecting on and negotiating the nature of post-revolutionary society. The national discussion reflected the deep fears and ideological assumptions of its participants. During wartime, much of this had necessarily been papered over and set aside, but with the war won and independence achieved, the problem of how the new nation was to be conceived, ordered, and governed re-emerged. For those involved, this raised the spectre not only of their differences with others, but of the tensions that went unresolved in their own minds.

Knox and his colleagues can't have been completely unaware that their project might cause consternation among outsiders. He told Benjamin Lincoln in May 1783, when the society was first being formed, that William Heath had expressed some concerns. 'With a sagacity peculiar to himself,' wrote Knox, 'he thinks through the mist he sees spirits and hobgoblins of hideous forms and no popularity.'⁵⁵ Either Knox was truly baffled by these worries, or he disagreed with Heath's assessment of the climate of opinion in America. When members of the Cincinnati later wrote letters and pamphlets in response to the controversy, they generally insisted they had no idea the trouble their little

⁵⁴ Minor Myers, *Liberty Without Anarchy*, p. 259.

⁵⁵ Quoted in Hünemörder, *Society of the Cincinnati*, p. 25.

club would cause. The debate might never have got going on a national scale, or at such a high temperature, if Aedanus Burke, a judge in Charleston, hadn't written his pseudonymous pamphlet that October, *Considerations on the Society or Order of Cincinnati*.⁵⁶

Burke's pamphlet, accusing the society of seeking to establish itself as an American aristocracy, had a dramatic effect. As one Wilmington, North Carolina member reported to Knox in December, the pamphlet 'has created opponents to the Cincinnati... [Burke's] objections, I am told, are founded upon a surmise that the Cincinnati mean to establish a numerous peerage in direct contradiction to the federal union of the states. This he has tortured out of the "hereditary succession."' These allegations seemed 'altogether chimerical' to Knox's correspondent, but they were dangerous. It even seemed likely that 'our assembly in their April sessions, will be moved to suppress the Society.'⁵⁷ Such fears were a far cry from the initial reactions of the society across the border in South Carolina, whose secretary had written in October, 'So laudable, so honorable, and so virtuous a society cannot but meet with the approbation of every good man.'⁵⁸

In his *Considerations*, Burke promised to 'show, what this order or society seems to be; [and] in the next place, to demonstrate what it really is, and will turn out to be.' The true nature of the society was perhaps hidden even from the members themselves. 'I believe the officers do not declare themselves to each other... there is too much truth in the remark of an able philosopher, "that there is no man who lets his nearest friend see the bottom of his heart."' Burke's critique was based not on the overt expressions of the members, but on the structure of the society as described by its Institution. Its provisions,

⁵⁶ Cassius [Aedanus Burke], *Considerations on the Society or Order of the Cincinnati* (Charleston, 1783), Evans #18387.

⁵⁷ Adam Boyd to Henry Knox, 29 December 1783, ASC.

⁵⁸ William Moultrie to Friedrich von Steuben, 13 October 1783, ASC.

he argued, implied 'two sorts of rights,' one fit for 'plebeians,' the other '*more exalted*, which the citizens are incapable of preserving inviolate, without the *incessant watching* of a dignified order of patricians.'⁵⁹ By creating a distinction, signalling it with badges and institutions, and making it hereditary, the society would act as an engine of elite separation and domination.

By the next year, 1784, Burke's ideas had spread all over America by press and post. The *Independent Chronicle* in Boston and the *Connecticut Courant* in Hartford both ran series debating the society. Benjamin Franklin read about the society in newspapers sent to him in France by his sister Sarah; writing to her, he wondered why anyone would decide to 'form an order of hereditary knights, in direct opposition to the solemnly declared sense of their country.' He used the letter as an opportunity to expostulate on the absurdity of 'descending honour,' as well as his preference for the turkey over the bald eagle as a symbol of America.⁶⁰ Elbridge Gerry and John Adams took the issue more seriously, and John Jay, on the American peace mission in Paris, wrote on the matter to both Gerry and Gouverneur Morris. These men represented Congress's diplomatic and political establishment, and they treated the Cincinnati with concern.

Far from an opponent of officers' interests, or those of the nationalists in Congress, Elbridge Gerry in late 1783 supported both the new impost measures and the commutation of half pay. Sharing the opinion of Robert Morris and his allies, Gerry told John Adams that 'independence will disgrace us, unless we are honest in payment of the public debts.' On commutation, 'a virtuous army claims the generosity of their country.' Yet he also pointed out that 'one circumstance [which] seems to have greatly increased the opposition' to commutation was 'the superiority which the officers, on their return home,

⁵⁹ Burke, *Considerations*, pp. 5, 9, italics in original.

⁶⁰ Benjamin Franklin to Sarah Bache, 26 January 1784, in J.A. Leo Lemay ed., *Benjamin Franklin: Writings* (Library of America: New York, 1987), pp. 1084-5.

naturally assumed over their fellow citizens.' Later in the same letter, he made his first mention of the Cincinnati, and told Adams that he was enclosing the Institution and 'strictures thereon,' probably Burke's *Considerations*, recently republished in Boston.⁶¹

Gerry associated the Cincinnati with both Robert Morris and France, and treated both with the utmost suspicion. The whole programme of Congressional reform, however necessary it was to pay off the public debt, had dangerous tendencies towards 'oligarchical influence,' he thought. If a peacetime military establishment was to be created, with an independent revenue, under a powerful financial superintendent, and with 'all the officers and citizens of consequence' belonging to the Cincinnati, then 'how easy the transition from a republican to any other form of government, however despotic!'⁶² Gerry, unlike Burke, sat at the centre of continental power, such as it was. He had witnessed the Newburgh crisis from the vantage of Philadelphia. In the next few years, his suspicions of the Cincinnati only increased.

Gerry evidently asked John Jay for news of the Cincinnati's reception in Europe, for Jay replied to him on the 19th of February, 1784. 'Some of our best friends,' wrote Jay, 'think the order of Cincinnatus will eventually divide us into two mighty factions. The permission of the King of France for his officers to be of that order was asked but the like compliment was not paid to our own sovereign'—i.e. Congress, or perhaps the people.⁶³ Opinion on the society was divided among the French themselves. Burke's pamphlet was cribbed extensively in a new critique by the Comte de Mirabeau. Mirabeau's pamphlet, translated in its turn, was published in London alongside extracts from Englishman

⁶¹ Elbridge Gerry to John Adams, 23 Nov 1783, *Papers of John Adams*, ed. Gregg Lint et al., (Belknap Press: Cambridge, Ma., 2010), vol. 15, pp. 372-3, and note 8, p.375.

⁶² Ibid., p. 373. See also the extravagant suspicions of intrigue involving French influence on the officers of Congress, especially Robert Morris, in Samuel Osgood to John Adams, 7 December 1784, *ibid.*, pp. 400-402.

⁶³ John Jay to Elbridge Gerry, 19 February 1784, in Richard B. Morris ed., *John Jay: the Winning of the Peace, Unpublished Papers 1780-1784* (Harper and Row: New York, 1980), p. 694.

Richard Price's *Observations on the American Revolution*, and a letter to Price from the French economist Anne-Robert-Jacques Turgot.⁶⁴ Turgot's letter was itself the ostensible provocation for John Adams' 1787 opus, *Defence of the Constitutions of the United States*. The question of the Cincinnati thus became entangled in a transatlantic debate on questions of class, status, finance, government, and law, with American gentlemen deeply interested on both sides.

At the Yale commencement festivities of September 1784, students debated the question, 'is the Society of the Cincinnati dangerous to the liberties of the United States?'⁶⁵ The question was not, of course, an academic one for George Washington, whom Knox, Steuben and the others had prevailed upon to be called President of the society. Washington had heard from Knox in February that the society was 'an object of jealousy,' and more worrying still, that the Massachusetts General Court had set up a committee of inquiry into its 'tendency to create a race of hereditary nobility.'⁶⁶ He was concerned enough to write an agitated letter to Thomas Jefferson in April, asking for his opinion on the Cincinnati 'with frankness, and the fullest latitude of a friend,' along with 'the sentiments, or what you suppose to be the sentiments of Congress respecting it.'⁶⁷

Jefferson's reply cannot have done much to calm the general's anxiety. Like Burke, he was politely circumspect about the original intentions behind the society's formation, but he felt the existence of the Cincinnati was 'against the spirit' of all America's republican constitutions, which according to Jefferson were founded on 'the natural equality of man, the denial of every preeminence but that annexed to legal office, and particularly the denial of a preeminence by birth.' He went on to predict that the society

⁶⁴ Gabriel-Honoré de Riquetti comte de Mirabeau, *Considerations on the Order of Cincinnatus*, trans. Sir Samuel Romilly (J. Johnston: London, 1785).

⁶⁵ Hünemörder, *Society of the Cincinnati*, p. 29.

⁶⁶ Henry Knox to George Washington, 21 February 1784, in *PGW*, vol. 1, p. 142-3.

⁶⁷ Washington to Thomas Jefferson, 8 April 1784, *ibid.*, p. 275.

would infiltrate the government, and even worse, bring it under the 'influence of foreign courts.' Washington alone, Jefferson implied, had so far 'prevented this revolution from being closed as most others have been, by a subversion of that liberty it was intended to establish.'⁶⁸

As he so often did, Jefferson in this letter reduced the matter to what in his mind was a first principle: 'the natural equality of man.' But what this meant, and what exactly was the nature of 'that liberty' the revolution 'was intended to establish,' was far from a clear or settled matter in the 1780s. After all, didn't Jefferson himself enjoy a 'preeminence' conferred on him by birth, namely his Virginia estate and social standing? And didn't white men enjoy such a 'preeminence' over black slaves? Surely the liberty won not least by the army included the liberty of veterans to assemble, and wear badges, and administer charitable funds? The Cincinnati controversy helped draw the boundaries of these problems, and the lines of ideological conflict; it helped Americans realise that they were not all of one mind about the nature of their equality and their liberty.

Jefferson's advice, and the other information he had been getting about disapproval of the Cincinnati all over America, determined Washington's stance at the society's first general meeting in Philadelphia, in May 1784. The meeting was conducted in secret, and the atmosphere in the City Tavern must have been tense. Fortunately one attendee kept a coded diary of the proceedings.⁶⁹ It reveals that Washington took control from the beginning. He started by asking to resign his office as President, a move that immediately established his negotiating position. Agreeing to stay on for at least the duration of the meeting, he then gave a series of speeches. 'Opposition to the Cincinnati,' Washington announced, 'had become violent and formidable, and called for serious consideration.' The

⁶⁸ Thomas Jefferson to Washington, 16 April 1784, *ibid.*, pp. 288-9.

⁶⁹ *Secret Journal of Winthrop Sargent*, 5 May 1784, ASC.

'most exceptionable parts' of the institution – 'the hereditary part, interference with politics, honorary members, [and the] increase of funds from donations' – all 'required alteration in their very essence.'⁷⁰

This was a very different Washington to the one who presided in silence over the Constitutional Convention of 1787. As Winthrop Sergeant put it, 'he warmly and in plain language, or by implication seemed desirous to expunge all the essentials with which the Society was endowed by those from whom it had its origin.' He presented 'in confidence' Jefferson's Northwest Ordinance, with its ban on 'hereditary titles' which seemed specifically targeted against the society; this, he implied, represented Congress' censure of the institution. Then on the third day of the meeting, as the reform proposals were about to go to working committees, it was 'resolved that the President General [would] have a right *ex officio* to attend all committees, debate and vote.'⁷¹ Washington was thus able to shepherd his programme personally through these stages of the process. By the end of the meeting, he had achieved a comprehensive victory. A rewritten version of the Institution, without heredity, funds, or general meetings, was ready to be presented to the state societies for their ratification.

Alongside the revised Institution, the general meeting sent a circular letter explaining and justifying the changes it had made. Washington apparently wrote the letter himself, ending with an invocation of Cincinnatus that served as a rebuke to the officers: 'let us leave a lesson to posterity,' he told them, 'that the glory of soldiers cannot be completed, without acting well the part of citizens.'⁷² But things did not go as smoothly as Washington hoped. Over the next four years, and even into the 1790s, the alterations were a source of disagreement within the society. Although they at least partly served their

⁷⁰ Ibid., unpaginated.

⁷¹ Ibid., 7 May.

⁷² Circular Letter to the State Societies, in the *Proceedings of the General Meeting*, May 1784, ASC.

purpose in calming the public storm of disapprobation, they were never actually ratified. For all Washington's immense prestige, and the professed loyalty of his veterans, many of them refused to grant his requests on this matter. They refused to back down to pressure from what they saw as ignorant and malicious critics and outsiders. The society and its original form meant something to them, something that was worth standing up for, even when their hero was anxious to let it drop.

Defending the Cincinnati, 1784

One delegate to the General Meeting in 1784 who was unlikely to have agreed with Washington's position was Stephen Moylan of Pennsylvania. Moylan had written a pamphlet, published in Philadelphia the previous year under the monicker 'an obscure individual,' that took up the society's defence against Aedanus Burke's attack.⁷³ This pamphlet was an expression of post-revolutionary ideology that naturally went well beyond the immediate issue of the Cincinnati. He offered a set of ideas that illustrated the unstable environment of political and social discourse in which he wrote. Precisely because they were organised as a rebuttal of Burke's earlier pamphlet, Moylan was able to deploy a variety of positions that cut across each other and became entangled in just the way elements of ideology always do. His *Observations* express the particular conflicts and fluidities that animated the history of thought among this particular American elite.

One of Moylan's rhetorical strategies was the denigration of interpretation and argument as such. Referring to Burke's judicial position, he wrote, 'Gentlemen of the long robe from their professional practice acquire a wonderful fluency of expression and an uncommon facility of argument.' Yet such men are 'engaged in the indiscriminate defence

⁷³ [Moylan], *Observations on a Late Pamphlet*.

of right and wrong, from the force of habit only.' It may be pursued with no 'malevolence of intention,' but nonetheless this habit of argument for its own sake is distorting and dishonourable, Moylan implied.⁷⁴ Words are too tricky things, interpretations infinite. If the words of the Cincinnati's Institution 'are to be explained by *innuendo*,' wrote Moylan, 'I would not answer that the same words did not convey a charge of an intention to murder every citizen of the state, and devour them afterwards. The Bible may be made treason, and *treachery* extracted from the Decalogue, by *construction*.'⁷⁵

This critique of interpretation resonates with future Jeffersonian strict construction arguments, yet in this context it said something slightly different. Moylan began in constitutionalist mode by calling for words to be 'taken according to their plain sense and common acceptation, and to be construed according to their real import.'⁷⁶ But he went on, more importantly, to point to 'every single *act* of the society.'⁷⁷ Rather than judging texts, Moylan was concerned with the judgement of people, his people. Burke's pamphlet presumed to analyse the Cincinnati through the text of their Institution, but Moylan operated in a different interpretative context. His was a world of signs given through dress and behaviour, family, connection, and particular kinds of conspicuous consumption and display. In this world, the Cincinnati, with their formalised, hierarchical friendship network, their badges and ceremonies, made perfect sense. The society itself served to buttress and defend such a world. Of course, this dispute over modes of interpretation was a struggle about power.

Three elements made up Moylan's core defence of the society. He argued that distinctions were inevitable and equality impossible; that superior rank gave no real

⁷⁴ Ibid., p. 13.

⁷⁵ Ibid., p. 22-23, emphasis in original.

⁷⁶ Ibid., p. 22.

⁷⁷ Ibid., p. 24, emphasis added.

benefit or happiness to those who held it; and that only property, not rank or honour, constituted power. The second of these points appears first in the pamphlet. 'The advantages of nature or of fortune,' he wrote, 'have been observed in all ages (says Johnson) to contribute little to the promotion of happiness,' and 'those who look up... from a lower station' seldom have any 'just occasion to envy' those above them. Yet, Moylan went on, 'such is the infirmity of human nature, that every *appearance* of superiority (however necessary to the policy and government of a state) naturally excites sullen suspicion in the breasts of the subordinate.'⁷⁸ This, of course, explained opposition to the Cincinnati.

It was not only the '*appearance* of superiority' that Moylan found 'necessary' to the state, and indeed to society at large. 'I dare say,' he wrote, 'that even Cassius [that is, Burke] will not contend that absolute, perfect, equality is possible to the government of any state. As the mind must govern the hands, so the man of intelligence must direct the man of labour.' Drawing on a progressive view of history, like those of Adam Ferguson and Adam Smith, Moylan declared that distinctions increase as society improves. Indeed, they 'have seldom failed to benefit the country that bestowed them,' not least because they generate 'a spirit of emulation... which when diffused among a people, gives vigour to every spring of government and vibration to the heart of every member of the community.'⁷⁹

From these arguments, Moylan appeared to accept Burke's general point that the Cincinnati would generate a new hierarchical distinction in American society, even while he avowed that this would benefit the whole. But he also took a different tack, by claiming that the distinction created by the Cincinnati had no bearing on the power of its

⁷⁸ Ibid., p. 4, emphasis in original.

⁷⁹ Ibid., p. 20.

members. *'Property alone constitutes power,'* he wrote, *'and power is conferred by Congress and the representatives of the people.'*⁸⁰ A reader might easily infer from this sentence that property was given by Congress. Perhaps Moylan had in mind the land grants and lump sums promised to soldiers and officers at the war's end, but this seems a too-limited sense for a sentence printed so emphatically. He may have meant that the state itself is a kind of property, and thus power. Since membership of the Cincinnati neither conferred property directly, nor was it part of the state apparatus, Moylan implied, it was both powerless and harmless.

This line of argument sits uncomfortably alongside the praise of distinctions and the superiority of 'the man of intelligence' over 'the man of labour.' Moylan was attempting to draw a class structure separate from a power structure: a class structure that might be acceptable to republican sensibilities. Yet those very republican ideals placed high value on status, honour, and virtue as sources—even forms—of power. 'Honours (indeed) like impressions upon coin, may give an ideal value to base metal,' Moylan conceded; but he refused to acknowledge that status, distinction, was power itself: 'gold and silver alone,' he wrote, 'will pass without any recommendation but from its weight.'⁸¹ He would not grasp that through structures of hierarchy power begets power, which is precisely what Burke and his fellow critics of the Cincinnati feared.

Moylan's wish to link power to 'the people's representatives' in Congress undermined his argument for class hierarchy. His protestations of powerlessness for the Cincinnati rang hollow against his claims for its important social function. Here, strong ideological continuities met the disruptive shock of revolutionary discourse. These same contradictions emerged in the drawn-out argument over Washington's reforms to the

⁸⁰ Ibid., p. 19.

⁸¹ Ibid.

Institution. As many Cincinnati protested, the changes threatened to strip the society of both power and purpose.

Only one representative of the New Hampshire Cincinnati was at the general meeting in May 1784. Lieutenant Colonel Henry Dearborn had served in a New Hampshire regiment early in the war, before joining Washington's staff in 1781; but after demobilisation, Dearborn settled not in New Hampshire but in Maine, then still part of Massachusetts. His home on the lower Kennebec River made him a near neighbour of Henry Knox's estate, the future Montpelier. Either Dearborn disagreed with Washington's reform agenda, or he did a poor job of convincing the New Hampshire society, for they offered one of the strongest challenges to the rewritten institution. In a letter penned by society secretary Ebenezer Sullivan, who had fought alongside Dearborn at Bunker Hill, the New Hampshire officers stated their refusal 'to recede from a plan founded on the most laudable principles, thereby stamping the mark of suspicion on the most virtuous actions... If the society cannot exist as originally instituted,' they declared, 'we shall acquiesce in abolishing it altogether.'⁸²

Two central concerns animated the New Hampshire officers' opposition to Washington. One was the proposal, meant to counter the idea that the Cincinnati would become financially powerful, that funds belonging to each state society should be entrusted to state legislatures. Rejecting this, Sullivan's letter closed by affirming that 'we never shall accede to any plan which permits any man or body of men to dispose of or even to direct us in the disposition of our property.'⁸³ The other concern, an apparently more fundamental one, was made clearer in a 1787 letter to be read at the general society meeting in Philadelphia. 'The abolition of hereditary succession,' they wrote, 'is so

⁸² New Hampshire Society to the General Meeting, 3 February 1785, ASC.

⁸³ Ibid.

repugnant to the design of the institution and so destructive of the principles upon which it was originally founded that it ought not to be agreed to.⁸⁴

What, then, were the principles upon which these men felt the Cincinnati had been founded? The idea that the society should be perpetual, and that it should be perpetuated by the genetic descendants of its founders, tapped into a deep-rooted array of assumptions and ideas about society and politics, status and power. Defenders of heredity wanted to protect and control the public memory of the war, and of their own conduct as officers. They wanted to secure the rewards of service, what they saw as the just dividends of their especially virtuous conduct, not only for themselves but for their families in the future. Their whole attitude, in fact, was embedded in an idea of the future that combined permanence with progressive improvement. They were driven by the anxiety of all those who gain in status: the knowledge that if one might rise, so might one also fall.

As officers in the revolutionary army, most of the Cincinnati had achieved a kind of respect they had not experienced in either civilian life or, in some cases, the British army. Even George Washington was elevated from provincial colonel and regional leader to commander-in-chief and father of his country. With the army's dissolution, a permanent institutional successor promised to fulfil a similar social and organisational role. But to do so it had to be properly permanent. As the officers knew only too well, the death of a husband and father might easily plunge his household into poverty and social oblivion. The charitable aspect of the Cincinnati was set up to counteract this possibility. Heritability had precisely the same function: it promised to maintain the status of officers' households, and to preserve the memory of their virtue and service, even after their death.

⁸⁴ New Hampshire Society to the General Meeting, 16 April 1787, ASC.

Those Cincinnati who favoured reform, including Washington in his 1784 circular letter, maintained that the revised Institution had 'retained in its utmost latitude, and placed upon a more certain and permanent foundation, that primary article of our association which respects the unfortunate.'⁸⁵ Defending the society from suspicion, Washington and others emphasised that its 'primary' purpose was to provide charity to the widows and orphans of officers. But from the perspective of the New Hampshire members, and defenders of heritability in other state societies, this was a disingenuous rhetorical move. The society existed to perpetuate the well-deserved privilege of members and their families, or else it had no reason to exist at all. Each part of the institution, including direct control of charitable funds, worked in harmony to achieve this goal.

Men like Henry Knox did not build houses like Montpelier for themselves as individuals, just as they did not risk their lives in battle for themselves alone. Neither did they establish and join the Cincinnati for individual gratification. Rather, they understood themselves as heads of households embedded in complex social structures, from marriages and nuclear families extending out through both time and space into networks of kinship and friendship. This patriarchal imagination remained deeply rooted in the early modern world of the eighteenth century, and post-revolutionary America was no exception. It operated at the intersection of class, gender, and race to shape the way all people thought and acted. At the same time, its influence was neither uniform nor stable. The ongoing debate over the society's reform illuminates the ways this patriarchal imagination was being challenged and adapted, even among gentlemen themselves, during the 1780s.

⁸⁵ Circular Letter to the State Societies, in *Proceedings of the General Meeting*, May 1784, ASC.

At their meeting on the 4th of July, 1786, the New York Cincinnati elected five new honorary members: the mayor of the city, James Duane; a judge of the state supreme court, John Hobart; William Duer, secretary to the state board of treasury; Chancellor Robert Livingston; and Richard Morris, chief secretary of the state.⁸⁶ They thus fulfilled one of Elbridge Gerry's great fears, that the Cincinnati would induct 'all... citizens of consequence' into its ranks.⁸⁷ The Philadelphia society had practised a similar policy: Robert Morris was a member, as was the President of the state, John Dickinson, though neither had been officers in the army. It was predictable, then, that the New York society would disapprove of one of Washington's reform ideas: to 'admit no more honorary members into the society.'⁸⁸ Newly elected honorary member Richard Morris sat on the committee to consider the amended Institution, and both Duer and Duane were among the authors of the circular letter sent that November expressing the state society's reaction.

One New York Cincinnatus dominated both committees, Alexander Hamilton. He counted the notables of the state as close friends; another member of the July committee, Robert Troup, had even shared rooms with him at King's College. Now a city lawyer of rising fame, Hamilton was certainly the leading thinker of the New York state society. He also had a close, if tense relationship with Washington. The response he masterminded to the general's reforms, which was neither as intransigent as New Hampshire's nor as quiescent as Virginia's, was highly influential on the attitude of other state societies. It marked a new phase in the campaign to reform the organisation. More importantly, it illuminates the lines of force operating on the ideology of American gentlemen in the post-war period.

⁸⁶ *Proceedings of the New York State Society of the Cincinnati*, ASC, p. 40.

⁸⁷ Elbridge Gerry to John Adams, 23 Nov 1783, in Lint, *Papers of John Adams*, vol. 15, pp. 373.

⁸⁸ See Washington, "Observations on the Institution of the Society," *PGW*, vol. 1, p. 330.

When the committee that was formed on the 4th of July reported two days later, its members concluded that 'though they highly approve the motives which dictated those alterations, they are of opinion it would be inexpedient to adopt them.'⁸⁹ Two related items ostensibly determined this opposition: the reforms' call for the state societies to be formally chartered by their state legislatures, and to deposit their funds with the legislatures for safekeeping. It seems strange that the committee would worry that such charters 'may never be obtained,'⁹⁰ given that most of the New York establishment, including Governor George Clinton, were members. But the elite financial interest that Hamilton, Duane and their friends represented was not altogether secure in its control of the legislature. Nor were their equivalents in Pennsylvania, where populist legislators were at that moment fighting to repeal the charter of Robert Morris' bank. In short, and as we shall see at much greater length in succeeding chapters, legislatures were capricious and not to be trusted.

However, the committee also reported its belief that 'some alterations in the original constitution will be proper.' Crucially, these desirable alterations respected 'the duration or succession of the society,' as well as 'the distinction between honorary and regular members.' Such a distinction between types of membership, Hamilton's committee declared, 'holds up an odious difference between men who have served their country in one way, and those who have served it in another.'⁹¹ Those like Duane and Duer, not to mention Robert Morris, who had worked in private and government capacities during the war, should share the same status within the society as officers. They should also, thereby, share the same superior status in society at large. This was a natural move for the New York society to make, given its influx of new honorary members, but it was one that

⁸⁹ *Proceedings of the New York Society of the Cincinnati*, ASC, p. 41.

⁹⁰ *Ibid.*

⁹¹ *Ibid.*, p. 44.

made an important challenge to the society's identity. Would it be a fraternity of military honour, preserving bonds forged in battle? Or would it be something else: an organisation of what Gerry had called 'citizens of consequence?'

Regarding the perpetuation of membership, the New York committee wrote, 'as far as it may intend an hereditary succession, by right of primogeniture, [it] is liable to this objection – *that it refers to birth* what ought to belong *to merit only*.' The New Yorkers thus flatly disagreed with the New Hampshire society. Not only was heredity not an essential principle, it was even 'inconsistent with the genius of a society founded on friendship and patriotism.'⁹² Hamilton and his committee were not simply acquiescing to Washington's reforms out of loyalty or fear of popular opposition; they were actively expressing their conception of the society, and thus of American society itself. That their views contradicted so sharply those of their brethren indicates the depth of the post-war crisis of patriarchal imagination. What the New Yorkers brought to the table was a different, though overlapping set of ideas about elite power and social hierarchy in the new republic.

On the 1st of November 1786, the New York society sent this report to the other state societies, in advance of the general meeting to be held the following year in Philadelphia, just weeks before the planned convention to reform the Articles of Confederation. Along with the extract from their proceedings, the New Yorkers sent a circular letter that took up the matter in more detail. In this letter, the signatories Hamilton, Duane, and Duer brought to notice a further element of Washington's proposed reforms, not addressed by either the New Hampshire letter or the July committee in New York. That is, they wrote in defence of the clause in the institution, which was cut out in

⁹² Ibid.

the amendments, stating the society's goal 'to promote and cherish between the respective states that union and national honor so essentially necessary to their happiness and the future dignity of the American empire.'⁹³

Little more than a month after the convention at Annapolis, where Hamilton and James Madison projected the constitutional convention, the timing of the circular letter is enough to explain its concern with this part of the Institution, which it declares 'a fundamental principle of the society.' 'We reverence the sentiment contained in that clause too much,' declared the New Yorkers, 'to be willing to see it expunged.' Giving rein to their rhetoric, they hymned the 'noble fabric of united independence... a fabric on the solidity and duration of which the value of all they have done must depend.' An institution like the Cincinnati, 'calculated to give energy and extent to a sentiment favorable to the preservation of that union,' could, they asserted, never give cause for America's condemnation.⁹⁴

The letter ended by commending the 'virtuous and generous motives' of the society's members, and predicting their steadfast commitment to America's liberty, law, and government, 'through every vicissitude of her future fate.' Such a closing foretold vicissitudes to come. It enlisted the Cincinnati in a struggle for the republic, the triad of liberty, law, and government encapsulating the future Federalists' characterisation of their own programme. But at the same time, Hamilton and his allies knew that their vision differed from that of many of their fellow Cincinnati. They had to tread carefully. The circular letter thus recommended that delegates to the general meeting be given the latitude to work out among themselves a compromise for the society's future, 'a mode of combining the views and sentiments' of each state, since 'the prospect of an unanimous

⁹³ New York Society of the Cincinnati, Circular Letter to the State Societies, 1 November 1786, ASC.

⁹⁴ Ibid.

concurrence... would be remote.'⁹⁵ Hamilton would bend the society to the function he envisaged, without breaking the loyalty of those who he knew held different ideological commitments.

Comparing Hamilton's vision of the Cincinnati with that of the New Hampshire society underscores the tensions and fractures within the patriot elite, in a similar way to the disagreement over the Cincinnati itself. Hamilton played his part in the elaborate July 4th rituals documented in its proceedings, the 'kettle-drums and trumpets,' the standard escorted by 'four members in full uniform, wearing the order of the society.'⁹⁶ He remained an active member until his death in 1804, and continued to be fascinated by military hierarchy and martial honour. His understanding of the society, though, had just as little room for succession by primogeniture, or elevation of officers above other members, as it did for subordination to feckless state legislatures. His was to be an aristocracy of '*merit only*,' an organisation as committed to promoting law and government in an uncertain future as to preserving the memory of soldiers' virtuous acts in the past.

None of this made Hamilton or his New York friends any less committed to constructing and entrenching an American elite. They just had different ideas of how to go about it. Within the Society of the Cincinnati, Hamilton and a few others were the agents of a transforming set of ideas and impulses with the potential to reshape America's patriarchal imagination. Washington, shocked by the extent of the opposition among his enlightened friends, had tried to neuter the society when he found it too embarrassing to abolish it. Men like Henry Dearborn and Ebenezer Sullivan saw through that. After all, Washington hardly needed the society to enhance or protect his status, but they did. What

⁹⁵ Ibid.

⁹⁶ *Proceedings of the New York Society of the Cincinnati*, ASC, p. 30.

the New Yorkers did, by contrast, was to reread and reconstruct the founding principles of the society, shaping them in a new direction, more consonant with the future they saw for themselves and the nation.

Importantly, that direction was much more acceptable to those who had ranged themselves in opposition to the Cincinnati. It was an arduous, turbulent process, but through the 1780s, the ideology of American gentlemen underwent a reconstruction and a rapprochement. By the time they reached Philadelphia in the summer of 1787, the future rulers of the republic were able to work together to secure what they thought of as justice, liberty, law, and government.

The Coalition for the Constitution, 1787

When a small group of officers set up the Society of the Cincinnati in 1783, as anxious apologists for the society would often repeat, it was done 'in a hasty manner,' by men 'agitated by a variety of emotions.'⁹⁷ By the mid-1780s, the society existed as the only secular private organisation bar the Freemasons to span the independent states, north to south. Its federal structure gave it national reach, although it also made plenty of room for disagreement between state societies. In that sense, the society was just as unwieldy as the Confederation itself. It was not for their focused and determined political will that the Cincinnati were important to the politics of the new republic.⁹⁸ Rather, the society was a formal social network, creating ties of loyalty and communication among its members. Those included governors of eight out of thirteen states around the middle of the decade, and twenty-one of the fifty-five delegates to the constitutional convention.⁹⁹

⁹⁷ Circular Letter to the State Societies of the Cincinnati, 15 March 1784, *PGW*, vol. 1, p. 361.

⁹⁸ See for example Myers, *Liberty Without Anarchy*, p. 100.

⁹⁹ The governors being John Sullivan of New Hampshire (1786-1788), George Clinton of New York (1777-95), William Livingston of New Jersey (1776-1790), William Smallwood of Maryland (1785-88),

George Washington, the President-General and the most famous man in America, was the obvious focal point of this network, but he never became a leader for the Cincinnati. Only in 1784 did he become seriously interested in the society's affairs, and he did so then because he was concerned about what they were getting up to, and how it might look to his friends outside the society. He brought to bear considerable political skill to push through the reforming agenda of the 1784 general meeting. But he was unable to sustain or expand his effort into the process of ratification by states. This would provide a lesson for 1787-88. Meanwhile, the reform programme forfeited Washington's claim on the specific obedience, if not the general loyalty, of the society's members. He never again set a political agenda on a national scale, presiding instead in famous silence at Philadelphia.

A role that Washington maintained, however, was as a node in the network of friendship and correspondence that was the lifeblood of the American elite. At the highest level, there were few such points of connection between the large Cincinnati organisation and the other key institution with national scope, Congress. Washington was one of them. He corresponded not only with fellow Virginian Thomas Jefferson, both at Congress and in Paris, but also with John Jay, who as foreign secretary was the *de facto* prime minister of Congress, after its move to New York in January 1785. Washington wrote to Jay the previous autumn congratulating him on his return to America; at the same time, he wrote a similar letter to another diplomat and critic of the Cincinnati, Benjamin Franklin, who was soon to take over from John Dickinson as president of Pennsylvania's executive council.¹⁰⁰

John Dickinson of Pennsylvania (1782-85), Edmund Randolph of Virginia (1786-88), William Moultrie of South Carolina (1785-87), and Samuel Elbert of Georgia (1785-86). For convention delegates see Myers, *Liberty Without Anarchy*, p. 98.

¹⁰⁰ Washington to Jay, 27 September 1785, *PGW*, vol. 3, pp. 284-5; Washington to Franklin, 25 September

New York, the new base of Congressional operations, was home to another crucial node connecting the Cincinnati to a wider national elite, Alexander Hamilton. Hamilton's friendship with John Jay went back to his first arrival in the state as a teenager, and his acquaintance with the well-connected Livingston family. William Livingston, the governor of New Jersey, was Jay's father-in-law, while William's brother Robert was the father-in-law of New York Mayor and honorary Cincinnatus James Duane. When Hamilton married Elizabeth Schuyler, he became a distant relation of both Jay and Duane through their great-grandfather-in-law Robert Livingston the Elder. These connections were hardly incidental to Hamilton's life, or to the arrangement of New York and national politics. They set him against the formidable populist faction of Governor George Clinton, but gave him a place at any powerful table in the city. The President of the New York Cincinnati, Friedrich von Steuben, may have claimed the title of baron in Prussia, but Hamilton was closer to New York's version of nobility.

It was partly this background that allowed him to be the linchpin of Federalist organisation in the crucial years, 1786 to 1788. As leader of New York's delegation to the Annapolis Convention in August 1786, he helped push forward the plan for a new convention in Philadelphia the next summer. His collaboration with Jay and James Madison on the *Federalist Papers* is more important for how it illustrates Hamilton's ability to use his connections and forge national alliances than for the articles' effect on the ratification campaign itself. These activities are all well known. But Hamilton's deeper and less visible contribution to the Federalist success of those years was his ability and active commitment to recasting the Cincinnati as supporters of the movement.

Hamilton's first act at Philadelphia, on Friday the 25th of May 1787, was to successfully nominate Major William Jackson, a South Carolina Cincinnatus, as convention secretary. It was a small gesture, but perhaps a meaningful one. Mainly because his fellow New York delegates, Clintonians John Lansing and Robert Yates, had been instructed to oppose almost everything Hamilton believed in, his participation in that summer's debates was quite sparse. He did lodge at the Indian Queen tavern, near the financial hub of Chestnut Street, along with several other prominent delegates, and he must have used his influence behind the scenes. But his performance on the convention floor was limited to a single major speech. Lasting six hours without a break in sweltering June heat, it was a strange speech indeed. Gouverneur Morris apparently called it 'the most able and impressive he had ever heard.'¹⁰¹ But Morris was not the audience Hamilton had most in mind.

Two full-scale plans had already been proposed to the convention by Monday the 18th of June, Edmund Randolph's and William Paterson's. But that Monday, possibly at Hamilton's request, the Pennsylvania Cincinnatus John Dickinson introduced a motion to postpone the consideration of Paterson's plan, and return to the general question of whether revisions to the Articles of Confederation were needed 'to render the government of the United States adequate to the exigencies, the preservation, and the prosperity of the union.'¹⁰² From this ground, Hamilton could offer his own assessment of the country's situation, and 'a sketch of a plan which he should prefer to either of those under

¹⁰¹ Quoted in Mitchell, *Alexander Hamilton*, p. 391. Accounts of the speech are also in Chernow, *Alexander Hamilton*, pp. 231-235; Jacob Cooke, *Alexander Hamilton* (Charles Scribner's Sons: New York, 1982), pp. 49-50.

¹⁰² Max Farrand, ed., *The Records of the Federal Convention of 1787* (Yale University Press: New Haven, 1937), vol. 1, p. 281. For collusion between Hamilton and Dickinson, see Mitchell, *Alexander Hamilton*, p. 393.

consideration.'¹⁰³ One theme animated both his critique and his proposed solution: the creation of a proper class of leaders for America.

Hamilton declared that 'the British government was the best in the world.' Both the House of Lords, 'a most noble institution,' and the British monarchy should be taken as examples to the new nation. 'The hereditary interest of the king,' he said, 'was so interwoven with that of the nation' that he could be corrupted neither by outsiders nor by his own interest.¹⁰⁴ Accordingly, Hamilton's plan had two parts. The first called for the stripping away of all power in the states and their legislatures, perhaps their abolition altogether. The second called for both a senate and a supreme executive to serve 'during good behaviour' rather than for any fixed term.¹⁰⁵ 'Nothing but a permanent body,' he said, 'can check the imprudence of democracy.'¹⁰⁶ His plan would constitute government so 'as to offer strong motives' and 'in short, to interest all the passions of individuals.'¹⁰⁷ That is, to create motive and interest in the defence of government itself. The rulers would, in other words, *become* the state.

Why did Hamilton make such a speech? Knowing it was 'beyond the ideas of most members,' he said it was not 'a proposition' for the convention but 'was meant only to give a more correct view of his ideas.'¹⁰⁸ One particular audience to whom this view may have been directed was the contingent of Cincinnati in the room. Hamilton had already attended the general meeting of the society, which opened on the 7th of May. Three other Cincinnati joined Hamilton in attending both meetings, and two more arrived too late for

¹⁰³ Farrand, p. 291.

¹⁰⁴ Ibid., pp. 288-9.

¹⁰⁵ Ibid., pp. 291-2.

¹⁰⁶ Ibid., p. 299.

¹⁰⁷ Ibid., p. 311.

¹⁰⁸ Ibid., p. 291.

the society meeting but in time for the constitutional convention.¹⁰⁹ These two, Charles Cotesworth Pinckney of South Carolina and Nicholas Gilman of New Hampshire, were representatives of the society's aristocratic wing. They may have arrived late in order to avoid speaking out against Washington's reforms of the Institution. Hamilton's speech was calculated to please men like them, and to pique their enthusiasm for the constitution.

Like his circular letter on behalf of the New York state society, Hamilton's convention speech defended types of institutions favoured by these traditionalist Cincinnati, while at the same time gently tempering them into a form that fit a different ideological agenda. In spite of his praise for 'hereditary' monarchy, Hamilton did not propose such a rule for the American government. Senators and the executive were to serve 'during good behaviour,' a criterion that matched his attitude to membership in the Cincinnati; that is, it 'ought to belong *to merit only*.' Hamilton himself embodied the concept he promoted, for he had all the attributes of aristocracy bar the actual breeding. His political gambit, the only one he played on the floor of the convention at Philadelphia, was to convince his fellow Cincinnati that was enough.

If Hamilton's speech suggested a promise to the expectant former officers, a deal in which the new constitutional government would furnish them with places of established power and status, it was a disingenuous one. But as little as the speech was, to win over his fellow officers to the constitutional and Federalist cause, enough had already been done. The crucial transformation that followed the crisis of patriarchal imagination among American gentlemen had already taken hold by the time of the convention. The concepts and mechanisms that gave gentlemen their power—not least among them masculinity, virtue, and honour—were adapted and channelled in new ways, redescribed and

¹⁰⁹ Myers, *Liberty Without Anarchy*, pp. 95-96.

reinterpreted in new language, to accommodate the changing conditions of society and political discourse. The Cincinnati and surrounding debates were one element of this process. As the next chapter will show, the pulpit, the schoolhouse, and the discourse of education were another.

2. The Promise of Republican Obedience

The people, having emancipated themselves from the British government... have, in some places at least, forgotten that they could never be emancipated from the bonds of justice.¹

The New England Establishment in 1780

By the end of the eighteenth century, the Yale class of 1778 would be remarkable for the number of famous figures in its ranks. But when they graduated, few of these young men had much notion of where they would go in life, nor did they have the social or financial means to get far. In general, their sole asset was Yale itself, which had given them each other. Joel Barlow wrote to his friend and classmate Noah Webster, 'We are not the first men in the world to have broke loose from college without fortune to puff us into public notice.' They must not be too discouraged. 'If ever virtue [and merit] are to be rewarded, it is in America.'² Barlow's ambivalence about his future neatly paralleled the American war effort at the turn of the decade. The future was dangerously uncertain. That meant it was full of possibility.

How was Barlow to take best advantage of that possibility? Like Alexander Hamilton, he had volunteered in the patriot militia while he was an undergraduate. He served in the ranks during Washington's defeat at Long Island in 1776, but unlike Hamilton he did not distinguish himself as a leader, or see active service. That autumn he

¹ Peter Thacker, *Observations Upon the Present State of the Clergy* (Norman & White: Boston, 1783), Evans #18206, p. 4.

² Joel Barlow to Noah Webster, 30 January 1779, quoted in Peter Hill, *Joel Barlow: American Diplomat and Nation Builder* (Potomac Books: Washington, 2012), p. 1, parenthetical interpolation by Hill.

returned to Yale and remained there. When he graduated, a Yale connection got him a post as a schoolteacher: Timothy Dwight, the future president of the college, was a former tutor and a fellow poet. Working at Dwight's academy in Northampton, Massachusetts, was more prestigious than most village school jobs, but it was still something less than Barlow's ambitions. Two decades earlier, John Adams had written of his teaching post, 'the school is indeed a school of affliction, a large number of little runtlings, just capable of lisping A.B.C. and troubling the Master.'³ For generations of ambitious young New England men, Barlow included, teaching was a disappointing first step in professional life.⁴

Barlow didn't stay there long. Another Yale classmate, Abraham Baldwin, had taken a position as a chaplain in the Continental Army, and in the spring of 1780 he wrote to Barlow, 'the plan is for you to come and be a chaplain to our other Brigade, for I have them both to preach to... there is not a situation in the army more agreeable to your turn, you would be happy in it.'⁵ Thinking he would at least be happier in an army camp than in school, Barlow agreed. He took an oral examination in the Yale College library before the Association of Ministers, and was duly admitted to the club. On the 2nd of September, 1780, he arrived at the army's camp in northern New Jersey. Teaching and the ministry were always likely routes for graduates more endowed in intellect than fortune; in 1780, Barlow's route combined the predictable with the wildly novel. That October, he dined with George Washington himself. 'How do you think I felt,' he wrote to Abraham Baldwin's sister Ruth, his secret fiancée, 'when the greatest man upon Earth placed me at

³ John Adams to Richard Cranch, 2 September 1755, in Taylor, *Adams Papers Digital Collection*.

⁴ For Barlow's biography, see Hill, *Joel Barlow*; and Richard Buel, Jr., *Joel Barlow: American Citizen in a Revolutionary World* (Johns Hopkins University Press: Baltimore, 2011).

⁵ Quoted in Theodore Zuner, *The Early Days of Joel Barlow, A Connecticut Wit* (Yale University Press: New Haven, 1934), p. 99.

His right hand... at table?'⁶

The opportunities provided by the army filled a gap in the employment prospects of young New England gentlemen which was the result of a double effect. On one hand, the war meant less work was available in commerce and law, while on the other it encouraged more men – in Connecticut, at least – to go to college, avoiding the state draft.⁷ In eighteenth-century New England, the colleges were crucial elements of the established social order. They were not only centres of orthodox learning, but also functioned as regulated gateways to elite networks. They relied on a continuing ability to offer social and professional as well as educational advantages. Society and the professions, in turn, relied on colleges to provide the right sort of gentlemen, and to bestow that validation on the sons of the establishment. The war and the revolution disrupted this process, but not completely. Joel Barlow and his classmates help illustrate how structures of power and status responded to those disruptions.

In Connecticut and Massachusetts, educational and clerical establishments constituted the frame of the social fabric. The new Massachusetts Constitution, ratified in June 1780, confirmed the institutional basis of this arrangement.⁸ In the body of the constitution, drafted by John Adams, the two parts of Chapter V deal with the governance of Harvard College and the provision of public education. 'Wisdom and knowledge, as well as virtue, diffused generally among the body of the people, [are] necessary for the preservation of their rights and liberties,' it declared. Moreover, 'these depend on spreading the opportunities and advantages of education in the various parts of the

⁶ Quoted in *ibid.*, p. 113.

⁷ Christopher Grasso, *A Speaking Aristocracy: Transforming Public Discourse in Eighteenth-Century Connecticut* (Chapel Hill: University of North Carolina Press, 1999), p. 264.

⁸ Peter Field, *The Crisis of the Standing Order: Clerical Intellectuals and Cultural Authority in Massachusetts, 1780-1833* (University of Massachusetts Press: Amherst, 1998), pp. 30-45.

country.⁹ The declaration of rights, drafted under Samuel Adams' direction after John had left for Europe, used an identical formulation to support the maintenance of the clergy.¹⁰ '[T]he happiness of a people and the good order and preservation of civil government essentially depend upon piety, religion, and morality,' which were therefore to be 'diffused' among the people by 'public worship' and 'instructions'.¹¹

What the clergy gained in the Constitution of 1780 was not, however, a foregone conclusion, but the result of concerted lobbying. No provision for either religious or educational establishment had been made in the draft constitution of 1778, which was rejected overwhelmingly by town meetings through the month of May that year.¹² The General Court dismissed its own chaplain for publishing a series of articles arguing against its ratification.¹³ In September, the venerable minister of Boston's First Church preached and published a sermon on the provocative text of Joshua 7.13, 'thou canst not stand before thine enemies until ye take away the accursed thing [i.e. sin] from among you.' Noting 'the sad case of *salary-men*, and particularly *the clergy*' as a result of wartime inflation, he asked, 'surely the pastors of the churches in this state are not so inconsiderable and contemptible an order of men as not to be worth the notice of government...?'¹⁴

At the convention the following year, the article providing for religious establishment engendered particularly heated debate, so much so that it required the

⁹ Chapter V, Section 2, *Constitution of the Commonwealth of Massachusetts*, National Humanities Institute, <http://www.nhinet.org/ccs/docs/ma-1780.htm>

¹⁰ For Adams' departure, see Field, *Crisis of the Standing Order*, p. 33.

¹¹ Part the First, Article 3, *Constitution of Massachusetts*.

¹² Oscar and Mary Handlin eds., *The Popular Sources of Political Authority: Documents on the Massachusetts Constitution of 1780* (Harvard University Press: Cambridge, Ma., 1966), p. 202.

¹³ Harry Cushing, *History of the transition from provincial to commonwealth government in Massachusetts* (Columbia University: New York, 1896), p. 220.

¹⁴ Charles Chauncy, *The Accursed Thing* (Thomas & John Fleet: Boston, 1778), Evans #15759, p. 20. 'Salary-men' here is not meant pejoratively; rather, it refers explicitly to a particular professional class of teachers and preachers whose salaries were fixed.

waiver of a procedural rule which limited delegates to two speeches on any one issue. Yet the inclusion of the article was never really in doubt.¹⁵ Although public support for the clergy through taxation was established, the Congregational Church as such was not; indeed, the preceding article provided for each man's liberty of conscience, 'provided he doth not disturb the public peace or obstruct others in their religious worship.'¹⁶ This compromise satisfied the strong Baptist representation at the convention led by Isaac Backus, as well as the growing number of 'non-churchgoers' in Massachusetts society.¹⁷ Not every member of the New England establishment could call on a deep religious faith, perhaps least of all the circle of Boston merchants that propped up John Hancock's regime as governor. In struggling to protect their own power and status, New England clergy were, in their own eyes, defending Christianity.

Because they had lent their pulpits and lecterns to the cause of independence, Congregationalist establishments in Massachusetts and Connecticut did not suffer the same defeat and collapse as the Anglicans experienced in Virginia. In fact their hegemony was strengthened by association with revolutionary rhetoric and leadership.¹⁸ But that did not prevent clergy from feeling embattled. Paid a fixed salary, they were especially vulnerable to the fluctuations of American currencies during and after the war, an experience that tended to align them with powerful interests throughout the continent who were concerned with the question of paper money. More than that, the spectacle of the American people in wartime shook the confidence of many clergymen, just as it did many

¹⁵ Field, *Crisis of the Standing Order*, p. 34.

¹⁶ Part the First, Article II, *Constitution of Massachusetts*.

¹⁷ Field, *Crisis of the Standing Order*, p. 45; for the 'Baptist revival' in Massachusetts, 1778-82, see John Brooke, *The Heart of the Commonwealth: Society and Political Culture in Worcester County, Massachusetts, 1713-1861* (Cambridge University Press: Cambridge, 1989), p. 176.

¹⁸ Jonathan Sassi, *A Republic of Righteousness: The Public Christianity of the Post-Revolutionary New England Clergy* (Oxford University Press: New York, 2001), pp. 20, 52; Field, *Crisis of the Standing Order*, p. 30.

army officers. The Revolutionary War was not so heroic, or so easily won, as the providential expectations of ardent patriots demanded.

At a low ebb in the war effort in 1778, Charles Chauncy lamented, 'Was [our land] ever in a more corrupt and degenerate state? Was it ever in a more unhappy situation, *morally* speaking, to engage in war?'¹⁹ The end of the war did little to raise spirits. 'The late contest with Great Britain, glorious as it hath been for their country, hath been peculiarly unfortunate for the clergy,' declared one minister, Peter Thacker, in a 1783 pamphlet. He continued:

Perhaps no set of men, whose hearts were so roughly engaged in it, or who contributed in so great a degree to its success, have suffered more by it. The people, having emancipated themselves from the British government, and felt their competence to carry every point they chose, have, in some places at least, forgotten that they could never be emancipated from the bonds of justice. They have been too ready to suppose that their declaration and authority were sufficient to dissolve the most solemn engagements, and that *the people could do no wrong*.²⁰

Some clergy, at least, saw social, political, and ideological change emerging from the revolution to threaten the authority of the New England establishment. The constitution of 1780 was only of limited use in shoring up that authority, because it also gave all townspeople, not just full church members, considerable power over their ministers. Thacker complained that in the present state of things, 'the people' were determined to keep clergymen 'in the closest dependence on them,' and 'may, at any time, dismiss them from their service.'²¹ Ministers responded by using their sermons to proclaim the importance of order and submission. Through the 1780s, they attempted in various ways to counteract the populist notions stirred up during the revolution. In doing so, some clergymen transformed their own rhetoric and even their ideology, adapting

¹⁹ Chauncy, *The Accursed Thing*, p. 13.

²⁰ Thacker, *Present State of the Clergy*, p.4.

²¹ Ibid.

liberal and republican concepts to the service of clerical authority. But they also had rivals within the constellation of post-revolutionary elites. Young men like Joel Barlow and his fellow poets were not populists, but they had little time for pious patriarchs either.

As a member of the circle of Yale graduates in Hartford later known as the Connecticut Wits, Barlow was committed to taking advantage of the country's new status by writing a corpus of poetry fit for a civilised republic. 'This new-born Empire should my voice employ, / The Muse's transport and the Patriot's joy,' as he put it in a poem of early 1779.²² John Trumbull's 1772 epic, *The Progress of Dulness*, epitomised his fellow Wits' attitude to their expected post-collegiate fate:

Few months now past, he sees with pain
His purse as empty as his brain;
His father leaves him then to fate,
And throws him off, as useless weight;
But gives him good advice, to teach
A school at first, and then to preach.
Thou reason'st well; it must be so;
For nothing else thy son can do.²³

Independence, and the birth of an American empire, seemed to offer a new set of prospects, different from the habitual cycle associated with the educational and clerical establishments. Barlow for one may have gone into the army chaplaincy, but he intended it as a stage in his progress to greatness.

Yet the future for such ambitious men was just as precarious as it was for the officers in Washington's army as the war came to an end. Like young Alexander Hamilton, by early 1781 Joel Barlow had a wife to support. Unlike his New York contemporary, however, he did not have the benefit of enormously wealthy in-laws. Quite the opposite: Barlow's marriage to Ruth Baldwin was at first kept secret from her

²² "The Post-Boy's Present to his Customers," quoted in Zuner, *The Early Years*, p. 65.

²³ "The Progress of Dulness, Part One, Or the Adventures of Tom Brainless," in Vernon Parrington ed., *The Connecticut Wits* (Archon Books: Hamden, Ct., 1963), pp. 11-12.

suspicious and disapproving father. The first years of their marriage were spent mostly apart, joining each other in Hartford when Joel was on furlough and when he could spare time from writing and promoting his grand project, the epic *Vision of Columbus*. The poem would not be published until 1787, but in the summer of 1782 Barlow was already seeking subscriptions to it at camp, and that autumn he rode south in the company of General Benjamin Lincoln, 'as amiable as he is great,' to seek patronage in the Confederation's capital, Philadelphia.²⁴

Literature was Barlow's business in the early 1780s, and his real interest even while he served as an army chaplain. With the fashionable, patriotic reading public now facing the problem of whether to continue reading and importing British literature, educated New Englanders like himself saw a role for themselves, and the chance of a fortune. In June 1783, Barlow was finally discharged from the army. A year later, during which he worked on his poem and participated in founding the Connecticut branch of the Society of the Cincinnati, he went into partnership with the printer Elisha Babcock. Printing was not a gentlemanly pursuit, but it was an industry with bright prospects. And it had an ambivalent relationship with the establishment. It suited those seeking roles somewhere between the dull comforts of traditional privilege, and the novelty of nursing a 'new-born Empire.'

Inasmuch as these represented two different choices and attitudes in the New England of the 1780s, they were two different strategies for attaining and maintaining elite power. To urge, like Peter Thacker, the restoration of piety and obedience on the basis of divine authority and established clerical leadership was a conservative reaction to changes perceived through the prism of the revolution. That event had generated an

²⁴ Joel Barlow to Ruth Barlow, 12 November 1782, quoted in Hill, *Joel Barlow*, p. 6.

unfortunate by-product, democracy, the idea 'that the people could do no wrong,' and this by-product could be rooted out like 'that accursed thing,' sin.²⁵ On the other hand, to construct a patriotic literature and culture which mimicked the forms and fashions of Britain's Augustan era while defining itself as new and distinctly American offered to turn the revolution itself into a mechanism for recreating and retrenching new, distinctly American elites. The revolution could be read as a solution, not a problem; it could be a triumph, not a setback.

America's glorious cause was the spur New England gentlemen needed to revitalise their flagging cultural and political authority. Trumbull's *Progress of Dulness* serves to illustrate the lack of confidence and purpose within the teaching and preaching class of Connecticut and New England more generally before the war for independence. *The Vision of Columbus* projected a newly optimistic spirit. American poets could work for the glory of their new country, and win themselves respect as well. For Barlow and his peers, the revolution created the cultural space – and the public demand – for new productions, new literature, and new fashions of thought. It gave them room to manoeuvre beyond the paradigms of empire and traditional establishment. When Barlow told Noah Webster, 'if ever virtue [and merit] are to be rewarded, it is in America,' his sense of 'America' carried the inflection of the revolutionary republic he had already started to describe in his epic poem.²⁶

Like the various positions in the internal dispute over the Cincinnati – the defenders of hereditary membership, the promoters of 'merit only,' and those who would give up on the institution altogether – the clerical establishment and its disaffected youth had more in common than they had against each other. Their ideas and ideals were not

²⁵ Thacker, *Present State of the Clergy*, p. 4; Chauncy, *That Accursed Thing*.

²⁶ Joel Barlow to Noah Webster, 30 January 1779, quoted in Hill, *Joel Barlow*, p. 1.

incommensurable: the language of preaching drew heavily on the rhetoric of the revolution, and a sense of providential renewal; the new nationalist literature was often beset with religious motifs. During the 1780s, these different sets of men influenced each other in the development of their attitudes and strategies. They were united by the religious and educational traditions they emerged from, and by a deeper factor: their ideological commitment to hierarchy, and their own superiority within it.

Enos Hitchcock and the Discourse of Education, 1780-85

When Joel Barlow arrived at camp in September, 1780, to take up his post in the army chaplaincy, he was met by his friend Abraham Baldwin and another colleague, Enos Hitchcock. Where Barlow and Baldwin were both Yale men, class of 1778, Hitchcock was Massachusetts-born, and educated at Harvard, class of 1767. He served as a pastor for five years before joining the chaplaincy in 1776. He had 'stept aside, a little space,' he wrote home in 1778, 'in the great emergencies of our bleeding country,' intending to influence his compatriots by example and exhortation 'to remain firm and steadfast in the defence and support of her dear and heavenborn liberties; on which depends the happiness of ages to come – of generations yet unborn.'²⁷ Hitchcock's letter epitomised the rhetoric of the revolutionary ministry, a rhetoric of fatherhood as well as of liberty. He quickly took the inexperienced Barlow under his wing, and the two formed a friendship that would continue throughout the 1780s.

Hitchcock was already a friend and correspondent of Yale President Ezra Stiles, who wrote to him about Barlow in 1780. 'He is a young man of learning, sobriety, and ten thousand excellencies,' Stiles told Hitchcock, particularly in 'poetry and the *belles*

²⁷ William Weeden ed., "Diary of Enos Hitchcock, D.D.," *Publications of the Rhode Island Historical Society* vol. 7 (July, 1899), p. 90.

lettres.²⁸ In 1781, Hitchcock was granted an MA from Yale, which must have brought him closer still to his Connecticut colleagues.²⁹ But he also preached, during furloughs, at the First Church of Providence, Rhode Island, and it was there that he settled when the army was discharged in 1783.³⁰ Hitchcock, then, was perfectly connected throughout the educational and clerical establishments of New England; his career shows just how much those of different colonies overlapped and collaborated with each other. Joseph Willard, President of Harvard, 'visited him often,' and he was 'on intimate terms' with James Manning, the President of the College of Rhode Island (later Brown), where he received his D.D. in 1788.³¹ Few could be better paragons of establishment, or better illustrations of its continuity in the 1780s.

The key concern of Hitchcock's preaching and intellectual career in that period was the state of basic public education. As much as his own life and milieu was framed by the great institutions of higher learning, he became a champion of the humble local school, and the necessity of education for all male citizens of the new republic. It is the question of education, its uses, methods, and theoretical underpinnings, that occupies most of the rest of this chapter. Hitchcock's writing, and that of others like him, illuminates the development of educational thought in post-revolutionary New England, and its connection to social, cultural, and political problems. The conflicted and shifting discourse of education helps expose the unstable and changing nature of elite power and ideology.

When he published his *Discourse on Education* in 1785, Hitchcock was building on a corpus of clerical, republican educational thought that had already begun to be

²⁸ Ibid., p. 91.

²⁹ Ellis Sandoz, *Political Sermons of the American Founding Era, 1730-1805* (Liberty Fund: Indianapolis, 1998, 2nd ed.) vol. 2, p. 1170.

³⁰ "Diary of Enos Hitchcock, D.D.," p. 93.

³¹ Ibid., pp. 93-94; Sandoz, *Political Sermons*, vol. 2, p. 1170.

elaborated from the closing years of the war. That corpus had its own roots in various educational traditions, both American and European. Neither Hitchcock nor his fellow ministers looked solely to the Bible or religious texts for their understandings of the world. Faith and education were deeply connected to each other and also to social and political life. Mapping the way these different fields interacted was part of the theoretical discussion that men like Hitchcock were undertaking in the 1780s, at a time when each of them – society, politics, faith, and education – seemed particularly susceptible to challenge and change. In promoting particular understandings of faith and education, the New England clerical establishment sought to buttress social and political stability, and to sublimate the impulses of the revolution for the protection of their own privilege and power.

One of Hitchcock's predecessors was Zabdiel Adams, a cousin of John and Samuel, and a Harvard graduate, class of 1759. Adams' 1782 election-day sermon aimed to counteract the anti-authoritarian implications of republicanism. 'It is generally allowed at the present day,' he said, 'that the choice of the people is the only source of power.' Yet 'very popular governments have sometimes been found too weak to prevent tumults, insurrections and factions.' These must be guarded against by energetic governments, to create which 'nothing more is necessary than a union of all the most enlightened and virtuous people in support of them.' Adams' vision of popular sovereignty thus collapsed into the leadership of a moral elite, who would rule in the public interest. 'This makes it,' he wrote, 'the interest of the people to obey.'³²

Public schooling would teach men 'the *nature* [and] the *value* of that liberty, for which we are now so justly contending,' wrote Adams. Without it, 'an ignorant people...

³² Zabdiel Adams, "An Election Sermon," in Charles Hyneman and Donald Lutz, *American Political Writing During the Founding Era, 1760-1805* (Liberty Fund: Indianapolis, 1983), p. 544.

will soon become slaves, or run into anarchy.³³ The 'nature' of the liberty he had in mind is clear enough from his sermon the following year: the role of the people in government was 'electing wise men and true, and then submitting cheerfully to their commands.'³⁴ Like Adams, Samuel McClintock in 1784 insisted that 'virtue is the basis of republics,' and therefore 'the education of the youth in useful knowledge and the principles of virtue' was essential. He too wrote that 'a wise and knowing people will think it no less their interest than duty to support government and yield obedience to laws.'³⁵ Yale professor Samuel Wales wrote that 'no state can long be happy... unless government be revered and the law obeyed,' hence 'the education of the youth' was 'of immense importance.'³⁶ Joel Barlow would not have disagreed: he and Elisha Babcock published Wales' sermon.

While these sermons tended to touch briefly on education as one element connected to their social and political themes, Hitchcock's 1785 *Discourse on Education* approached it directly and comprehensively. He was addressing the board of 'proprietors of the school-house on the west side of the river' in Providence, and his immediate purpose was naturally to praise and encourage their support—both political and financial—of the town's provision for public education. 'Much credit,' he declared, 'is due to everyone who steps forth in so good a cause, and distinguishes himself by his exertions for the establishment and support of schools...'³⁷ Five years later, Hitchcock would publish a lengthy epistolary account of his educational ideas, titled *Memoirs of the Blooms Grove Family*. There he declared education 'the art of preparing children for the duties of life.'³⁸

³³ Adams, "An Election Sermon," p. 555.

³⁴ Zabdiel Adams, *The Evil Designs of Men* (Edes and Sons: Boston, 1783), Evans #17807, p.25.

³⁵ Samuel McClintock, "On the Commencement of the New Hampshire Constitution," in Sandoz, *Political Sermons*, pp. 805, 809.

³⁶ Samuel Wales, "The Dangers of Our National Prosperity," in *ibid.*, pp. 852, 861.

³⁷ Enos Hitchcock, *A Discourse on Education* (Wheeler: Providence, 1785), Evans #19040, p. 11.

³⁸ Enos Hitchcock, *Memoirs of the Blooms Grove Family* (Thomas & Andrews: Boston, 1790), p. 15, Eighteenth Century Collections Online.

In the 1785 *Discourse*, he set out his theory in sixteen quarto pages, a speech of perhaps an hour.

Hitchcock began by sketching the basis of his argument in a conception of human malleability, but also of 'latent powers and qualities.' In other words, he emphasised the role of nurture over nature, observing that, as with a plant, 'the form, size, and qualities of the mind depend upon the means of education being employed during the season of its growth and improvement.' But he also spoke of innate 'faculties of the human soul' which are 'in themselves noble and excellent, and capable of continual enlargement.' He quoted Richard Price's analogy, 'as the chisel works the rude block into shape, so does education form the human soul,' and without mentioning John Locke's name said 'it is the judgement of the most accurate writers upon this subject that of the men we meet, nine parts out of ten are what they are, good or bad, according to their education.'³⁹ In other words, Hitchcock took his cue from the first few pages of *Some Thoughts Concerning Education*.⁴⁰

Education, Hitchcock observed, is defined by 'the ties of interest, affection, and humanity' between parents and their children. But it also involves the way those ties extend throughout a given community, the 'stage' onto which children will step. Hitchcock's central concern was therefore education's 'usefulness to society.' Quoting one of 'the best writers on government,' Jean-Jacques Burlamaqui, he held that 'those who have had a bad education make no scruple to violate the best constitutions in the world.' The 'most effectual means' of promoting public happiness, the quotation goes on, is to teach the 'subjects' of the state 'wisdom and virtue,' and to make them 'acquainted with the

³⁹ Hitchcock, *Discourse on Education*, pp. 6, 4, 7, 8.

⁴⁰ John Locke, *Some Thoughts Concerning Education*, John Yolton and Jean Yolton eds., (Clarendon Press: Oxford, 1989 [1693]), pp. 83-84.

rules of a happy and virtuous life.⁴¹ Republican theory, both ancient and modern, made public virtue requisite to any state's success. The 'very existence' of 'republican states,' Hitchcock wrote, 'must depend on the wisdom and virtue of the people at large; and these must depend on the education and habits of mind acquired whilst young.'⁴²

Just as Zabdiel Adams had struggled to incorporate republican notions of popular sovereignty into his conception of New England society and politics, so Hitchcock sought to solve the problem of republicanism with education. In a polity without hierarchy, 'we have little else than the understanding and virtue of the people to combine them together in society, and gain their consent and subjection to necessary and just government.' Hitchcock's envisioned polity was hierarchical, in that it privileged specific kinds of knowledge and species of virtue. 'If the means of education be neglected,' Hitchcock wrote, 'the rising generation would grow up unformed and without principle; their ideas of freedom would degenerate into licentious independence; and they would fall prey to their own animosities and contentions.'⁴³ Thus education was one method of reintroducing control and obedience into post-revolutionary society, but in more fashionable rhetoric.

The specific virtues Hitchcock listed included both 'the purity and sublimity of the Christian religion' and 'the strictest justice and most extensive benevolence to [one's] fellow men.'⁴⁴ References to 'the strictest justice' in the 1780s cannot be uncoupled from the question of paper money, tender laws, and debtors' relationship to creditors: justice, in other words, meant paying one's debts on the terms of one's creditors, as opposed to taking advantage of legislative debt relief mechanisms. Debates over paper money in the Rhode Island legislature had already begun in 1785, the year Hitchcock gave his

⁴¹ Hitchcock, *Discourse on Education*, pp. 8, 9; Jean-Jacques Bulamaqui, *The Principles of Natural and Politic Law* (Harvard University Press: Cambridge, Ma., 1807 [1747]), vol. 2, p. 105.

⁴² Hitchcock, *Discourse on Education*, p. 10.

⁴³ *Ibid.*, pp. 10, 9, 10.

⁴⁴ *Ibid.*, p. 13.

Discourse. In its general form, and not just in Rhode Island, the hierarchy he was defending was one that rested on financial arrangements, not so much simply between creditors and debtors as between those with different degrees of control over flows of credit. At the same time, his vision was also patriarchal, in that it operated through the older generation's power over the younger, and men's power over women.

'We live in a dying world,' Hitchcock declared in the *Discourse's* section on religion, 'where "one generation passeth away after another," and leave their places to be filled up by the succeeding.' Here, he wrote not in the enlightenment language of progress, but the clerical idiom of declension. Without education to preserve 'the great principles of virtue and religion, what ignorance and barbarism [would have] this day marked our character?' This conservative generational politics was framed in the metaphor of debt: 'How just a debt to our parents' we owe for our education, 'which we ought to discharge to posterity...' In these pages, education 'affords a balance against the influence of perverted passions, and all the fatal effects of blindly following the impulses of depraved nature.'⁴⁵ Calvin, rather than Locke, is their animating spirit. Hitchcock, in other words, deployed the New England tradition of the Jeremiad, just as Peter Thacker had done at the close of the war, in order to call for the renewal of established power.

'As a close to our promiscuous discourse,' Hitchcock presented a vignette that serves to metaphorically reinforce his vision of power: a sketch 'taken from real life' of an ideal woman and her education. 'Convinced of the countless evils which attend the female sex from their passion for dress and show,' say her parents, 'we endeavoured to give her a low, that is a true opinion of these things.' Still, 'she always wore such apparel in her

⁴⁵ Ibid., p. 12, 13.

young days as became her rank and station.' Class or rank as well as gender were integral to Hitchcock's patriarchal vision, and clothing signified both. The unnamed woman was 'sensible, but not assuming; humble, but not mean... the most dutiful child, the most affectionate wife... Her lot is among the saints.'⁴⁶ This image of perfect obedience in the form of a woman was a bold rhetorical touch, meant to help Hitchcock's readers see that submission within a proper hierarchy was natural, divinely ordained, and beautiful.

Women, children, and for many Americans, slaves, remained acceptable models of hierarchy and domination in post-revolutionary society. Educational discourse served to disguise the hegemony of the New England establishment by framing it as the ordinary, natural rule of adults over children, a form of domination that John Locke, for one, had thoroughly endorsed. 'Be sure to establish the authority of a father [over his son], as soon as he is capable of submission, and can understand in whose power he is,' Locke wrote. Among the results of education would be each man's obedience to authority, emanating from 'habits woven into the very principles of his nature.'⁴⁷ The universal and collective nature of education in the New England school system gave a republican twist to Locke's aristocratic and family-based programme, but its patriarchal foundation was the same. Ministers and teachers acted *in loco parentis* to maintain the social order.

As early as 1775, Samuel Adams had reported that 'some of our [Massachusetts] towns have dismissed their school masters, alleging that the extraordinary expense of defending the country renders them unable to support them.'⁴⁸ Hitchcock's *Discourse*, along with the sermons and speeches of many of his colleagues in the 1780s, was an attempt to defend and reinvigorate the institutional structure that had existed before the

⁴⁶ Ibid., pp. 15, 16; Hitchcock's use of the word 'promiscuous' here seems psychologically significant.

⁴⁷ Locke, *Some Thoughts*, pp. 109-110.

⁴⁸ Samuel Adams to James Warren, 4 November 1775, quoted in Richard D. Brown, *The Strength of a People: the Idea of an Informed Citizenry in America, 1650-1870* (University of North Carolina Press: Chapel Hill, 1996), p. 100.

revolution. The provisions of the Massachusetts constitution of 1780 were vague enough to be of little use if a given tax-paying community turned decisively away from supporting its local school. Rhode Island, continuing to operate under its Royal Charter of 1663, had no such constitutional provision in any case. Teachers and ministers had to rely on the support of local elites like the 'proprietors of the school house' who paid to print Hitchcock's *Discourse*. This set of local alliances operated much as it did before the revolution, but its position had been weakened.

One card it could play was the adopted and adapted rhetoric of the revolution itself. In the 1780s, establishment educational thought incorporated republican theory and language, drawing on sources from England and the European continent as well as the ancient world. Hitchcock's work, quoting the Abbé Raynal and Richard Price as well as the Biblical psalmist, and citing both Sparta and Rome in approving tones, exemplifies this approach. Yet Hitchcock also betrayed his traditional establishment roots. In the final third of the *Discourse*, secular references gave way to a critique of 'ignorance' that recalled the Old Light rhetoric of the 1730s. Without a sound spiritual education, Hitchcock wrote, 'religion is often made to consist in rapturous heats and flights of passions, and delusory feelings. Their fancies tickled with novelties, or their fears excited by severities, [the people] fall an easy prey to bold and cunning impostors.'⁴⁹ Hitchcock's implicit but transparent analogy with the revolution reveals his underlying scepticism about republican democracy.

In many ways, Enos Hitchcock's world remained a small one. He was already a member of the New England establishment before the revolution came, and although he served throughout the war in the army chaplaincy, travelling as far north as Ticonderoga

⁴⁹ Hitchcock, *Discourse on Education*, p. 12.

and as far west as Morristown, New Jersey, he returned to the ministry thereafter. As a Massachusetts man in Rhode Island, he represented a larger regional hegemony within that region's most heterodox constituent. But within Rhode Island his place as a minister of Providence First Church, and a trustee of the College, gave him much the same establishment status as any Harvard man in Massachusetts. It was in defending that status, and the larger institutional, social, and ideological structures on which it rested, that he found his calling, and it was in that pursuit that he became an advocate of education.

Education and Republican Theory, 1778-86

Outside New England, public education had never enjoyed the same position of institutional and cultural establishment. While Enos Hitchcock, Zabdiel Adams and their colleagues preached and lectured from positions of experience and authority, in defence of existing practice, or for a return to more venerable standards, advocates of education to the southward faced a different task and played a somewhat different role. They had to call for major changes in the policy of their respective governments, and for large new administrative and financial burdens. At the same time that New England's educationalists were trying to maintain the funding and support they had long been accustomed to, Thomas Jefferson proposed an entirely new system of public education for Virginia in his 1778 *Bill for the More General Diffusion of Knowledge*. In this light, his project looks remarkably radical. But Jefferson's educational vision, just like the New Englanders', was rooted in a reactionary anxiety about the people's role in republican government.⁵⁰

⁵⁰ I have benefited substantially from Peter Onuf's work on these themes, as well as David Tyack's classic essay; Tyack, "Forming the National Character: paradox in the educational thought of the revolutionary generation", *Harvard Educational Review* 36 (1966); Onuf, "The Founders' Vision: education in the development of the Old Northwest", in Paul Mattingley & Edward Stevens eds., *"Schools and the Means of Education Shall Forever Be Encouraged": a history of education in the Old Northwest, 1787-1880* (Ohio University Libraries: Athens, 1987), pp. 5-15; Onuf, "State Politics and Republican Virtue:

For Jefferson, education was a republican solution to republican vices. The first sentence of the bill's preface sets out its central concern. Beginning by declaring that 'certain forms of government,' i.e. republican ones, 'are better calculated than others to protect individuals in the free exercise of their natural rights,' it then moves to the real crux, 'yet experience hath shown that even under the best forms, those entrusted with power have, in time, and by slow operations, perverted it into tyranny.'⁵¹ The people in a republic are entrusted with power, but they cannot actually be *trusted* with power. Like Hitchcock, Jefferson echoed Jean-Jacques Burlamaqui's view that even the best constitutions cannot withstand the wickedness of uneducated citizens. In republican theory both ancient and modern, education was considered integral to the constitution itself. So it was in New England, as Adam's 1780 constitution shows. Jefferson sought to engraft the same notion into Virginia as part of his general plan of reformation.

Jefferson's plan began with his concern that the people at large could not be trusted to maintain even the best form of government untainted by tyranny, unless suitably educated. The rest of the preface, and most of the bill's content, was directed to a further aim: not the education of the people at large, so much as the selection and production of a particular elite cadre, 'those persons, whom nature hath endowed with genius and virtue.' Jefferson's system of public education was designed first to pick out this natural aristocracy, and then to render them 'by liberal education worthy to receive, and able to guard the sacred deposit of the rights and liberties of their fellow citizens.' Because 'laws

religion, education, and morality in early American Federalism", in Paul Finkelman & Stephen Gottlieb eds., *Toward a Usable Past: liberty under state constitutions* (University of Georgia Press: Athens, 1991), pp. 91-116. On Jefferson specifically see James Gilreath ed., *Thomas Jefferson and the Education of a Citizen* (Library of Congress: Washington, 1999); Michael Zuckerman, "Founding Fathers: Franklin, Jefferson, and the Educability of Americans," in John Pollack ed., *The Good Education of Youth: worlds of learning in the age of Franklin* (Oak Knoll Press: Philadelphia, 2009); and for an alternative, unduly generous account, Onuf, *The Mind of Thomas Jefferson* (University of Virginia Press: Charlottesville, 2007), pp.169-78.

⁵¹ Thomas Jefferson, "A Bill for the More General Diffusion of Knowledge," in *Thomas Jefferson: Writings*, ed. Merrill Peterson (Library of America: New York, 1984), p. 365.

will be wisely formed, and honestly administered, in proportion as those who form them are wise and honest,' Jefferson's plan would create a class of wise and honest lawmakers. They will be 'useful instruments for the public,' ruling for the good of the ruled.⁵²

What distinguished Jefferson's educated elite from the pre-revolutionary Virginian establishment was the way they would achieve their status. They were to be chosen 'without regard to wealth, birth or other accidental condition or circumstance.' That is, in Alexander Hamilton's words regarding Cincinnati membership, the selection would be made on 'merit only.' These natural aristocrats 'should be sought for and educated at the common expense of all,' Jefferson wrote, so that the children of the poor might have the same chance to rise as the well-born. Not to do so would be to confide 'the happiness of all... to the weak or wicked,'⁵³ meaning either the pre-revolutionary *status quo* of leadership endowed by birthright, or subjection to the tyrannical perversion of democracy. Implicitly, and impolitically, Jefferson suggested that Virginia's current, often ill-educated lawmakers were themselves either 'weak or wicked.' After all, Governor Patrick Henry himself had never been to college.

Two years after the bill was defeated in the House of Burgesses, Jefferson wrote at some length on his vision of public education in *Notes on the State of Virginia*. Here, he described the way public education would lay 'the principal foundations of future order.' Rejecting the Bible as a teaching text, Jefferson nonetheless took up the idiom and theory of New England's educational establishment. 'The first elements of morality... may be instilled' in public schools, namely that 'happiness... does not depend on the condition of life in which chance has placed them, but is always the result of a good conscience, good health, occupation, and freedom in all just pursuits.' In other words, the morality of the

⁵² Jefferson, "More General Diffusion," p. 365.

⁵³ Ibid.

Virginia public school would prepare the poor to be happy with their lot, while 'those whom either the wealth of their parents or the adoption of the state shall destine to higher degrees of learning, will go on to the grammar schools...'⁵⁴

Jefferson also made clear, in his commentary in the *Notes*, the animating concern of his scheme. 'Of all the views of this law none is more important, none more legitimate, than that of rendering the people the safe, as they are the ultimate, guardians of their own liberty.' The people's role in government could not be denied – but neither could that role be accepted on its own terms. The people had to be made safe from their own susceptibility to 'human weakness... corruption and degeneracy.' To do so, 'their minds must be improved to a certain degree.'⁵⁵ This was a paradoxical approach to republican thought: no one but the people may rule, yet the people are unfit to rule themselves; therefore they must be taught how; but who would teach them, and who would tell the teachers what to teach? Jefferson could only act, like the Athenian Solon or the Spartan Lycurgus, as a lawgiver whose authority emanated from beyond the polity, from his own wisdom. Where the New Englanders could ultimately appeal to God, Jefferson had nowhere to go but himself.

Some years later, in 1786, Jefferson returned to the subject of the bill in a letter to George Washington. 'I suppose in fact that that bill, or some other like it, will be passed,' he wrote. 'I never saw one received with more enthusiasm than that was by the house of delegates in the year 1778... it seemed afterwards that nothing but the extreme distress of our resources prevented it's being carried into execution even during the war.'⁵⁶ Washington, for his part, offered no comment on Jefferson's prognostication; and the bill, of course, never did pass. If the House of Burgesses was able to muster enthusiasm for the

⁵⁴ Jefferson, *Notes on the State of Virginia*, in *Thomas Jefferson: Writings*, p. 273.

⁵⁵ *Ibid.*, p. 274.

⁵⁶ Jefferson to Washington, 4 January 1786, in *PGW*, vol. 3, p. 491.

scheme, it was without the fear or expectation of it being put into practice. How could it have been administered, or enforced on the local 'hundreds' that would bear the brunt of organising and funding the elementary schools? The bill was an expression of republican principles that could be freely endorsed as such and no more.

For those who could not afford private tutors, education in eighteenth-century Virginia was given by private 'field' schools or by a few philanthropic free schools.⁵⁷ Rather than providing education where there was none, Jefferson's proposal was to systematise education under the auspices of the state, shifting control from the private to the public realm. In his letter to Washington, Jefferson objected to the general's proposal to establish 'two charity schools... for the education and support of poor children, especially the descendants of those who have fallen in defence of their country.' Washington's concern for the orphans of soldiers in particular echoed his commitment to that aspect of the Cincinnati.⁵⁸ But Jefferson told him that, when in all likelihood his own bill passed, 'it would supersede the use, and obscure the existence of the charity schools you have thought of.' He reiterated his view that 'instruction' was needed for the people to be trusted with their own liberty. 'This,' he wrote, 'it is the business of the state to effect, and on a general plan.'⁵⁹

From the perspective of republican theory, the constitution of the state was founded upon the education of its citizens, which was an inherently public and political process.⁶⁰ Education involved individuals' capacity to act as citizens. Thus John Adams, like

⁵⁷ Foney Mullins, "History of the Literary Fund As a Funding Source For Free Public Education in the Commonwealth of Virginia," D.Ed. dissertation, Virginia Polytechnic Institute, 2001, pp. 11-13.

⁵⁸ Washington to Jefferson, 26 September 1785, *PGW*, vol. 3, p. 280. As for the money for the schools, it was to come from shares in Washington's Potomac Canal venture; indeed, the schools were dreamt up out of the need to find some acceptable use for this embarrassing asset.

⁵⁹ Jefferson to Washington, 4 January 1786, *PGW*, vol. 3, p. 491.

⁶⁰ On the deeply vexed question of whether the state was supposed to create the citizens it needed, or vice versa, see Eric Slauter, *The State as a Work of Art: the cultural origins of the constitution* (Chicago University Press: Chicago, 2009), pp. 9, 13, 301 and *passim*.

Jefferson, looked forward to the day when the people not only 'consider themselves as the fountain of power,' but also 'know how to manage it wisely and honestly. Reformation must begin with the body of the people, which can be done only, to effect, in their educations.' Adams too dismissed the role of charitable individuals in favour of the direct control of the state. 'The whole people must take upon themselves the education of the whole people, and must be willing to bear the expenses of it. There should not be a district of one mile square without a school in it, not founded by a charitable individual, but maintained at the expense of the people themselves.'⁶¹ On this issue, he and Jefferson were in lock-step.

Both men began with the assumption that individuals would be incapable of ruling themselves or directing the state correctly unless reformed by public instruction. Adams' tautological formulation—'the whole people must take upon themselves the education of the whole people'—again expressed the paradox encountered by the republican model. It could only be resolved by an injection of authority. In his *Defences of the Constitutions of the United States*, Adams wrote that 'such is the miserable blindness of mankind... it is very doubtful that the pitiful motive of saving the expense would not wholly extinguish public education,' unless a superior body of lawmakers, a senate, were to enforce it. 'General public education,' he was convinced, 'never can long exist in a simple democracy.'⁶² In other words, the 'whole people' could not undertake their own reformation. It had to be someone else. If for Jefferson and Adams, education was to lie in the hands of the state, that state had to be something other than the expression of popular will.

⁶¹ John Adams to John Jebb, 10 September 1785, in *The Works of John Adams, Second President of the United States* (Boston, 1850-1856) vol. 9, p. 540.

⁶² John Adams, *A Defence of the Constitutions of the United States* (Hall & Sellers: Philadelphia, 1787), in *ibid.*, vol. 6, p. 198.

Just as in New England, then, public education in Virginia according to Jefferson's plan would exist to protect minority privileges from the depredations of either democratic or actual tyranny. Education would be a defence mechanism for the elite. In the meantime, calling attention to the importance of education also served to underline the people's present unfitness for rule, since in Virginia they were not in fact subject to any such systematic public instruction. Jefferson's argument was thus open to the rebuttal that, since the revolution, Virginia's republican government had been getting along just fine. John Adams and Enos Hitchcock faced no such difficulty, for they were defending New England's existing educational institutions. New England had always benefited from the particular wisdom of its Puritan forebears, and their commitment to public schooling. In his early *Dissertation on the Canon and Feudal Laws*, Adams had tried to apply this point to America as a whole. But it wouldn't stick outside the north-east. New Englanders drew on generations of practice; Jefferson had only the theory.

Nonetheless, Jefferson was not the only advocate of radical educational reform in the new republic. He was not the only revolutionary to decide that his country's new situation required a new attitude to schooling. But whereas Jefferson's project was explicitly Virginian, limited to and embodied in the state itself, other educationalists built their theories on a different scale. Jefferson understood the revolution in the theoretical terms of republicanism, and sought to use education to solve the problem of popular, republican government. Noah Webster, a Connecticut-born itinerant teacher and textbook-writer, saw the revolution as a *national* moment, encompassing all the United States. Through the early 1780s, Webster based his career on a project to reform American language and education. He framed it not as a solution to the threat of democracy, so much as the problem of American heterogeneity, and the consummation of American

Noah Webster and Nationalist Literature, 1781-83

Of all the young men who graduated alongside Joel Barlow in 1778, Noah Webster was to be perhaps the most famous – the founding father of the American dictionary. Leaving Yale, though, Webster was in much the same precarious position as his friend. For all Barlow's optimistic bluster about the rewards of virtue and merit, the war-torn new nation did not offer a pleasing prospect to either man as they sought to embark on their adult careers. Barlow, whose poetic ability had garnered him distinction at college, tied his hopes to the success of his grand epic, *The Vision of Columbus*.⁶³ Webster had no such particular ambition. In his memoir, he recalled with bitterness the experience of being 'cast upon the world, at the age of twenty, without property, without patrons, and in the midst of a war which has disturbed all occupations; had impoverished the country; and the termination of which could not be foreseen.'⁶⁴

Webster did not find shelter with his friends in the ranks of the army chaplaincy. Instead he intended to pursue the law, like another classmate, Oliver Wolcott, Jr.. But whereas Wolcott's father was a member of the Continental Congress and a Major General of Connecticut militia, Webster had neither the resources nor connections to smooth a path to the bar. As John Adams had done a generation earlier, he took up teaching to earn money for his legal education; and like Adams, he longed to escape. In the summer of 1780, while Barlow was preparing for his oral exam before the Association of Ministers, Webster went to Litchfield to work in the law offices of Jedediah Strong and Tapping

⁶³ Buel, *Joel Barlow*, p. 24.

⁶⁴ Noah Webster, "Memoir of Noah Webster, Ll. D.," No.5, in Richard Rollins, ed., *The Autobiographies of Noah Webster: From the Letters and Essays, Memoir, and Diary* (University of South Carolina Press: Columbia, 1989), p.133; note the similarity with Alexander Hamilton to John Laurens, 8 January 1780, *PAH*, vol. 2, p. 255, quoted above.

Reeve, where Wolcott was studying. In the spring he and nearly twenty other candidates taking the bar in Litchfield were rejected; Wolcott had passed already, in January. Webster went straight back to Hartford and passed the exam there instead.⁶⁵

Litchfield's rebuff *en masse* was a symptom of strain in the Connecticut establishment. Avoiding the state militia draft had encouraged more young men to go to college in the war years, and these increasing enrolments had driven further expansion.⁶⁶ Consequently, the system was flooded with graduates. While Yale had once served as a gatekeeper, its degrees constituting a guaranteed position in society, that was no longer a realistic expectation for the revolutionary generation. Tapping Reeve's office in Litchfield, which in 1784 would become the Litchfield Law School, was already attracting students from across the state at the beginning of the decade. While the army chaplaincy provided places for those graduates inclined—as well as some less-inclined—to the ministry, the revolution provided fewer new opportunities for would-be lawyers. Those like Oliver Wolcott and Alexander Hamilton who could draw on influential connections might do nicely, but not obscurities like Webster.

Failing to find work in law, Webster dejectedly returned to the teaching life. He set up a school for the summer of 1781 in Sharon, just northwest of Litchfield, the town that had spurned him. The next year, after a fruitless search for 'mercantile employment' that winter, he finally decided to get out of Connecticut, and established a new school across the border in Goshen, New York, twenty miles west of where Washington's victorious army lay encamped at Newburgh. As Webster's memoir records, 'he knew not by what means he could find business better suited to his inclinations.... He was without money and without friends to afford him any particular aid.' It was in this state of mind, one of

⁶⁵ David Micklethwait, *Noah Webster and the American Dictionary* (McFarland & Co.: Jefferson, N.C., 2000), p. 20.

⁶⁶ Grasso, *A Speaking Aristocracy*, p. 264.

'extreme depression and gloomy forebodings,' that he hit on a new project, drily described in the memoir as 'composing elementary books for the instruction of children.'⁶⁷ This project would change his life.

The basic plan was to compile a spelling book that would replace the one he himself had used as a child, Thomas Dilworth's *A New Guide to the English Tongue*. This work, first published in London in 1740 and reprinted seven years later by Benjamin Franklin in Philadelphia, was the most popular such book on each side of the Atlantic.⁶⁸ Webster's version would 'be better adapted to assist the learner.'⁶⁹ Perhaps assisting the teacher, too, was the extent of his initial ambition, but he soon got grander ideas. Joel Barlow's assessment of the scheme was measured and ambivalent, but it had enough encouragement and optimism in it to enthuse Webster. 'I like your plan about Dilworth,' wrote Barlow, 'it will be useful and successful in the world at large if you can make it useful to yourself.' Moreover, he insisted, 'it is a work of labour and you ought to make something by it.'⁷⁰ Barlow was still working on *The Vision of Columbus*. Now Webster too could share in his ambition to win fame and fortune through literature.

Barlow's epic was a celebration of American exceptionalism. Back in 1778, he had been chosen to argue alone against his whole class on the proposition, 'the flood of Noah was universal.'⁷¹ His answer, presumably, exempted America. In writing and seeking patronage for his new poem, Barlow meant to take advantage of the opportunity provided by independence. A new literature for America was necessary, he and his colleagues argued, one that was just as civilised as Britain's but reflected the new-found freedom of

⁶⁷ Webster, "Memoir of Noah Webster," pp. 135-6.

⁶⁸ Micklethwait, *Noah Webster*, p. 23.

⁶⁹ Webster, "Memoir of Noah Webster," p. 136.

⁷⁰ Joel Barlow to Noah Webster, 31 August 1782, in Emily Ellsworth Ford Skeel ed., *Notes on the Life of Noah Webster* (New York: privately printed, 1912), vol. 1, pp. 54-55.

⁷¹ Ezra Stiles, *Literary Diary*, vol. 2, p.227, quoted in Buel, *Joel Barlow*, p. 24.

the republic. Webster and his spelling book were part of this movement too. Dilworth was well and good, but he was English, and his book was full of English place-names and the names of English monarchs. The new nation needed a new speller, to separate itself from the old and prove that it could rely on native productions alone.

In the introduction to his spelling-book, published in 1783, Webster pursued the metaphor between America and a growing child, applying the traditional Lockean theory of education. 'It commonly requires lengths of time and favourable circumstances,' he wrote, 'to diffuse and establish a sentiment among the body of the people,' just as it does in the mind of an individual. But once that 'sentiment has acquired the stamp of time and the authority of general custom,' well then 'even error becomes too sacred to be violated by the assaults of innovation.'⁷² Good care must be taken, in other words, to set a child or a country on the right path from the start. Webster was thinking, we can assume, of Dilworth's speller, and the strong attachment to it that had been formed by time and general custom. 'You know our country is prejudiced in favour of old Dilworth, the nurse of us all,' Barlow had written, 'and it will be difficult to turn their attention from it.'⁷³

Webster solved this problem by enlisting the revolution. He proposed a miraculous interruption in the normal generational cycle. 'The present period,' his introduction declared, 'is an era of wonders; greater changes have been wrought, in the minds of men, in the short compass of eight years past, than are commonly effected in a century.' Traditional notions of time and authority, central to educational theory among the New England establishment and beyond, were subject to the 'concurrence of those powerful causes that effect almost instantaneous revolutions in states.' This circumstance had opened America's eyes to the ambivalence of her British heritage. 'She now sees a mixture

⁷² Webster, "Introduction to the 'Blue-Back Speller,'" in Rollins ed., *Autobiographies*, p. 69.

⁷³ Barlow to Webster, 31 August, 1782, in Skeel ed., *Notes on the Life of Noah Webster*, p. 55.

of profound wisdom and consummate folly in the British constitution; a ridiculous compound of freedom and tyranny in their laws... She views the vices of that nation with abhorrence, their errors with pity, and their follies with contempt.⁷⁴

This strident rejection of the mother country was personal for Webster. He remembered the day, shortly after his graduation from Yale, when 'his father put into his hands an eight dollar bill of continental currency, then worth three or four dollars, saying to him "take this; you must now seek your living; I can do no more for you."⁷⁵ Anger towards his father, and towards the Connecticut establishment that had failed to provide for him in spite of his qualifications, animated the fiery prose of the introduction. Webster was still only twenty-three when he wrote it in the autumn of 1782. He was enjoying the satisfaction of independence and his ambitious new project. His own situation and that of his youthful country reacted with each other in his imagination, and emerged in the pages of his speller. 'The Americans stand astonished at their former delusion,' he wrote, 'and enjoy the pleasure of their final separation from their insolent sovereigns.'⁷⁶

Separation from Britain was one of two forms taken by the new literary nationalism exemplified in Webster's speller. The other was the notion of a unitary nationhood across the American continent. In his introduction, Webster proceeded from one to the other by remarking on the 'great variety of dialects in Great Britain and of course, in America.' Linguistic diversity, like 'erroneous maxims in politics and religion,' was a deficiency inherited from Britain.⁷⁷ New England and Virginia, Webster wrote, 'have a peculiar pronunciation which affords much diversion to their neighbors,' while 'the language of the middle states is tinctured with a variety of Irish, Scotland [sic] German dialects which are

⁷⁴ Webster, "Introduction to the 'Blue-Back Speller,'" p. 69.

⁷⁵ Webster, "Memoir of Noah Webster," p. 133.

⁷⁶ Webster, "Introduction to the 'Blue-Back Speller,'" p. 69.

⁷⁷ Ibid., p. 70.

justly censured as deviations from propriety and the standards of elegant pronunciation.' The use of 'tincture' here, alongside a list of immigrant groups, adds ethnic and racial connotations to Webster's linguistic nationalism. Americans should 'unite' to staunch 'the stream of corruptions that is ever flowing from ignorance and pride,' and establish 'one uniform standard of elegant pronunciation.'⁷⁸

Given that 'every state in America and almost every town in each state, has some peculiarities of pronunciation which are equally erroneous and disagreeable to its neighbors,' where was such a uniform standard to be found?⁷⁹ Webster sought it in 'nothing else but the customary pronunciation of the most accurate scholars and literary gentlemen.' He left it to his readers to ascertain how anyone could be 'accurate' without an agreed target to aim at: the point was that some people speak better than others, and Webster could be trusted to tell who. His 'little system' would 'introduce uniformity and accuracy of pronunciation into common schools' across the country. 'Such a standard, universally used in schools, would in time demolish those odious distinctions of provincial dialects which are the objects of reciprocal ridicule in the United States.'⁸⁰ This was a return to time-bound, patriarchal education, but on new principles to be laid down by Webster.

It took a careful balancing-act to deny the authority of established custom as such, at the same time as declaring a new source of expertise and instruction to be respected and followed. The mid-portion of the introduction subjected Dilworth's speller to critique. Yet Webster was wary; he had taken Barlow's warning to heart. 'Mankind are always startled by new things,' he wrote.⁸¹ Yet 'Europe is grown old in folly, corruption and

⁷⁸ Ibid., p. 71.

⁷⁹ Ibid., p. 70.

⁸⁰ Ibid., p. 72.

⁸¹ Ibid., p. 77.

tyranny.... For America to adopt in her infancy the present maxims of the old world, would be to stamp the wrinkles of decrepid age upon the bloom of youth and to plant the seeds of decay in a vigorous situation.⁸² In the closing pages, Webster once more invoked the revolution to give his new work authority. His vision of the revolution was not egalitarian, but one in which a new American elite—gentlemen and college graduates like Webster himself, 'the best authors' and 'eminent scholars' among them—would replace the old, British one.

As its introduction set out, Webster's speller was only the first element of a larger plan, which would include two further volumes, a grammar and a book of 'exercises for reading and speaking.'⁸³ The whole was to be called *The American Instructor*, playing on its crucial selling-point—nationalism. Through the winter of 1782 to 1783, Webster traipsed around the sites of the northern educational establishment, seeking endorsements for his project. Samuel Smith, Professor of Moral Philosophy and future President of Princeton, wrote Webster a kind letter, as did his former law tutor Tapping Reeve. He also visited Ezra Stiles, who had become President of Yale the year Webster graduated. Stiles took the plan to heart, and suggested a new title: *A Grammatical Institute of the English Language*.⁸⁴ Whether or not he did so out of politeness, Webster accepted the change. Luckily for his commercial success, the volumes were bound distinctively enough to soon give them a more workaday name, the 'blue-backed speller.'

While he was preparing to publish his first volume, Webster was also concerned with another vital aspect of his project, the copyright laws that would secure his profit from the venture. Joel Barlow was engaged in the same task, writing to the President of Congress, Elias Boudinot, in January 1783 to request Congressional action on the

⁸² Ibid., p. 79.

⁸³ Ibid., p. 77.

⁸⁴ Micklethwait, *Noah Webster*, pp. 57-59.

matter.⁸⁵ The following May a resolution was passed recommending the states to take it up. Webster wrote his own petitions to the Connecticut legislature, but by the time he came to present them an act had already passed. 'Several literary gentlemen' had petitioned for the act to clamp down on a pirated edition of John Trumbull's *M'Fingal*. Likewise, the Yale poet Timothy Dwight helped pass a copyright law in Massachusetts, where he sat in the General Court.⁸⁶ In New England at least, the rise of the new nationalist literature went hand in hand with the rise of copyright; the same men were behind both.

Barlow, Dwight, Webster, and other proponents of the new nationalist literature took the commercial nature of their project seriously. The aim they set for themselves was not only to write an American literature, but to establish an American literary culture along the lines of Augustan London. They wanted legal protection, and a network of publishers and booksellers that would print and promote their work. Webster, in many ways, was the most ambitious of the group. Crucially, he fought hardest to extend the sphere of this literary-commercial culture outside New England and throughout the states. He more than the others joined the rhetoric of national unity with a practical attempt to effect it. Webster's national vision was an entrepreneurial one: he wanted his books to be as universally popular in the new republic as Dilworth's had been under the British empire. Through the mid-1780s, he devoted himself to achieving that goal. After all, the only alternative was the obscurity of the school-house.

Webster's Educational Vision, 1783-86

With Barlow's financial help, and John Trumbull's encouragement, Webster

⁸⁵ Buel, *Joel Barlow*, p. 58.

⁸⁶ Micklethwait, *Noah Webster*, p. 75, and see note 6, p. 310.

contracted with the Hartford publishers Hudson & Goodwin to print the first instalment of the *Grammatical Institute*, the speller, in October, 1783; the second part, the grammar book, came out in March, 1784. The third and final part of the *Institute* was a reader: a compilation of texts for use in schoolroom exercises. Among these texts, Webster drew liberally on the productions of his literary friends, including from Barlow's still-unpublished magnum opus, *The Vision of Columbia*. Where the speller listed American place-names in place of English ones, it was in the reader that Webster's project could really fly its nationalist colours. This volume was published in early 1785, not by Hudson & Goodwin but by a new Hartford printing house, none other than Barlow & Babcock.⁸⁷

That spring, Webster set out on a national tour to market his three volumes to America. Through 1785, he visited New Haven, New York, Philadelphia, Baltimore, and Charleston, as well as Alexandria and Mount Vernon, where he was received with fastidious politeness by George and Martha Washington. His Yale credentials, and letters of recommendation from the leading lights of various great northern colleges, gave him an entrée in each place he stopped.⁸⁸ At Charleston, he cannily gave two hundred copies of his speller and a hundred more of his grammar book to a local school; not only a noble and patriotic gesture, but also good business sense, since his speller had to replace Dilworth's in schools if it was ever to be a success.⁸⁹ Towards the end of the year, Webster hit upon another marketing stratagem that might also turn its own profit: giving ticketed lectures on language. Thus in October, addressing an audience for the first time in a Baltimore church, Webster finally followed Barlow and became a kind of preacher.

Like his friend, Webster had little natural gift for speaking. 'That my delivery was ungraceful may be true,' Webster wrote. 'I was never taught to speak with grace.' By the

⁸⁷ Webster, "Memoir of Noah Webster," p. 139; Buel, *Joel Barlow*, pp. 68-69.

⁸⁸ Webster, "Memoir of Noah Webster," p. 143.

⁸⁹ Noah Webster, "Diary," in Rollins, ed., *Autobiographies*, p. 215.

end of April, 1786, though, he wrote that 'I am improving my lectures. I have added another.'⁹⁰ The new lecture, the sixth in the series, differed a great deal from its predecessors. Under the title "General Remarks on Education," it dealt with much broader issues than the earlier ones on linguistics. In an advertisement printed in July that year, the scheme of the sixth lecture was said to describe the 'influence of education on morals, and of morals on government,' as well as the 'connection between the mode of education and the form of government.'⁹¹ These ideas, which he had first developed in a pamphlet, *Sketches of American Policy*, written in February 1785, were distinct from the mainstream of New England establishment discourse. They offered a challenge from the periphery of that establishment, or as Webster saw it, from the revolution's rising generation.

Webster published a serialised version of his lecture in the newspaper he set up in New York in December 1787, and then a slightly amended version in his 1790 *Collection of Essays and Fugitiv Writings* [sic]. "On the Education of Youth in America" follows fairly closely the structure laid out in the advertisement of July 1786, and his educational thought can be dated to that time, the summer before the constitutional convention. Enos Hitchcock's *Discourse on Education*, published in 1785, had drawn on John Locke's popular educational handbook, as well as the language and tenets of republicanism. Webster did the same, and perhaps drew on Hitchcock directly: the connection through Joel Barlow makes it likely he read the older man's work. In any case, many of the standard sentiments of the time appear in Webster's essay. A system of education, he wrote, must 'implant in the minds of the American youth the principles of virtue and

⁹⁰ Quoted in Micklethwait, *Noah Webster*, p. 97.

⁹¹ *Ibid.*, p. 96.

liberty,' for 'morals are the basis of government.'⁹² But Webster's essay went further than Hitchcock's. He tried to take both republicanism and revolution seriously.

In the *Sketches* of 1785 Webster had written that 'the great fundamental principle on which alone a free government can be founded and by which alone the freedom of a nation could be rendered permanent, is an *equal distribution of property*.' George Washington, if he ever actually read the copy Webster gave him, might have dropped it in shock at this point. But Webster went on to explain that it was only 'perpetual' inequalities of property, 'to which are annexed certain hereditary offices and dignities,' that he disapproved of. In contrast, 'commerce creates very great inequality of property, but as this inequality is revolving from person to person and entitles the possessor to no pre-eminence in legislation, it is not dangerous to the liberties of the rest of the state.'⁹³ Webster was attacking Europe's titled aristocracy, not inequality itself.

In "Education of the Youth," he put the point more briefly: there should be 'such a distribution of lands and such principles of descent and alienation as shall give every citizen a power of acquiring what his industry merits.' This liberal principle was hardly unorthodox in post-revolutionary America, but Webster did his best to make it as inflammatory as possible. The essay on education does not call for 'an equal distribution,' but in a footnote it does offer an ostensibly radical critique of justice. American government and 'distribution of property' will create 'but few... enemies to society,' Webster wrote, as long as they are just. 'Unjust governments and tyrannical distinctions have created most of the villains that ever existed.'⁹⁴ Men are only villains because of their circumstances. Hitchcock's claim that men's souls are 'in themselves noble and

⁹² Noah Webster, "On the Education of Youth in America," in Frederick Rudolph ed., *Essays on Education in the Early Republic* (Harvard University Press: Cambridge, Ma., 1965), pp. 45, 64.

⁹³ Noah Webster, *Sketches of American Policy*, ed. Harry R. Warfel (Scholars' Facsimiles and Reprints: New York, 1937), p. 18.

⁹⁴ Webster, "Education of Youth," p. 68.

excellent' was saying the same thing in a different way, with much more emphasis on men's souls than on the structures of power that determined their content.

Webster's own life was the model for his educational and political thought. He couched his ideas in an oppositional tone because he saw himself as an outsider and a prophet. He knew that men faced structural opposition to the making of their own fates; why else had Oliver Wolcott succeeded as a lawyer while he had not? On the other hand, Webster had not given up on what Joel Barlow had told him when they first left Yale. If ever virtue and merit were to be rewarded, it was in America. There was a way to make those two understandings of the world commensurate, and that was to put faith in the revolution as a singular transformative moment. With this vision compromised by the realities of his life in the 1780s, Webster made it his quest to bring the revolution's promise to fulfilment, both in himself and the nation.

This quest set him in conflict with men like Enos Hitchcock even while it aligned him with others like Jefferson. One area in which the new republic had not adequately divested itself of the old empire was the clerical establishment of New England. Webster deemed such establishments 'badges of bigotry,' the result of 'abominable prejudice,' which far from promoting spiritual truth, have 'supported error and all absurdities in religion.' Echoing the opinion of the English radical Richard Price, he wrote, 'Nothing checks the progress of truth like human establishments.'⁹⁵ Thus Webster placed himself in opposition to the most powerful and vocal lobby in support of public education in America, and declared himself independent from the tradition and network of power from which he had emerged, and which had never provided the security or status he might have expected. He closed his essay on education by invoking the spirit of revolution against the

⁹⁵ Webster, *Sketches*, p. 27.

existing educational establishment. 'Americans,' he implored, 'unshackle your minds and act like independent beings. You have been children long enough, subject to the control and subservient to a haughty parent.'⁹⁶

Webster had therefore to set out an alternative educational vision. It began with the orthodox notion that 'the only way to make good citizens and subjects is to nourish them from infancy.'⁹⁷ But just as important as the content of the nourishment, in Webster's scheme, was the person who was to administer it. 'The principle defect in our plan of education in America is the want of good teachers in the academies and common schools,' he wrote, and a large part of the essay was addressed to dealing with that defect. 'The instructors of youth ought, of all men, to be the most prudent, accomplished, agreeable, and respectable,' possessed of 'good breeding and good manners.' Lessons were best received 'from a man who is loved and respected.'⁹⁸ In short, Webster gave to the figure of the teacher all the qualities that he wished to see in himself. Teaching had become his profession of necessity, but now he argued that it should be the most respectable occupation of all.

The reality of the situation, claimed Webster, was that 'the most important business in civil society [i.e. education] is in many parts of America committed to the most worthless characters.' Not in colleges, it was true, but in 'our inferior schools,' most teachers were 'men of no breeding, and many of them [were] men infamous for the most detestable vices.'⁹⁹ Over several pages of his essay, Webster directed his anger at America's parents. 'The practice of employing low and vicious characters to direct the studies of youth,' he wrote, 'is in a high degree criminal.' It was also 'glaringly absurd.'

⁹⁶ Webster, "Education of Youth," p. 77.

⁹⁷ Ibid., p. 68.

⁹⁸ Ibid., p. 57.

⁹⁹ Webster, "Education of Youth," p. 59.

Parents want their children to be 'well-bred,' obedient, and respectful. Yet they 'place them under the care of clowns... men of the most profligate lives,' whom 'both parents and children despise.' Don't they realise, Webster asked, that 'children always imitate those with whom they live or associate?' The character and respectability of teachers was, therefore, 'a point of infinite importance to society.'¹⁰⁰

This polemical passage at the heart of Webster's essay plots the trajectory of his thought. If the educational discourse of Hitchcock and his clerical colleagues was a conservative one, concerned with preserving the status and authority of the establishment they represented, Webster's discourse was revolutionary in a classical sense. That is, the culmination of his project would be the substitution of one hegemonic elite for another, the replacement of a state-supported Congregational clergy with a state-supported cadre of gentlemen teachers. But this substitution would apply only in New England, where such an establishment already existed. Webster's strategy went further than that. It entailed reproducing this new educational elite throughout the American states. In that sense, it had a more complicated relationship with the New England establishment than one of straightforward opposition. Webster's vision, like that of his colleagues in the nationalist literary movement, both replicated and transcended his native Connecticut.

Textbooks, marketed on a wide enough scale, could help create such a uniform national culture of education. This was part of how Webster presented his business as an act of public benefit. Alongside the 'principle defect' he had identified, the low status of teachers, he wrote that 'another defect in our schools, which since the revolution is become inexcusable, is the want of proper books.'¹⁰¹ Of course, the proper books for a new American education were Webster's own *Grammatical Institute*. The lecture from

¹⁰⁰ Ibid., pp. 60-62.

¹⁰¹ Ibid., p. 64.

which his essay was derived was part of a larger marketing strategy. By touring the country to speak on the subjects of language and education, Webster performed the principles of national unity that he espoused. Nobody could accuse him of not practising what he preached. His quest for commercial success was a product of, and an element in, a larger ideological structure. In Connecticut society, Webster was a peripheral figure. His nationalism, much like the nationalism of the Cincinnati, was a strategy for building an environment in which he could be central.

Webster had already sketched out, in the introduction to his speller, his vision of American nationhood. 'It is the business of Americans,' he wrote, 'to promote virtue and patriotism,' and 'to diffuse an uniformity and purity of language, to add superior dignity to this infant empire and to human nature.'¹⁰² Naturally New England, and Connecticut in particular, set Webster's standard for American language and education more generally. In his *Sketches of American Policy*, he praised 'the institution of schools, particularly in the New England states,' and recalled an anecdote in which 'the non-commissioned officers in the Connecticut line' were found to be 'better educated than the commissioned officers of the New York troops.'¹⁰³ In the essay on education, he advocated far greater attention to learning English, and less to the 'dead languages.'¹⁰⁴ The latter were the status-symbols of an establishment that still owed too much to the Old World; the former was the means by which America could be regenerated.

Yet as we have seen, Webster did not envision his America as simply a magnification of post-revolutionary Connecticut. There, in reality, establishment remained entrenched, and a young man like Webster could not succeed on merit and industry alone. The republic he proposed was different. He drew inspiration from the

¹⁰² Webster, "Introduction to the 'Blue-Back Speller,'" p. 79.

¹⁰³ Webster, *Sketches*, p. 28.

¹⁰⁴ Webster, "Education of Youth," p. 45.

enlightenment liberalism of Richard Price and especially Adam Smith, both of whom had mounted well-publicised assaults on the entrenched privileges of unnatural elites. Following their lead, Webster imagined his ideal society as a commercial republic, a meritocracy, characterised by optimal levels of productivity, order, and freedom. This would be the true fulfilment of the revolution's promise, quite as Joel Barlow had predicted it in his undergraduate poetry.

In *Sketches*, Webster had written that 'the real principle that is predominant in every individual and directs all his actions, is self-interest. This operates differently under different forms of government.'¹⁰⁵ This had been the central point of Adam Smith's analysis: the way society was arranged would affect the forms that self-interest took, and therefore the outcomes of human action. Webster also followed Smith in his historical account of human development and the division of labour. 'While nations are in a barbarous state,' he wrote in his essay on education, 'they have few wants and consequently few arts.' Through the 'progress of manners and arts... artificial wants multiply the number of occupations, and these require a great diversity in the mode of education.' Therefore, 'every youth must be instructed in the business by which he is to procure subsistence.'¹⁰⁶ Preparing children for the pursuit of self-interest in commercial society entailed a more practical education than the one Webster himself had received.

But education for Webster, 'the manner of conducting the youth,' was still about more than instruction for work. It also had to 'implant in the minds of the American youth the principles of virtue and liberty and inspire them with just and liberal ideas of government and with an inviolable attachment to their country.'¹⁰⁷ Smith expressed the same sentiments in the *Wealth of Nations*: 'The state... derives no inconsiderable

¹⁰⁵ Webster, *Sketches*, p. 24.

¹⁰⁶ Webster, "Education of Youth," pp. 43-44.

¹⁰⁷ *Ibid.*, p. 45.

advantage from their [ordinary people's] instruction,' he wrote. 'An instructed and intelligent people besides are always more decent and orderly than an ignorant and stupid one.'¹⁰⁸ Webster was as committed as anyone to keeping people decent and orderly. That was the primary justification for his proposal to raise the status of teachers. Students, he wrote, should be 'under the control of those whom they respect.' They should be 'taught... submission to superiors and to laws,' they should learn 'the moral and social duties.'¹⁰⁹

How could people motivated solely by self-interest be educated to be virtuous and submissive? The answer was an account of virtue that linked it to the true, deep interest of each individual living in society. This was the liberal position that Webster developed over the course of the 1780s. It bore the hallmarks of the social contract, in which the collaboration of a group would provide the best advantage not only to the nation itself, as in republican theory, but also to the constituent individuals.¹¹⁰ In Webster's conception of this system, education was central, for it taught individuals their true interest and their true social role. He argued, for example, that women had an important part 'in forming the dispositions of youth' and in 'controlling the manners of a nation.' A good education would shape 'the ladies' for their particular feminine role, rendering them 'correct in their manners, respectable in their families, and agreeable in society.'¹¹¹

Despite everything Webster wrote about declaring independence from one's parents, he remained committed to the patriarchal hierarchy of family life. His basic model of power in society began there. 'All government,' he wrote, 'originates in families, and if neglected there, it will hardly exist in society.' The 'rod in school, the penal laws of the

¹⁰⁸ Adam Smith, *An Enquiry Concerning the Origins of the Wealth of Nations* (W. Strahan & T. Cadell: London, 1776), vol. 2, p.373, accessed online via The Making of Modern Law.

¹⁰⁹ Webster, "Education of Youth," pp. 54, 67.

¹¹⁰ In his "Memoir," Webster recalled that the *Sketches* were 'written soon after reading Rousseau's *Social Contract*, from which he imbibed many visionary ideas, which subsequent reflection and observation induced him to reject'; p. 141.

¹¹¹ Webster, "Education of Youth," pp. 69-70.

state, and the terrors of divine wrath from the pulpit' were each little more than a substitute for, or an addition to, the correct government of children within the family.¹¹²

This fundamental work of familial government, according to Webster, was to be performed mainly by women. 'However ambitious a woman may be to command admiration abroad, her real merit is known only at home,' he wrote. 'Real honor and permanent esteem are always secured by those who preside over their own families with dignity.'¹¹³

What finally distinguishes Webster's vision from one like Enos Hitchcock's, then, is less to do with its content and structure than with its form, its rhetoric of legitimation. New England's clerical educationalists wrote in defence of an establishment that remained remarkably strong, and a tradition that was deeply rooted in the cultural, social, and political life of the northern states. They adopted the language of republican patriotism, but never in a way that altered their basic appeal to divine authority, and to the delegated authority of the ministry. It was precisely that kind of authority against which Webster directed his attack. In both *Sketches* and "Education of the Youth of America," he dismissed the establishment as a remnant of America's *ancien regime*. Working from theorists like Locke and Smith, he sought to draw his political and educational theory out from rational, natural principles. Webster saw himself as a revolutionary, but what he was doing was really a process of redescription, an attempt to recreate existing structures of power on a new footing, and to fit them for an era of independent American nationhood.

Liberalism and the Failure of Educational Thought

Webster delivered his lecture on education for the first time in Wilmington,

¹¹² Ibid., pp. 57-58.

¹¹³ Ibid., p. 71.

Delaware, 'to a crowded audience, whose applause is flattering.'¹¹⁴ The second time was on March 11th, 1786, in Philadelphia, and Benjamin Rush was almost certainly in the audience. The two men had met three weeks before, in the company of 'the celebrated Scotch Lecturer or Natural Philosopher,' Henry Moyes.¹¹⁵ It was Moyes' lectures on optics that had first inspired Webster's own turn on the public stage, and it was he whom Webster was visiting when he met Rush. The Scotsman was an impressive intellectual figure: a former student of David Hume and Thomas Reid, and the constant companion of Adam Smith during the composition of *The Wealth of Nations*.¹¹⁶ For his own part, Rush was a famous revolutionary figure, a signer of the Declaration of Independence and a prominent supporter of the pro-Robert Morris Republican party in Pennsylvania politics. Webster was out of his depth when he sat listening to the two doctors 'converse of *harmony of tastes*.'

He was sure of himself on the matter of public education, though. The day after his lecture, he went to dine with Rush.¹¹⁷ The meeting seems to have been a fruitful one for American educational discourse, for it was shortly afterwards that Rush decided to publish an essay he had kept in a drawer since April, 1784. Rush's essay appeared as a pamphlet in the spring of 1786, alongside his "Plan for Establishing Public Schools in Pennsylvania," which was reprinted in the *Philadelphia Gazette* on the 10th of May.¹¹⁸ Rush thus beat Webster into actual publication of his ideas, for the latter's lecture did not appear in print until late 1787, in his own *American Magazine*. It was Rush's work, then,

¹¹⁴ Webster, Diary for 13 February 1786, in Rollins, *Autobiographies*, p. 223.

¹¹⁵ Description of Moyes in Webster, Diary for 15 May 1785, p. 212; for meeting with Rush, see Diary for 21 February 1786, p. 224.

¹¹⁶ A. D. Morrison-Low, "Moyes, Henry (1749/50–1807)," *Oxford Dictionary of National Biography*, (Oxford University Press: Oxford, 2004).

¹¹⁷ Webster, Diary for 12 March 1786, p. 225.

¹¹⁸ David Hawke, *Benjamin Rush: Revolutionary Gadfly* (Bobbs-Merrill: Indianapolis, 1971), note 30, p. 447.

of the two men's, that was most likely to have influence, even if it was Webster's lecture and dinner-table conversation that gave him the necessary spur.

The original occasion for Rush's essay had been his involvement in establishing Dickinson College in Carlisle, 125 miles west of Philadelphia. He had taken Congressman John Montgomery's project of upgrading the local grammar school to an academy, and with the financial backing of Robert Morris' associate William Bingham, turned it into the new republic's first new college, named after then President of Pennsylvania and honorary Cincinnatus John Dickinson. As he put it in the summer of 1784, the hope was that a college in the west would 'soften the tempers of our turbulent brethren, [and] inspire them with liberal sentiments in government and religion...'¹¹⁹ The essay itself, "Thoughts Upon the Mode of Education Proper in a Republic," took much the same tone. Like Hitchcock's *Discourse* and Webster's lecture, Rush advocated education as a vital form of discipline, a bulwark of social order for post-revolutionary times.

Noah Webster had promoted his *Grammatical Institute* as a means of reducing American language to 'one uniform standard,' citing Pennsylvania as an example of the unsatisfactory 'variety of... dialects which are justly censured as deviations from propriety.'¹²⁰ Rush likewise ventured that the 'education of our youth is particularly necessary in Pennsylvania while our citizens are composed of the natives of so many different kingdoms in Europe.'¹²¹ He began his essay by declaring that 'the business of education has acquired a new complexion by the independence of our country.' Education was the force that would unite that country under a single republican standard. 'Our

¹¹⁹ Benjamin Rush to Charles Nisbet, 27 August 1784, quoted in Hawke, *Benjamin Rush*, p. 286.

¹²⁰ Webster, "Introduction to the 'Blue-Back Speller,'" p. 71.

¹²¹ Benjamin Rush, "Thoughts Upon the Mode of Education Proper in a Republic," in Rudolph, *Essays on Education*, p. 10.

schools of learning, by producing one general and uniform system of education, will render the mass of the people more homogeneous and thereby fit them more easily for uniform and peaceable government.¹²² Nationalism implied homogeneity, for Rush just as for the Connecticut Wits, and both served the needs of government and power. Rush's proposals were intended 'to secure to the state all the advantages that are to be derived from the proper instruction of youth.'¹²³

The aspect of Rush's essay that most distinguished him from Jefferson and Webster, and aligned him most closely with Hitchcock, was his claim that 'the only foundation for a useful education in a republic is to be laid in religion.'¹²⁴ But in defending this 'dissent' from the 'modern' view, Rush returned to common ground. 'Man is naturally an ungovernable animal,' he wrote, 'and... when we add the restraints of ecclesiastical to those of domestic and civil government, we produce in him the highest degrees of order and virtue.'¹²⁵ As in New England, religion was to be enlisted in defence of public order and government. It was a means as much as an end.

In precisely the same way as Webster, Rush grounded his conception of legitimate authority in the model of the patriarchal family. 'The government of schools like the government of private families should be *arbitrary*, that it may not be *severe*. By this mode of education, we prepare our youth for the subordination of laws and thereby qualify them for becoming good citizens of the republic.'¹²⁶ His later essay on 'female education' declared that 'to be the mistress of a family is one of the great ends of a woman's being.' Yet of course education would also serve to maintain men's control over their wives, 'for a weak and ignorant woman will always be governed with the greatest

¹²² Ibid., pp. 9-10.

¹²³ Ibid., p. 10.

¹²⁴ Ibid., p. 10.

¹²⁵ Ibid., pp. 11, 12.

¹²⁶ Ibid., p. 16.

difficulty.¹²⁷ Where there were 'deficiencies of parental government,' Rush held, these could be 'supplied by those habits of obedience and subordination which are contracted at schools.' Within the public school system, the state would take on the role of parent, 'the authority of our masters' should therefore 'be as *absolute* as possible.'¹²⁸

Rush's short essay distilled many of the strictures already suggested by New England's clerical educationalists, and by Webster. But Rush brought a certain frankness and metaphorical facility that helps lay bare the underlying themes of American educational discourse in the 1780s. 'From the observations that have been made,' he wrote, 'it is plain that 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.' Like his colleagues, Rush expressed anxiety about the political possibilities of the new republic. Echoing Jefferson and the paradox his bill implied, Rush wrote that the state must 'revolve upon the wills of the people,' yet 'these must be fitted to each other by means of education before they can be made to produce regularity and unison in government.'¹²⁹

Each citizen 'must watch for the state as if its liberties depended upon his vigilance alone,' Rush wrote, 'but he must do this in such a manner as not to defraud his creditors or neglect his family.'¹³⁰ That was a telling qualification. As later chapters will show, the notion of republican governments allowing citizens to defraud their creditors was an animating concern of American elites, not least in Philadelphia, through the 1780s. Laws printing paper money, delaying taxation, and prescribing legal tender favoured debtors over their creditors and the poor over the rich. Both Rush and Webster explicitly sought to

¹²⁷ Rush, "Thoughts upon Female Education," in Rudolph, *Essays on Education*, pp. 35, 39.

¹²⁸ Rush, "Mode of Education," p. 16.

¹²⁹ Ibid., pp. 17-18. Again, see Slauter, *The State as a Work of Art*, pp. 9, 13, 301.

¹³⁰ Ibid., p. 14.

incorporate in their educational schemes defences of private property and contract against what they saw as legislative economic tyranny. Education could be made the defence against egalitarian politics; as Jefferson had put it, it could make the people safe, which really meant making gentlemen safe from the people.

'There are some acts of the American legislatures which astonish men of information,' Webster wrote. These should not, however, be 'ascribed to bad intentions,' but to 'ignorance either in the men themselves [i.e. the legislators] or their constituents. They often mistake their own interest, because they do not foresee the remote consequences of a measure.' To prevent this, they must be given 'an acquaintance with ethics and with the general principles of law, commerce, money, and government.'¹³¹ Rush likewise called for education in 'the origin and present state of commerce, together with the nature and principles of money.'¹³² As Adam Smith had suggested, uneducated citizens could 'be misled,' and could 'judge rashly.' Educationalists like Rush and Webster maintained their faith in popular republican government by claiming that an informed people, subject to instruction in all the important areas, would be bound to choose rightly. Public education was thus a vital necessity, not merely a luxury, in a free government.

That position did not prevail in the 1780s, either among the broad American public or among gentlemen in general. Neither Virginia, Pennsylvania, nor any other state introduced public schooling systems in spite of Jefferson and Rush's advocacy. Jefferson, for one, was convinced that this was due to 'the extreme distress of our resources' when he first proposed his bill in 1778. But for all his optimism, things went no further in the following decade. The problem had just as much to do with the theory itself as the lack of capacity to put it into practice. If education was the means by which the people's

¹³¹ Webster, "Education of Youth," pp. 66-67.

¹³² Rush, "Mode of Education," p. 19.

insubordination and wild egalitarian visions were to be set right, New England should have provided the model for orderly republican government. But by the end of the 1780s, if not at the beginning, the model was not behaving as expected. Where was to be found the most clamorous agitation for paper money? Rhode Island. Where did the movement against rural debt and regressive taxation first break out in open rebellion? Massachusetts. It was a poor advertisement for the advantages of educational establishment.

If education was supposed—by Montesquieu and Bulamaqui, Jefferson and Rush alike—to be the paradigmatic republican solution to republican vices, it was not the one destined to be adopted by America's gentlemen revolutionaries. Nor did the nationalist literature and culture of Joel Barlow and his friends achieve the hegemony they looked for. Thanks in part to his diligent marketing, Noah Webster's textbooks did eventually displace 'old Dilworth' in American classrooms, but in the course of his life Webster saw national politics and culture diverge from his own ideas. These writers were more important for the anxieties and the hopes they represent than for their influence and impact on policy in the 1780s. Their various approaches to education, and their ideas of post-revolutionary culture and society, were symptoms of a crisis of authority and legitimacy among American elites. Something like a solution was eventually to be found only in abandoning traditional republican theory, and developing new attitudes to law, property, government, and power.

3. Justice, the Shield of Property

I will ask you one political question. Can property be secure under a numerous democratic assembly which undertakes to dispose of the property of a citizen?¹

Ending the Civil War in South Carolina, 1781-82

In the closing stages of the siege of Yorktown, John Laurens of South Carolina led a battalion of Continental troops in the assault on British Redoubt Number Ten, under orders from his friend Alexander Hamilton. The recklessness of the action, which won glory for the officers while costing the lives of many of their soldiers, was characteristic of both young gentlemen. It was Laurens, though, whom Washington chose to negotiate the surrender of the British general, Lord Cornwallis, and it was with a pleasing irony that the South Carolinian watched the redcoats march out of the city on the afternoon of the 19th of October, 1781, to the tune of “The World Turn'd Upside Down.”² A year and a half earlier, he had been among the revolutionary soldiers leaving Charleston after Benjamin Lincoln's surrender. By the time Cornwallis' men had departed Yorktown, only three cities in the United States remained under British occupation: New York, Savannah, and Charleston itself.

Whereas New York north of the city had long been secure in the grip of the state government, revolutionary authorities in Georgia and South Carolina were only just

¹ Aedanus Burke to Arthur Middleton, 25 January 1782, in Joseph Barnwell ed., “Correspondence of Hon. Arthur Middleton,” *South Carolina Historical and Genealogical Magazine*, 26 (1925), p. 193.

² Christopher Hibbert, *Redcoats and Rebels: the war for America, 1770-1781* (W.W. Norton: New York, 2002), p. 330; the identification of the marching song is disputed in Don Higginbotham, “Some Reflections on the South in the American Revolution,” *Journal of Southern History*, 73 (2007), p. 669.

beginning to reassert control. Years of fighting, during which control passed in rapid succession from revolutionary to royal forces and back again, had left neither state with working civil authority or court system, and had played havoc with notions of both ownership and citizenship. Even before Charleston fell, Governor John Rutledge had been given special powers 'to secure the liberty, safety, and happiness of this state' without recourse to the legislative assembly. Cornwallis' army, harassed by the Continentals under General Nathanael Greene, moved north into Virginia in the summer of 1781, and Rutledge returned from North Carolina to his state. In November, he called elections for a new assembly, to be held in the small town of Jacksonborough, thirty-five miles from occupied Charleston, and under the protection of Greene's men.

Using his emergency powers, Governor Rutledge altered the terms of the franchise for the new election. Those who had lived under the protection of the British and had not declared their allegiance to Rutledge's revolutionary government would have no vote. 'The Tory interest is entirely excluded,' wrote one observer. 'For my part I would think it madness to allow men to influence our elections who had borne arms against us without giving some test of their attachment to us—for ought we know it would be giving away our country, and the resources of it.'³ Still, some Carolinians were worried about the possible character of the assembly. For one thing, Charleston remained under occupation, and elections for its districts would take place on the outskirts. The traditional power-base of the state's low-country elite had been severely disrupted. 'Between friends,' wrote the Governor's brother Edward to a friend in Congress at Philadelphia, 'I fear there will be damned strange works when once the assembly get together.'⁴

Although the war was not over in South Carolina, the victory at Yorktown had

³ Aedanus Burke to Arthur Middleton, 25 January 1782, "Correspondence of Hon. Arthur Middleton," p. 193.

⁴ Edward Rutledge to Arthur Middleton, 12 December 1781, in *ibid.*, p. 208.

changed the shape of American prospects, and while some feared that the British would reinforce Charleston from New York and keep up raiding in the hinterland, the Jacksonborough assembly was primarily concerned with reaching a settlement that would restore civil government and a sense of economic and political stability. With the return of an elected legislature, and the end of John Rutledge's term in the Governor's seat, South Carolina's war footing was to come to an end. The management of this transition, however, was a delicate matter. There were too many people in South Carolina who had at one time or another been under British protection for a policy of exclusion or wholesale expulsion to be feasible. From the vantage of both policy and honour, settlement required a careful balance between the passions of the victors and the need for reconciliation with the defeated.

'Since the last meeting of the General Assembly,' Governor Rutledge began his opening address, 'the good people of this state have not only felt the common calamities of war, but, from the wanton and savage manner in which it has been prosecuted, they have experienced such severities as are unpractised, and will scarcely be credited by civilized nations.'⁵ This was hardly conciliatory language. In fact Rutledge's speech revealed a pressing concern beyond questions of loyalty: the public purse and public credit. The war had not only been expensive for the people of South Carolina, but also for the state. Any settlement had to be concerned with the restoration of economic order. Paper money laws should be repealed. Moreover, 'it is just and reasonable,' Rutledge declared, that 'satisfactory assurances of payment be given to the public creditors.' Since raising new taxes 'would be difficult if not impracticable,' there was just one obvious place to look for funds: to the Tories. 'It is for you to determine,' Rutledge told the

⁵ Quoted in John Meleney, *The Public Life of Aedanus Burke: revolutionary republican in post-revolutionary South Carolina* (University of South Carolina Press: Columbia, 1989), p. 65.

assembly, 'whether the forfeiture and appropriation of their property should now take place.'⁶

Rutledge's speech matched the attitude of its audience in Jacksonborough. For every representative who was uneasy about victimising a group which included former friends, allies, and family members, there was another whose constituents had much to gain from a redistribution of property that would also lighten the burden of taxation. It must have seemed a very useful form of vengeance. In the wake of Rutledge's speech, the assembly at Jacksonborough passed an Amercement Act that taxed at twelve per cent the value of certain property, and a Confiscation Act that provided for outright seizure. Both acts targeted a combination of specific individuals and categories of persons. Somewhat fewer than 500 people in total were affected.⁷ Around the same number had been saved by friends in the assembly, who attested their loyalty; the initial list drawn up for confiscation featured 'about seven hundred' names.⁸ John Laurens, chairing the committee on confiscation in the assembly, advocated restraint.⁹

South Carolina was far from the only state to pass a confiscation act. At one point or another during the war, every state did. In 1777, when John's father Henry Laurens was its president, Congress had 'earnestly recommended to the several states to confiscate and make sale of all real and personal estate therein, of such of their inhabitants and other persons who have forfeited the same, and the right to the protection of their respective

⁶ Ibid., pp. 64-65.

⁷ 237 people named in the Confiscation Act, 'plus about 140 more who fell into general categories specified in the law;' 47 named in the Amercement Act, 'and about the same number who came under its general provisions;' James Haw, *John and Edward Rutledge of South Carolina* (University of Georgia Press: Athens, 1997), pp. 163-4.

⁸ Burke to Middleton, 25 January 1782, p. 192.

⁹ Gregory Massey, *John Laurens and the American Revolution* (University of South Carolina Press: Columbia, 2000), pp. 209-10; and for the general attitude, see Robert M. Weir, "'The Violent Spirit,' the Reestablishment of Order, and the Continuity of Leadership in Post-Revolutionary South Carolina', in Ron Hoffman, Peter J. Albert, and Thad W. Tate, eds., *An Uncivil War: The Southern Backcountry During the American Revolution* (University Press of Virginia: Charlottesville, 1985), pp. 83-98

states.¹⁰ As in South Carolina five years later, the circumstances of that Congressional resolution were those of dire financial need. Congress had recently fled Philadelphia, and its paper currency was in crisis. Confiscation was part of a package of recommendations, which included regional price controls, designed to raise money and mitigate the 'depravity of morals' and 'decay of public virtue' brought on by inflation.¹¹ These were desperate measures.

Congressional rhetoric surrounding the resolutions of 1777 prefigured that of John Rutledge in January 1782, in his speech to the Jacksonborough assembly. 'Pursued by the injustice and the vengeance of Great Britain,' Congress began, 'these United States have been compelled to engage in a bloody and expensive war.' They invoked not only the 'boundless rapine' and 'more than savage barbarity' of the British army, but also the aid of 'venal foreigners and domestic traitors.' Confiscation was not an act to be undertaken lightly, nor was it merely an act of revenge. In both 1777 and 1782, justification rested primarily on the safety of the public credit. 'Injustice to individuals, and the destruction of the honour, safety, and independence of the United States' would result from the currency crisis, Congress declared. 'Loudly, therefore, we are called upon to provide a seasonable and effectual remedy.'¹² Even then, confiscation was the last clause to be added to the resolution, five days after the main text was passed.

According to Congress's recommendation, states were supposed to use the profits of confiscated estates to buy continental loan certificates. In reality, the states had other priorities. By the end of the war, especially in the devastated south, confiscation was one of the only means to raise any revenue at all, including for the payment of soldiers. Nonetheless, considerations of justice played an important role in most states' provisions

¹⁰ *JCC*, vol. 9, p. 971.

¹¹ *Ibid.*, p. 954.

¹² *Ibid.*, p. 953-4.

regarding loyalist property. In Massachusetts, for example, an act of April, 1777, before the resolution of Congress, provided for loyalist property to be sequestered (not confiscated) 'for the payment of their just debts.' In March 1781, after confiscation had begun, another act 'to provide for the payment of debts due from the conspirators and absentees' passed, allowing the sale of estates to pay creditors even when the state's title had yet to be fully established.¹³ In other words, the rights of private creditors were the top priority when it came to the disposition of loyalist property in Massachusetts.¹⁴ Governor Rutledge's speech implied the same for South Carolina in 1782.

Another factor complicated the disposition of loyalist property in the southern states: the economic and cultural dominance of slavery. In Virginia, Governor Dunmore's proclamation in November, 1775, offered freedom to the slaves who took up arms on behalf of the crown. General Sir Henry Clinton extended the proclamation to all slaves in the United States in June, 1779. Yet in South Carolina and Georgia royalist policy never matched that promise. There, the hope of maintaining the loyalty of large portions of the white planter population made any emancipation effort impolitic. The revolution in the lower south was a civil war between slaveholders; neither side had any intention of dismantling the slave economy. From their perspective, slaves were high value, mobile assets. Both sides therefore not only confiscated but physically removed their enemies' slaves. Meanwhile, slaves themselves took advantage of the situation to escape. By the war's end, South Carolina had lost some 25,000 slaves, a quarter of its enslaved population.¹⁵ Such were the 'calamities of war' lamented at Jacksonborough.

¹³ Richard D. Brown, "The Confiscation and Disposition of Loyalists' Estates in Suffolk County, Massachusetts," *William and Mary Quarterly*, Third Series, vol. 21 (1964), pp. 535, 542.

¹⁴ In New York, provision for creditors was made in an act of October 1779, but no further action was taken on their behalf until May 1784; see Harry Yoshpe, *The Disposition of Loyalist Estates in the Southern District of the State of New York* (Columbia University Press: New York, 1939), p. 79.

¹⁵ Philip Morgan, "Black Society in the Lowcountry, 1760-1810," in Ira Berlin and Ronald Hoffman eds.,

Where confiscation acts throughout the United States created anxieties and contentions about the nature of justice and ownership, most often in relation to land, the role of slaves in the lower south confronted revolutionary citizens, momentarily, with their own deeply problematic ideology. How could liberty and justice be aligned with property in people? John Laurens used his place on the confiscation committee to provoke a debate on the place of slavery in South Carolina. While the state had frequently granted confiscated slaves as bounty to white soldiers, encouraging continued service and enlistment, Laurens proposed to do the job of raising troops more directly. He wanted to form confiscated slaves into companies of black soldiers, who would be granted their freedom in exchange for service to the revolution. Both Laurens and Nathanael Greene, the ex-Quaker general who had won the lower south back from the British, advocated arming slaves on military grounds.¹⁶ Jacksonborough was Laurens' last opportunity to win concessions from South Carolina's steadfast slaveholders.

A number of competing priorities among the representatives must have given Laurens some hope. For in spite of Governor Rutledge's speech, and a general acceptance of the necessity of confiscation, leading members of the assembly were uneasy about the inherent lack of respect for the sanctity of property. There were also political and personal considerations in favour of a lenient approach to confiscation. Not everyone whose name was placed on the lists deserved to be called a traitor. Rutledge's brother Edward worried, 'I hope they will be lenient, but as I said before, I fear. Though I am for some confiscation, yet I have done everything in my power to restrain the tempers of the

Slavery and Freedom in the Age of the American Revolution (University Press of Virginia: Charlottesville, 1983), p.111; the figure of 25,000 is given in David Ramsay, *The History of the Revolution of South Carolina* (Isaac Collins: Trenton, 1785), vol. 2, p. 384; but for a lower estimate see George William Van Cleve, *A Slaveholders' Union: Slavery, Politics, and the Constitution in the Early American Republic* (University of Chicago Press: Chicago, 2010), pp. 41-2.

¹⁶ See Massey, *John Laurens*, p. 206.

impetuous.¹⁷ Beyond the impetuous vengefulness of some legislators, South Carolina was still at war. 'It is an odious and painful business,' wrote Rutledge, 'but we have not the ability to raise a tax... we are obliged to turn our thoughts to recruiting—with Negroes.'¹⁸

For Rutledge, this was simply an indication of how extreme the state's situation was. He had no intention of supporting Laurens. Only twelve or fifteen legislators did, by his reckoning, including the Pennsylvania-born doctor David Ramsay.¹⁹ 'The northern people, I have observed, regard the condition in which we hold our slaves in a light different from us,' as another representative delicately put it. 'I am much deceived indeed, if they do not secretly *wish* for a general emancipation, if the present struggle was over.'²⁰ Laurens' plan, for all that it would provide men for the state's defence without requiring taxation or further unsavoury confiscations, was too redolent of schemes against slavery itself to win much support. Laurens made no secret of his own abolitionism. Born to wealth derived from the slave trade, he was haunted by 'the groans of despairing multitudes, toiling for the luxuries of merciless tyrants.'²¹ Although he took heart from the votes in favour, his defeat was conclusive. 'People in general,' as Edward Rutledge had it, 'returned to their senses.'²²

Yet in the wake of the Jacksonborough assembly, South Carolina's slaveholders still could not rest secure in the enjoyment of their property. The confiscation act's attack on loyalists precipitated retaliation from the British commander in Charleston, General Leslie, who threatened plundering raids into the city's hinterland. Slaves, of course, were

¹⁷ Edward Rutledge to Arthur Middleton, 28 January 1782, "Correspondence of Hon. Arthur Middleton," p. 212.

¹⁸ Rutledge to Middleton, 8 February 1782, in Joseph Barnwell, ed., "Correspondence of Hon. Arthur Middleton Continued," *South Carolina Historical and Genealogical Magazine*, vol. 27 (1926), p. 3.

¹⁹ *Ibid.*, p. 4.

²⁰ Aedanus Burke to Arthur Middleton, 25 January 1782, "Correspondence of Hon. Arthur Middleton," p. 194.

²¹ Quoted in Jerome Nadelhaft, *The Disorders of War: the revolution in South Carolina* (University of Maine at Orono Press: Orono, 1981), p. 87.

²² Rutledge to Middleton, 8 February 1782, "Correspondence of Hon. Arthur Middleton," p. 4.

the most realistic target for any such action. The new governor, John Mathews, elected by the assembly to replace John Rutledge, responded to Leslie with the counter-threat of further confiscations, namely of the debts owed to loyalists and British merchants. 'There is a considerable value in English debts which we have in our power,' John Laurens pointed out.²³ This was a measure the governor would be reluctant to take. Instead, in August 1782—the month John Laurens was killed in an incidental skirmish—he sent Edward Rutledge and another assemblyman, Benjamin Guerard, to negotiate a treaty with the British garrison.

The agreement, reached early in October, gave loyalist creditors the same rights, with regard to debt and credit, as any other citizen of the state; and the governor would use his 'whole power and influence' to prevent future assemblies interfering with collection. It also pledged the restoration to their former owners, 'as far as is practicable,' of all slaves held within British lines.²⁴ Those slaves who had actually been promised their freedom were to keep it, but any others were to be returned in exchange for a promise they would not be punished; owners would be compensated for unreturned slaves. Christopher Gadsden, a liberal assemblyman with a backcountry following who had turned down the governorship himself, thought the treaty had sold out the state for the benefit of 'the great negro holders... near the sea.'²⁵ There was no provision for returning other kinds of property, nor for distributing the value of returned slaves equally. From Mathews' and Rutledge's perspective, though, the slaves' return may only have sweetened a deal that was just in itself.

In any case, the deal soon fell apart. As early as June, Leslie had written to his

²³ Quoted in Nadelhaft, *Disorders of War*, p. 84.

²⁴ Quoted in *ibid.*, p. 89.

²⁵ Christopher Gadsden to Governor John Mathews, 16 October 1782, in Richard Walsh ed., *The Writings of Christopher Gadsden, 1746-1805* (University of South Carolina Press: Columbia, 1966), p. 182.

superior, Sir Guy Carleton, that former slaves who had joined the British could not 'in justice be abandoned to the merciless resentment of their former masters.'²⁶ Inspectors appointed by Mathews in October drew up a list of 136 slaves or former slaves to be returned; Leslie approved only 73. But the British were hardly committed to emancipation. The vast majority of the black people shipped out during the evacuations of Savannah and Charleston were taken to Jamaica or East Florida.²⁷ As David Ramsay put it, 'the prospects of gain, from the sale of plundered negroes, were too seducing to be resisted by the officers, privates, and followers of the British army.' In Ramsay's view, the treaty had been 'a benevolent scheme originally calculated for mitigating the calamities of war.'²⁸ When they finally sailed out of Charleston on December 14th, 1782, the British left the war's devastation behind in South Carolina; for the slaves they carried with them, new calamities lay ahead.

Reaction to Confiscation, 1783

By the time the republican government returned to Charleston, elections for a new assembly had already taken place. Elected under the same exclusionary rules, and with the same difficulty surrounding election of representatives for the capital, Governor Mathews could expect an assembly of similar character to that of Jacksonborough. Still, Christopher Gadsden for one hoped it would provide an opportunity to look again, in a more sober light, at the legislation of the previous year, especially the Confiscation Act. He would 'endeavor to have its severities at least mitigated,' he wrote to an ally.²⁹ With the

²⁶ Quoted in Benjamin Quarles, *The Negro in the American Revolution* (University of North Carolina Press: Chapel Hill, 1961), p. 165.

²⁷ *Ibid.*, pp. 163, 166-7; 'all but 500' went to these two locations, 'with a few finding their way to St Lucia, Halifax, England, and New York.'

²⁸ Ramsay, *Revolution of South Carolina*, vol. 2, p. 384, 383.

²⁹ Christopher Gadsden to Francis Marion, 17 November 1782, in Walsh, *Writings of Gadsden*, p. 196.

British out of Charleston and the war, in practice, over, the assembly of early 1783 was the moment for South Carolina to establish a post-revolutionary settlement. The questions around which such a settlement would be based tied together the fate of the loyalists, the measures passed against them in Jacksonborough, and the financial and commercial basis of the state's economy.

One Jacksonborough delegate disappointed not to be re-elected in November was Aedanus Burke. Born in Galway in 1743, Burke had arrived in Virginia at the end of the 1760s already well-educated. He read the law there before moving south via the West Indies, arriving in Charleston in the mid-1770s. He served in the army for almost three years – just short of the length of service required for Cincinnati membership – before resigning early in 1778, and was immediately elected to the judicial bench.³⁰ It was only later that year that the war moved into the southern theatre. His role as judge placed him at the difficult interstice of republican order and the chaos of what became effectively a civil war, an awkward middle ground that came to define Burke's career as a political writer. He identified himself with what he saw as neutral principles of justice, against monarchy, aristocracy, licentiousness, and disorder. This stance put him at odds with the advocates of confiscation.

Burke opposed the measures against loyalists because they seemed to him to contradict certain basic ideals, namely the sanctity of property and the equality of all before the law. These were not principles newly wrought by the revolution. Revolutionary republicanism had, rather, ambivalent effects: on one hand, the abolition of monarchy and its associated distinctions of rank and privilege promised the rule of law over all alike; on the other, the communitarian impetus of popular sovereignty posed a threat to the security

³⁰ Meleney, *Aedanus Burke*, pp. 17-24.

of property and contract. Startlingly, in Burke's eyes, the Confiscation Act passed at Jacksonborough undermined both the rule of law and the sanctity of property. Christopher Gadsden opposed the act on political grounds, because he feared it would 'spread the resentment of citizens one against another,' for the benefit only of rich land speculators, 'artful, ambitious men' with 'detestable selfish purposes.'³¹ It was Burke who laid out the opposition in terms of principle, property, and law.

He must have felt some irony in the way the measure came about, for the assembly prefaced the act by declaring that it was necessary in order to do justice to the state's creditors—that is, to pay them off. As Governor Rutledge had argued in his opening speech, new taxes were impossible, but 'satisfactory assurances of payment' must be made to the creditors. These assurances, alongside an end to paper money emissions, were meant to establish economic stability, and they were perfectly in accordance with Burke's attitude. It was Burke himself, indeed, who presented the bill that confirmed the governor's proclamation banning paper money.³² But then came the Confiscation Act. It was 'inconsistent with public justice and policy,' the act declared, 'to afford protection any longer to the property of British subjects.' From Burke's perspective, the effect was to undermine property rights in the very name of liberal justice. Affected loyalists were not even to be given jury trials.

'I will ask you one political question,' Burke wrote at the time to the Congressman Arthur Middleton, the same man with whom Edward Rutledge shared his misgivings. 'Can property be secure under a numerous democratic assembly which undertakes to dispose of the property of a citizen?'³³ Those who supported it failed to understand their true interests as property-holders. They were solving fiscal problems in the present by

³¹ Gadsden to Marion, 17 November 1782, in Walsh, *Writings of Gadsden*, p. 194, 196-7.

³² Meleney, *Aedanus Burke*, p. 67.

³³ Burke to Middleton, 25 January 1782, "Correspondence of Hon. Arthur Middleton," p. 193.

setting political traps for themselves in the future. 'The men of property in our house join heartily in this measure, but they do not reflect the time may come when the precedent may be execrated by their posterity.'³⁴ Burke was indeed a Cassandra. Not only did his opposition to the bill at Jacksonborough fail, but it lost him his seat at the assembly when it sat again in Charleston in January, 1783. It was perhaps the bitter sting of this defeat that led him to take a more public approach to opposition.³⁵

Before the Charleston newspapers had even resumed their runs, on the 14th of January 1783, a pamphlet written by Burke was published under the pseudonym of the Roman tyrannicide, Cassius.³⁶ *An Address to the Freemen of the State of South Carolina* denounced the 'political mischief' of the Confiscation and Amercement Acts, on the basis of their contradiction of both individual natural rights—the right to a fair trial—and international law. It also sought to establish the authority of this position in the writings of legal and political philosophers. Where Burke's reasoning was direct in his private letters to Arthur Middleton, his pamphlet made extensive use of famous European authors, especially Puffendorf, Vattel, Hobbes, Coke, and Blackstone. He also named Beccaria and Locke, Milton and Harrington, 'the historians Hume, Rapin,' Rollin, and Raleigh, Machiavelli, Sallust, and Xenophon. Even by the standards of the likes of John Adams, it was a prodigious feat of name-dropping.³⁷

That Burke bothered to name his authorities, rather than quoting them silently in the customary way, tells us it might have been the names themselves, and not the argument, that mattered most. Burke wanted to ground his position in a realm of expertise beyond the reach of ordinary public opinion or democratic process. In his pamphlet, he appealed

³⁴ Ibid.

³⁵ Meleney, *Aedanus Burke*, p. 82; Burke was, however, elected to fill a vacancy a month later.

³⁶ Ibid., p.77.

³⁷ Cassius [Aedanus Burke], *An Address to the Freemen of the State of South Carolina* (Bell: Philadelphia, 1783), Evans #17861, *passim*.

to a notion of international law that, by definition, drew legitimacy from beyond the boundaries of the newly founded republican polity. Burke's argument, he wanted to make clear, was not subject to political contingency: it was a matter of established natural law. As Hobbes had written, with the concurrence of Puffendorf and the others, 'when the means of life are within the guard and garrisons of the enemy,' as they surely were in the case of those whose homes were within British lines during the war, 'a total submission cannot be esteemed unlawful.'³⁸ In short, Burke concluded, 'all historians and political writers condemn the mischievous policy of pursuing the citizens with persecutions after civil wars.'³⁹

Burke's pamphlet focused on the particular question of what happened after a civil war; this was the legal question at hand, and he was presenting a quasi-legal argument. But in his letter to Middleton, the central issue arising from confiscation, the 'one political question' he wanted to ask, was more general, and it concerned the precedent set for legislative interference with property. He did not choose to draw out this problem explicitly in the pamphlet. Instead, Burke approached the question of the security and sanctity of property negatively, by attacking the authority of the assembly itself. Few Americans would have disagreed with the notion that private property should be protected. What Burke argued went further, using principles of resistance to unjust government that had animated the revolution itself. Legislatures, he said, even republican ones, must be bound by natural and international principles of justice. If they stepped outside those boundaries, they were acting arbitrarily—and, therefore, just as tyrannically as the British king.

'Anarchy or no government,' which was after all more or less what South Carolina

³⁸ Ibid., p. 7.

³⁹ Ibid., p. 29.

had during most of the war, 'is far preferable to an arbitrary one,' Burke proclaimed.⁴⁰ The war's end should have been an opportunity to 'settle the peace and happiness' of the country. Instead it had only loosed revenge. Burke's most extravagant anger was directed at Governor Rutledge and the '*extraordinary power*' he wielded in establishing and then directing the proceedings at Jacksonborough.⁴¹ The Roman dictator Sylla and the British Lord Cornwallis both had used such powers and confiscations to 'enrich [their] own adherents,' but they had done so 'by dint of military force.' In contrast, Burke argued, 'our assembly very peaceably, under the mark of justice, and under the forms of parliament, condemned the citizens in violation of the spirit and substance of both.' South Carolina was ruled by an arbitrary government disguised as a just one. It was enough to 'make the angels weep,' he wrote, quoting Shakespeare.⁴²

Aside from his disquisition on international law, Burke could do little to spell out the political philosophy that animated his argument. 'The state should secure' each man's property, he asserted, 'for the maintenance of his children.'⁴³ He thus articulated the gendered, patriarchal conception of liberal social order that was central, too, to the debates surrounding the Society of the Cincinnati and republican education. 'Innocent wives and children,' widows and orphans, were punished by the arbitrary policies of Jacksonborough.⁴⁴ Through this emotive language as much as through his citation of distinguished ancient and modern authorities, Burke sought to generate a persuasive model of justice. At the same time, though, he struggled to perceive its foundations. 'The injustice of this measure is so enormous,' he wrote of confiscation, 'that the endeavouring

⁴⁰ Ibid., p. 15.

⁴¹ Ibid., p. 4, emphasis in original.

⁴² Ibid., p. 18.

⁴³ Ibid.

⁴⁴ Ibid., p. 3.

to prove it is like proving that the Sun shines at noon-day.⁴⁵ Justice functioned as an ideology that shaped thought mainly unconsciously; it seemed, in other words, as self-evident as the sun.

If it failed to explore the roots of liberal justice, though, Burke's pamphlet did clearly establish the link between that justice and the public, political realm. He was extrapolating from the point he had made to Middleton about property. 'Unthinking are those who imagine,' he wrote, 'that one arbitrary exertion of power will not open a door for many others!... For if the legislature can, without ceremony, or forms of law, seize the property, or banish the person of the meanest or worst member of society; what I pray can hinder their stripping or banishing men of virtue?'⁴⁶ Here Burke tripped over the 'forms of law,' for he had already argued that it was under the cover of such forms, 'under the mark of justice,' that the assembly had introduced its arbitrary power. As a result the 'personal and civil rights of the people' had been invaded. The 'cruelty and injustice' of the Confiscation Act would be a 'curse on ourselves and posterity.'⁴⁷ It wasn't the forms or the ceremony that really mattered, but the risk to property and the personal liberty of white men.

Burke characterised his position in terms of strict adherence to legal and natural principles. But in practice, at least on the face of it, he was aligned with a party of leniency and against a party of vengeance. Each side had victories and defeats in 1783. Although Governor Mathews' treaty with the British commander in Charleston fell through, his agreement with the British merchants of that city survived to cause political dissension in the year following the evacuation. The governor and his allies responded to merchants' petitions by granting commercial rights, restoring some confiscated estates,

⁴⁵ Ibid., p. 19.

⁴⁶ Ibid., p. 24.

⁴⁷ Ibid., p. 25.

and even providing for aliens – i.e. British citizens – to make up half the jury in any trial involving a fellow foreigner. This policy of solicitude towards the merchants improved the commercial prospects of low-country planters, for whom competition among buyers brought higher prices. But it enraged other South Carolinians, who expected not to have to live in Britain's commercial shadow so soon after the bloody and victorious war.⁴⁸

Christopher Gadsden had been a leader of the state's back-country and radical representatives at Jacksonborough, and he strongly opposed concessions to British merchants in the 1783 assembly. As with Mathews' failed treaty, he saw that these measures were designed primarily to support low-country planters and what he had called '*the aristocratical number*.'⁴⁹ Gadsden, however, also opposed the injustice of confiscation and amercement. He, like Burke, saw these measures against the loyalists as unprincipled and arbitrary. This put Gadsden in the position of denouncing his own allies, his fellow opponents of the establishment party, as a 'set of self-created bullying censors,' and it placed both him and Burke in a middle ground between the 'aristocratical' interests that controlled the government and the radicals' vengeful demands. Alexander Gillon, a Charleston merchant, took up the radical banner in an attempt to rid the city of the British competition. He and his Marine Anti-Britannic Society, drawing on the frustrations of urban mechanics as well as patriot merchants, undertook a campaign of harassment and public demonstration meant to drive away 'traitors and cowards.'⁵⁰

At least partly in response to Gillon's outdoor politics, which according to some reached the level of rioting, the South Carolina legislature moved to establish a permanent government for the city through an act of incorporation. The city corporation was given

⁴⁸ Nadelhaft, *Disorders of War*, pp. 93-95.

⁴⁹ Gadsden to Marion, 3 November 1782, Walsh, *Writings of Gadsden*, p. 189, emphasis in original.

⁵⁰ John Sandford Dart to Ralph Izard, 11 July 1783, quoted in Nadelhaft, *Disorders of War*, p. 97; See Emma Hart, *Building Charleston: town and society in the eighteenth century British Atlantic world* (Charlottesville: University of Virginia Press, 2010), p.191.

extensive powers to preserve social and moral order, especially against mariners. Church wardens were to patrol the streets on Sundays 'to observe and suppress any riotous, indecent, or disorderly conduct.'⁵¹ In short, state and city elites used the mechanisms of law and police to reassert control. In late August the state branch of the Cincinnati began to form itself around the figure of Major General William Moultrie, who had successfully defended Charleston from British assault in 1776. To Burke, the establishment of the Cincinnati was a sign and symbol of the degeneration of South Carolina politics, stemming ultimately from the mischief at Jacksonborough. His pamphlet of October 1783 was not only an irate denunciation of the society, but a dissection of the dilemmas of republican government.

Burke's critique of the Cincinnati was based on his reading of their constitutional document, but it also took its impetus from his sense of historical development. He, like all Americans, knew that republican government was a precarious state; the history Burke had read showed that republics balanced on a knife-edge between anarchy and tyranny. They depended on the egalitarian principle that sovereignty was held by the people as a whole – a people composed of families ruled by white, male, property-owners. But they also relied on the preservation of individuals' and families' rights against the overbearing will of the majority. While Burke cast himself, in his pamphlet, as a defender of 'the unfortunate Commons of this country' against the aristocratic '*few*,' he also suggested a narrative in which the tyranny of the majority itself, a legislative democracy 'carried away by violent passions,' had rendered South Carolina subject to 'a pure, simple aristocracy.'⁵²

'From their wanton, extravagant abuse of their powers as legislators,' Burke wrote, the assemblymen themselves 'have been the melancholy cause, that the very name of a

⁵¹ *Ordinances of Charleston Passed in the First Year of Incorporation of the City*, quoted in *ibid.*, p. 103.

⁵² [Burke], *Considerations*, pp. 25-28.

democracy, or government of the people, now begins to be hateful and offensive.' A 'revolution' had been 'effected *by law*, in the famous Jacksonborough assembly,' and consolidated thereafter. 'In short, the public opinion and power of the government is on the side of the aristocracy, at the same time that the spirit of the people is thoroughly broken.'⁵³ This jeremiad reflected the tough path Burke sought to take: a path between, on one side, the popular invasion of private rights embodied by confiscation, and on the other, an establishment that preached leniency only—as Burke and Gadsden both saw it—to feather its own nest. He thus had to acknowledge that the military men had in fact played a salutary role at Jacksonborough, for they 'opposed the [confiscation] measure with cool, gentleman-like reasoning.'⁵⁴ If they were now to be tyrants, Burke was the last principled gentleman left.

Burke's pamphlets, at the beginning and end of the tumultuous year 1783, show the complex interaction between various concerns facing Americans in the post-revolutionary decade. What was clearest to him was that neither the state's leaders, nor its citizens and their representatives, could be trusted to rule the state justly. Rather, any use of government power was only legitimate insofar as it corresponded with certain principles and doctrines, the 'law of nature and of nations' on which he drew in his writing. In this context, professional legal knowledge became an important asset. Limits on the legitimate use of political power formed the lines of force in Burke's arguments, lines which joined up directly with the question of individual property rights. Those limits were contested ground in the political discourse of the 1780s. States where loyalists remained a major problem were the key battlegrounds in a national debate over the role of legislatures and law.

⁵³ Ibid., pp. 26-28.

⁵⁴ Ibid., p. 20.

The Treaty of Peace, 1782-83

While elections were taking place in South Carolina for the new assembly, in November 1782, the commissioners of Congress and of Britain were making a provisional treaty of peace. Negotiations had begun earlier that year in Paris, following the fall of Lord North's government in London. By the end of October, Benjamin Franklin was joined by two other Americans, John Adams and John Jay. The British commissioner, former slave trader Richard Oswald, was joined by Henry Strachey, an undersecretary of state. Disrupted by illness and an uncertain military situation through most of the year, the negotiations began to rapidly cohere in late November.⁵⁵ The disposition of territory had already been settled. What remained were the issues of fishing rights, debts, loyalist property, and compensation. The agreement that emerged, which was provisionally signed on the 30th of November, would critically shape the question of loyalist property rights in the future. It would also shape the diplomatic and commercial character of the United States.⁵⁶

While Franklin and his colleagues sought maximum possible concessions from the British in terms of territory, even to the point of suggesting that Canada should also be ceded to the United States, still the negotiation was not simply a question of dividing rights and privileges according to the balance of power. Exactly which concessions and demands were made by each party, and how they were framed, reflected not only the policy of the respective governments but ideas about the world held by the gentlemen

⁵⁵ A brief account of the treaty negotiations is in Jonathan Dull, *A Diplomatic History of the American Revolution* (Yale University Press: New Haven, 1986), pp. 137-151.

⁵⁶ See Gould, *Among the Powers of the Earth*; Leonard Sadosky, *Revolutionary Negotiations: Indians, empires, and diplomats in the founding of America* (Charlottesville: University of Virginia Press, 2009).

involved. In the case of America's commissioners, far away from the influence of Congress, the shape of the peace was more or less in their own hands. They were not merely dividing spoils; they were designing an international system.⁵⁷ They had to be able to sell that system to their own government and people, but they were also concerned with its intrinsic merit. In other words, making a good treaty was a question of justice.

John Adams arrived in Paris on Saturday the 26th of October. 'The first thing to be done in Paris,' he wrote in his diary, 'is always to send for a tailor... for this nation has established such a domination over fashion that neither clothes, wigs, nor shoes made in any other place will do in Paris.' This, he put down sardonically, was how 'France taxes all Europe, and will tax America.'⁵⁸ On Tuesday, Adams went to talk to Franklin. 'He told me of Mr. Oswald's demand of the payment of debts and compensation to the Tories.'⁵⁹ It was Franklin's position that the Americans could not accede to such a demand, because they had no power to do so. Even Congress did not. Despite the end of the fighting, the confederation's financial position remained insupportable. Robert Morris and his allies had so far failed to win a federal power of taxation from the states; in fact, Congress could hardly make the states do anything. This very weakness would haunt Adams a few years later, in his role as ambassador to Britain.

But on the matter of Oswald's demands, Adams had a different answer than Franklin, one that in the end would rely on an impression, however false, of the *power* of Congress, not its weakness. The first step was to separate the two issues. 'The question of paying debts, and that of compensating Tories were two,' Adams wrote. He had made 'the same observation' that day to Oswald and Strachey at Jay's house, and it had provoked a

⁵⁷ For accounts of American international thought at the founding, see Hendrickson, *Peace Pact*, and Onuf & Onuf, *Federal Union, Modern World*.

⁵⁸ L. H. Butterfield, *Diary and Autobiography of John Adams* (Belknap Press: Cambridge, Ma., 1961), vol. 3, p. 37.

⁵⁹ *Ibid.*, p. 43.

pleasing reaction. 'I saw it instantly smiling in every line of his [Strachey's] face,' Adams recalled. The point went over so well because, by separating the two issues, Adams demonstrated a willingness to back down on one of them. Franklin was right when he said the Americans had no power to compensate the loyalists: they had no *money* to do so. But the question of debt was a different matter. 'I had no notion of cheating anybody,' Adams told Franklin. 'Congress should recommend it to the states to open their courts for the just recovery of all just debts.'⁶⁰

Not cheating anybody didn't mean giving in to all British demands. There was no question, on the American side, of compensation for the losses sustained by loyalists during the war; just as, of course, there would be no financial compensation from the British for patriot losses. Adams' notion of justice, and one agreed to by his fellow commissioners, entailed reciprocal rights to be protected equally on both sides. It was a question of individual private rights, not national, public ones. The commissioners agreed to the following, according to Adams, in early November:

Whereas it is *just* that private contracts made between individuals of the two countries before the war, should be faithfully executed, and as the confiscation of the said lands may have a latitude not justifiable by the law of nations, it is agreed that the British creditors shall notwithstanding, meet with no lawful impediment to recovering the full value, or sterling amount of such bona fide debts as were contracted before the year 1775, and also that Congress will recommend to the said states, so to correct, if necessary, their said acts respecting confiscation of lands in America belonging to real British subjects as to render their said acts consistent with perfect justice and equity.⁶¹

In the final treaty, ratified on the 3rd of September, 1783, it was stipulated that the revisions should be 'perfectly consistent not only with justice and equity, but with that spirit of conciliation which on the return of the blessings of peace should universally

⁶⁰ Ibid., pp. 43-44.

⁶¹ Ibid., p. 46, emphasis in original.

prevail.⁶²

Across the Atlantic, that spirit of conciliation did not run altogether high, and the terms of the treaty did not meet with universal approbation. John Adams' sense of justice ran up against political and fiscal realities faced by his compatriots. In South Carolina, hardly anyone could be found who was happy with the treaty. Henry Laurens of that state, the only southerner on the peace commission, had not arrived in Paris until the very last session of negotiations. The treaty's provision that creditors should meet with 'no lawful impediment' in suing for debt was potentially 'ruinous,' thought one of Laurens' South Carolinian correspondents.⁶³ As Ralph Izard put it to Thomas Jefferson, it would have been far better to say that they should meet with 'no *greater* obstruction... *than those of the citizens of America*.'⁶⁴ In other words, state government should have been able to regulate the behaviour of creditors, both foreign and domestic. That is what Governor Mathews' agreement of 1782 had provided; his successors and their assemblies proceeded by effectively ignoring the new treaty, continuing and extending laws passed before the news of it had arrived in Charleston.

If states like South Carolina were willing to flaunt the direct and specific terms of Article Four, on debt, their policy was even less likely to be altered by Article Five, by which Congress agreed to 'earnestly recommend' the restitution of confiscated estates and alteration of the confiscation laws. Adams' gambit in Paris had relied on the British commissioners assuming that such a recommendation would have some weight, or at least that they would act as if it did. Strachey, whose face Adams had recalled lighting up, wrote to his superiors that 'the earnest recommendation of Congress is equivalent to our

⁶² Treaty of Paris, 1783, in Hunter Miller ed., *Treaties and Other International Acts of the United States of America* (Government Printing Office: Washington, 1931), vol. 2.

⁶³ John Lewis Gervais to Henry Laurens, 16 December 1783, quoted in Nadelhaft, *Disorders of War*, p. 160.

⁶⁴ Ralph Izard to Thomas Jefferson, 1 July 1786, in *ibid*.

king's recommendation to Parliament' and 'would have all the effect we proposed.'⁶⁵ If Adams really convinced Franklin to change his line from protesting the weakness of Congress to asserting its strength in this way, as he implied in his diary, then it was a crucial triumph on his part. Yet it remained an illusion. However earnest, Congress's recommendation did little to protect or redeem loyalist property, and every American knew it.

In New York, it was the loyalists living under British protection in the city for whom news of the treaty seemed to promise disaster. From November 1782, when the provisional articles were signed, these loyalists petitioned and pleaded with the British government in growing desperation 'not to withdraw... royal protection from us.' To do so would make the position of the loyalists 'absolutely insupportable, absolutely insufferable.'⁶⁶ Only when a copy of the provisional treaty actually appeared in the city, on the 5th of April 1783, were loyalists forced to accept the reality of American independence on the disappointing terms negotiated in Paris. From that point on, a 'settled gloom' hung over the city.⁶⁷ Prospects were bleak, whether loyalists determined to leave with the soldiers for Canada or Britain, or return to their former lives and property in the new nation. The latter faced persecution and social exclusion, whether they had fought for the king or merely claimed his protection.

'Remorse, despair and shame will crowd upon your imagination,' a patriot broadside told the city's loyalists in August. 'Be assured that the irresistible vengeance of a grateful

⁶⁵ Henry Strachey to Alleyne Fitzherbert 10 February 1783, and Strachey to Thomas Townshend, 29 November 1782, quoted in Andrew Stockley, *Britain and France at the Birth of America: the European powers and the peace negotiations of 1782-1783* (University of Exeter Press: Exeter, 2001), p. 65.

⁶⁶ Memorial by American Loyalists, presented by Samuel Hayke and Mr. Lydekker, 18 December 1782, quoted in Ruma Chopra, *Unnatural Rebellion: loyalists in New York City during the revolution* (University of Virginia Press: Charlottesville, 2011), p. 209.

⁶⁷ New Yorker to a friend in London, 6 April 1783, quoted *ibid.* See also Judith Van Buskirk, *Generous Enemies: patriots and loyalists in revolutionary New York* (University of Pennsylvania Press: Philadelphia, 2002), p. 165.

people will speedily demand your blood or your banishment from this land of liberty.' The law of the treaty, which promised conciliation, would be no shield against such vengeance. 'Perhaps there may be some amongst us, who you may flatter or bribe, or peradventure *contract* with (for we have *contractors*) to plead in your behalf; but promise yourselves no relief from their agency.' Lawyerly elites like Adams and Jay may have valued the security of contracts above all, but many ordinary New Yorkers had little but contempt for that liberal model of justice. 'The arguments and the influence of such advocates will be equally unavailing,' the patriot author predicted, 'and by appearing in your favour, they will as certainly render themselves odious and contemptible to their fellow citizens, as they will fail in accomplishing the ends of your preservation.'⁶⁸

Measures taken against loyalists and their property in the city would only, of course, continue what had already been undertaken in the rest of the state through the course of the war. In New York, plans for seizing the property of the British ministry's supporters, and using the profits for public purposes, had first been made as early as 1775. In October 1779 the state assembly passed an act of attainder that banished and confiscated the property of fifty-nine individuals, and provided for the indictment and trial of other loyalists. All it took was one credible witness to identify someone, under oath, as an enemy of the revolution. Anyone who failed to appear and defend himself was deemed guilty. In March, 1780, sales of the confiscated land began in order to raise money for military equipment.⁶⁹ By the time the provisional peace treaty was signed, at the end of 1782, the state had brought in some \$3,600,000 from the sale of confiscated estates.⁷⁰

Just as in South Carolina, not everyone supported confiscation. John Jay wrote

⁶⁸ Brutus, *To All Adherents to the British Government...*, (Morton and Horner: Poughkeepsie, 1783), Evans #44464, emphasis in original.

⁶⁹ Yoshpe, *Disposition of Loyalist Estates*, pp. 14-24.

⁷⁰ John Kaminski, George Clinton: Yeoman Politician of the New Republic (Madison House: Madison, 1993), p.78.

bitterly to Governor George Clinton from his diplomatic post in Spain a few months after the sales began in 1780. 'New York is disgraced,' he said, 'by injustice too palpable to admit even of palliation. I feel for the honour of my country.'⁷¹ Clinton himself had his qualms. Like the Rutledges and other leading politicians in South Carolina, Clinton and his allies shared the misgivings of lawyers like Jay and Aedanus Burke about the precedent set over property rights. But at the same time, they used confiscation and anti-loyalist feeling to augment their local political support. Many obviously benefited from the policy by purchasing the land; in some cases that included people, even former tenants, who had not previously owned land. Clinton, who had governed the state since 1777, built a political organisation based on the support of rural property-owners. Loyalists in the city, fearfully anticipating the British evacuation, could expect little protection from him.

That evacuation finally came, late in 1783, almost exactly a year after Charleston. George Washington rode into town on a white horse, escorted by Governor Clinton and the local worthies, on the 25th of November, Evacuation Day. 'We look up to you, our deliverer, with transports of gratitude and joy,' he was told by a group of citizens assembled to greet him.⁷² There was feasting and drinking, and a firework display on Bowling Green that 'exceeded any former exhibition in the United States.'⁷³ Two weeks later, Washington departed for Philadelphia and thence Mount Vernon, leaving behind a city half in ruins, and a people divided between those now returning from eight years in exile and those who had submitted to the enemy, living and in some cases profiting under British rule. The loyalists who had chosen to stay could only 'with exquisite anguish,' as

⁷¹ John Jay to George Clinton, 6 May 1780, Papers of John Jay, Columbia University, Butler Library.

⁷² Quoted in Edwin Burrows and Mike Wallace, *Gotham: A History of New York to 1898* (Oxford University Press: New York, 1999), p. 260.

⁷³ Quoted in *ibid.*, p. 261.

that summer's broadside had put it, 'anticipate the horrors that will infallibly seize you when the *final* evacuation takes place.'⁷⁴

Unlike in South Carolina, there was no executive decision to exclude loyalists from the franchise. Yet with the help of organised working class committees, radical patriots swept the first elections held after evacuation. They were prepared to act on their constituents' demands for anti-loyalist legislation. In his speech opening the assembly, Governor Clinton struck a conciliatory tone. 'While we survey the ruins of this once flourishing city,' he proclaimed, New Yorkers must also be grateful to God for the war's victorious end. As much as they might recollect the 'cruelty and rapine' that had marked the war, they should also be pleased when those returning to the city showed 'obedience to the laws' and 'care to preserve peace and good order.' The speech was an attempt to dampen the spirit of vengeance in the radical assembly. 'Let us give, to all,' he urged, 'protection, encouragement, and security, by providing that equal justice be administered to the stranger as well as the citizen, that the recovery of debts be speedy and effectual, that the fulfilment of contracts be enforced.... By these means,' he concluded, 'credit, the parent of commerce, will multiply her benefits.'⁷⁵

This was a policy New York's merchants and lawyers would welcome.⁷⁶ Still, control of the city hung in the balance through 1784. Clinton was unwilling to put his weight fully on either side of the scale. On one hand, the respectable, conservative merchant James Duane was appointed mayor of the city. He showed how much he recognised the delicacy of the situation by declining the traditional entertainment in his

⁷⁴ Brutus, *To All Adherents to the British Government...*

⁷⁵ *Journal of the Assembly of the State of New York... January, 1784* (E. Holt: New York, 1784), Evans #18648, pp. 5-6.

⁷⁶ Contra Edward Countryman, *A People in Revolution: the American Revolution and political society in New York, 1760-1790* (Johns Hopkins University Press: Baltimore, 1981), pp. 235-6.

honour, and distributing the funds to the city poor instead.⁷⁷ On the other hand, in May the assembly voted to disenfranchise almost all remaining loyalists. Other New York districts passed laws later that year disbaring returning loyalists from their property claims in the state, in spite of the Treaty of Paris.⁷⁸ A mob assault on visiting British officers in March prompted a committee of 'Whig mechanics' to send a letter of apology to Clinton, asserting that 'no *real friend* of his country would or ought on any pretence to commit a breach of the peace.'⁷⁹ Clearly, though, they did not speak for everyone. Tension and uncertainty ran high.

In Defence of Loyalist Property, 1783-84

This was the environment in which Alexander Hamilton established his law practice, from a house at 57 Wall Street—the less fashionable end—where he and Elizabeth moved in November 1783. They brought with them a baby son, Philip after his grandfather, who would be two years old in January.⁸⁰ Hamilton entertained fantasies of retirement from public life. He had written to Clinton from Congress, asking for new delegates to be sent to replace him. 'Having no future view in public life, I owe it to myself without delay to enter upon the care of my private concerns in earnest.'⁸¹ With his young family, and no estate to return to, Hamilton faced the plight of many other young officers re-entering civilian life and taking up new kinds of responsibility. But he had more than his Cincinnati connections to support him. Through his father-in-law and old friends, men like his college room-mate Robert Troup, he was well situated for a lucrative

⁷⁷ Edward Alexander, *A Revolutionary Conservative: James Duane of New York* (Columbia University Press: New York, 1938), p. 159.

⁷⁸ Kaminski, *George Clinton*, p. 80.

⁷⁹ Quoted in Paul Gilje, *The Road to Mobocracy: Popular Disorder in New York City, 1763-1834* (University of North Carolina Press: Chapel Hill, 1987), pp. 77-78.

⁸⁰ Chernow, *Alexander Hamilton*, pp. 185-6.

⁸¹ Alexander Hamilton to George Clinton, 14 May 1784, *PAH*, vol. 3, p. 356.

career at the bar.

Circumstances in New York were not immediately propitious, however. After the evacuation, as patriot writers had warned, scores and debts were often settled with the justice of the streets. Public order was shaky at best, and the popular mood was too restless for the slow and expensive mechanism of the law. If in Aedanus Burke's Charleston, confiscation had taken place 'under the mask of justice, and under the forms of parliament,' it had also done so largely without the intervention of the courts, for loyalists were denied the right to trial. New York newspapers and their radical constituents were advocating the same policy: the legislature, not the courts, would be the appropriate republican means of securing the rights of returning patriots. Thus, Hamilton's first struggle in establishing himself as a lawyer was to recover the authority of the very forms and institutions under which he would practice. However much he might have hoped to lead a purely private life, within a few months he had entered into the public debate.

Hamilton's "Letter from Phocion to the Considerate Citizens of New York" was published in January. It began angrily. 'Not only,' he wrote, are 'a few heated and inconsiderate spirits' attempting 'to practice upon the passions of the people, but the public papers are made the channel of the most inflammatory and pernicious doctrines, tending to the subversion of all private security and genuine liberty.'⁸² This opening passage includes all the elements of Hamilton's emerging ideology, which had much in common with Burke's. The 'passions of the people' make popular power a threat, as republican discourse taught; the threat, first and foremost, was to 'private security;' and it was that very 'private security' that was the foundation of 'genuine liberty.' Here Hamilton,

⁸² Phocion [Alexander Hamilton], "A Letter from Phocion to the Considerate Citizens of New York," (New York: Samuel Loudon, 1784), in *PAH*, vol. 3, pp. 483-4.

like Burke, framed his position as a defence of private power over public, the security of property over legislative sovereignty, and the rule of principle over the rule of popular majorities.

Specifically, Hamilton was arguing against a bill in the assembly to exile loyalists from the state, which had passed in 1783 but been returned by the Council of Revision for reassessment at the January session in the city. But this was only one in a series of anti-loyalist measures. Hamilton's opponents, he wrote, advocated not only 'expelling large numbers of their fellow-citizens,' but also 'disenfranchising them, in the face of the constitution, without the judgement of their peers, and contrary to the law of the land.'⁸³ The recently-ratified peace treaty demanded clemency and even compensation to remaining loyalists, but this was not the crux of Hamilton's argument. 'Independent of the treaty,' he declared, the legislature 'cannot, without tyranny, disenfranchise or punish whole classes of citizens by general descriptions, without trial' and other aspects of due process. 'This is a dictate of natural justice, and a fundamental principle of law and liberty.'⁸⁴

The consequence of giving free rein to popular majorities would be 'a mockery' of liberty, Hamilton asserted. To 'gratify' the 'momentary passions' of the populace in a moment of 'heat and violence' would always set 'precedents which afterwards prove fatal to themselves.' Power to disenfranchise groups of citizens created a slippery slope towards the establishment of 'an aristocracy or an oligarchy' in which 'no man can be safe, or know when he may be the innocent victim of a prevailing faction.' In the end, he argued, the people themselves 'are sure to be the losers' if they were to allow a 'departure from the rules of general and equal justice, or from the true principles of universal

⁸³ Ibid., p. 484.

⁸⁴ Ibid., p. 485.

liberty.⁸⁵ As Burke had done, Hamilton invoked republican theory to frame his opposition as a defence of the people's true interest against the corrupting influence of power. He returned to the same theme in the conclusion, advising the people:

Abuse not the power you posses, and you need never apprehend its diminution or loss. But if you make a wanton use of it, if you furnish another example, that despotism may debase the government of the many as well as the few, you like all others that have acted the same part, will experience that licentiousness is the fore-runner to slavery.⁸⁶

On the 11th of February 1784, the legislature accepted the recommendation of the Council of Revision and declined to pass the alienation law.⁸⁷ A few days earlier, Hamilton's friend Duane had been made mayor. The institutions of the rule of law, and the elites that were attached to them, seemed to be regaining their strength. By late February, the courts had taken over from the streets and the newspapers as the primary battleground for control of the city. Unlike in South Carolina, loyalists retained the right to a trial to determine their liabilities. Thus for all the confusion and rancour generated by the return of the city's refugee population and the acts of the radical assembly, there was a commensurate expansion in the case-load of the city's lawyers. As Hamilton put it to his friend Gouverneur Morris, 'legislative folly has afforded so plentiful a harvest to us lawyers that we have scarcely a moment to spare from the substantial business of reaping.'⁸⁸

With the ratification of the Treaty of Paris by Congress on January 14th 1784, the settlement of New York took place under its shadow. Although it did not form the foundation of Hamilton's argument in the first Phocion letter, consideration of the treaty did take up the bulk of it, and it was construction of the treaty and its obligations that

⁸⁵ Ibid., pp. 485-6.

⁸⁶ Ibid., p. 495.

⁸⁷ Ed. note in *ibid.*, p. 484.

⁸⁸ Hamilton to Gouverneur Morris, 21 February 1784, in *ibid.*, p.512.

most concerned the New York newspapers. The relationship between the treaty and the general principles Hamilton sought to promote was complex. On one hand, the treaty was an instrument of law that could be wielded against the measures he opposed, in defence of property rights and the other considerations he called justice. On the other, Hamilton and his allies were genuinely concerned with its fulfilment, for that in itself constituted one element of the justice they demanded.⁸⁹ By the spring of 1784 the treaty was at the centre of public debate. It was the node that activated a much larger network of ideologies, discourses, and strategies.

In his second Phocion letter, published in April, Hamilton responded to critics by restating his original position. Again, as much as the bulk of the essay was spent parsing the meaning of the treaty, Hamilton placed his argument on a foundation of normative assertion. This rested on the idea that the 'rights' of 'republican government' must be 'modified and regulated by the principles of such a government,' principles which include the elements of the liberal rule of law.⁹⁰ 'Among the extravagancies with which these prolific times abound,' he wrote, 'we hear it often said that the constitution being the creature of the people, their sense with respect to any measure, if it even stand in opposition to the constitution, will sanctify it and make it right.' It was this fallacy that Hamilton most disapproved, for it threatened 'to convert the government into a government of *will* and not of *laws*.'⁹¹ It was a question of the social 'compact,' which no legislature could break 'without breach of faith and injustice.'⁹²

⁸⁹ On the importance of fulfilling international treaties to the ideology of American gentlemen, see David Golove and Daniel Hulsebosch, "A Civilized Nation: The Early American Constitution, the Law of Nations, and the Pursuit of International Recognition," *New York University Law Review*, vol. 85 no. 4 (2010), pp. 932-1066.

⁹⁰ Phocion [Alexander Hamilton], "A Second Letter from Phocion to the Considerate Citizens of New York, Containing Remarks on Mentor's Reply," *PAH*, vol. 3, p. 549.

⁹¹ *Ibid.*, p. 551.

⁹² *Ibid.*, p. 550.

A few months later, these questions became the subject of Hamilton's most celebrated moment as a lawyer, the case of *Rutgers v Waddington*. The widow Elizabeth Rutgers brought suit against Joshua Waddington, agent for a British firm, for damages inflicted by his occupation of her brewery throughout the war. She had a statute to appeal to, the Trespass Act of March, 1783, which provided for just such prosecutions and also stipulated that the defendant 'shall not be admitted to plead, in justification, any military order or command whatever, of the enemy.'⁹³ In other words, the law sought to overrule the 'law of nations' Aedanus Burke had used, quoting Hobbes, Puffendorf, and Vattel, to defend Charleston's own loyalists. Acting for Waddington, Hamilton's defence required him to re-establish the supremacy of those principles over the state legislature, and thus to annul the Trespass Act. Vengeful patriots had prophesied that '*contractors*' would defend the interests of loyalists after evacuation, and earn the contempt of ordinary citizens. This was the very role in which Hamilton cast himself.

His argument was twofold, appealing both to the specific provision for amnesty in the sixth article of the peace treaty, and to the same authorities in international law Burke had cited. The treaty was key because it admitted and formalised the state of war between nations that had preceded the state of peace it created; thus the law of nations applied to the period of the war despite what the *post-facto* Trespass Act said. 'Legislation of one state cannot repeal law of [the] United States,' ran Hamilton's brief-notes. 'All must be construed to stand together.' The law, if applied by the court, would 'violate the laws of nations' as well as 'a solemn treaty of peace.' In short, if that was indeed the intent of the act, 'then the act is void!'⁹⁴ The court, chaired by Hamilton's friend Mayor Duane, gave its opinion after two months of delay: the act was indeed void, and the defendant could not

⁹³ Quoted in Mitchell, *Alexander Hamilton*, p. 342.

⁹⁴ Quoted in *ibid.*, pp. 343-4.

be held liable for what was done under British military orders.⁹⁵

This legal victory did not, however, signify a final triumph in the field of discourse. As Duane wrote four months later to George Washington, he had 'lost credit with our assembly' as a result of the judgement.⁹⁶ In fact the legislature had passed a resolution against the judgement, calling it, 'in its tendency, subversive of all law and good order,' leading 'directly to anarchy and confusion.'⁹⁷ During the trial Rutgers' lawyers, including Hamilton's friend Robert Troup, had argued that the writings of 'philosophers' like Grotius and Vattel, 'or any other civilian, are no more to the purpose than so many opinions drawn from the sages of the Six Nations.' Courts, they said, could not alter or annul the laws made by the legislature.⁹⁸ Two weeks after the verdict, a group of New Yorkers headed by Melancton Smith condemned it in the *New York Gazetteer* for holding 'the vague and doubtful custom of nations' above 'a clear and positive statute.'⁹⁹ Duane held onto his mayoralty, but New York City politics, and the property of loyalists there, continued to hang on a knife-edge.

Duane's letter to Washington at the end of the year illustrates the lines of force that were shaping the national elite. 'I have endeavoured,' he wrote, 'in pursuance of the great motive which induced me to continue in public life, to inculcate more enlarged and liberal principles.'¹⁰⁰ These liberal principles defined justice according to property, contract, and—as Hamilton had put it—the social compact; set against the overweening power of popular legislatures, they formed what Duane, Washington, and their friends saw as the

⁹⁵ Ibid., p. 344; and see Alexander, *Revolutionary Conservative*, pp. 162-3. On the case and its outcome, see Julius Goebel, ed., *The Law Practice of Alexander Hamilton: Documents and Commentary* (Columbia University Press: New York, 1964-1981), vol. 1, pp. 291-419; Daniel Hulsebosch, *Constituting Empire: New York and the Transformation of Constitutionalism in the Atlantic World, 1664-1830* (University of North Carolina Press: Chapel Hill, 2005), pp. 194-202

⁹⁶ James Duane to George Washington, 16 December 1784, *PGW*, vol. 2, p. 188.

⁹⁷ Alexander, *Revolutionary Conservative*, p. 163.

⁹⁸ Quoted in Mitchell, *Alexander Hamilton*, p. 344.

⁹⁹ Quoted in *ibid.*, p. 345.

¹⁰⁰ James Duane to George Washington, 16 December 1784, *PGW*, vol. 2, p. 187-8.

limits of the legitimate republican state. At the same time, these principles gave power to those who could wield them. Men of property and men of law were bound together in this common interest. There was nothing very new about this ideological structure, or the class formation they lay behind it. But the post-revolutionary situation gave its articulation a new urgency. Political events and discourses shaped it in a particular way. They helped American gentlemen re-imagine and redefine themselves, not as Whigs or Tories, patriots or loyalists, but as defenders of reason, principle, and justice.

Diplomacy, Commerce, and Liberal Justice

Between hearing the arguments in *Rutgers v Waddington* and pronouncing the verdict, Mayor Duane had a more pleasant duty to perform, that of welcoming his friend John Jay back to New York. 'Be pleased to accept the congratulations of the Mayor, Aldermen, and Commonalty of the city of New York,' the official letter ran, 'on your safe return to the place of your nativity.'¹⁰¹ Jay was born to an established New York family, Huguenot merchants on his father's side and Dutch patroons, the Van Cortlandts, on his mother's. He was embedded from birth in a network of privilege and a culture of aristocratic honour; he inherited too his family's strong religious conviction, Anglican by affiliation but Calvinist by tradition. Still, as a younger son, Jay could not simply settle to life as future manorial lord. Educated at King's College in the city, it was there that he found his place. He passed the bar in 1768 and ran his own law office by 1771. The bulk of his business, in the unstable 1770s, was made up of actions for recovery of debts.¹⁰²

At the advent of the revolution, Jay was well placed to become a leader of the cautious, conservative faction in New York and Congressional politics. Jay's position,

¹⁰¹ New York City to John Jay, 24 July 1784, *PJJ*, p.126.

¹⁰² Walter Stahr, *John Jay: Founding Father* (Hambledon and London: New York, 2005), p.29.

expressed in two major political works during the war for independence, was in defence of liberal principles of property, consent, and contract, against threats from both the British and the American people themselves. In an address written shortly after the British capture of New York City, Jay and the state's Congressional delegation told New Yorkers,

You and all men were created free, and authorised to establish civil government, for the preservation of your rights against oppression, and the security of that freedom which God hath given you, against the rapacious hand of tyranny and lawless power. It is, therefore, not only necessary to the well-being of society, but the duty of every man, to oppose and repel all those, by whatever name or title distinguished, who prostitute the powers of government to destroy the happiness and freedom of the people over whom they may be appointed to rule.¹⁰³

The same sentiments applied just as much to the threat of democratic tyranny as to that of the British monarch. New York's revolutionary constitution, framed by Jay and two other wealthy lawyers in 1777, restricted the suffrage to well-off freemen and sought to mitigate the power of the legislature. Because 'laws inconsistent with the spirit of this constitution, or with the public good, may be hastily and unadvisedly passed,' ran the document, the governor and his senior judicial officers were to form a council of revision with the power to send laws back to the assembly.¹⁰⁴

In 1779, Jay wrote and signed as president of Congress an address to all Americans which centred on the question of national faith and honour. Responding to the growing financial crisis faced by the Confederation, and the popular fear of Congressional default on debt, Jay's message set out an uncompromising attitude. 'A bankrupt, faithless republic,' he wrote, 'would be a novelty in the political world, and would appear among

¹⁰³ Address of the Convention of the Representatives of the State of New York to their Constituents, 1776, in *PJJ*, vol. 1, p. 103.

¹⁰⁴ Constitution of the State of New York, 1777, in *The Federal and State Constitutions, Colonial Charters, and Other Organic Laws of the States, Territories, and Colonies Now or Heretofore Forming the United States of America*, ed. Francis Newton Thorpe (Government Printing Office: Washington, 1909), vol. 2, p. 1332.

reputable nations like a common prostitute among chaste and respectable matrons.’¹⁰⁵

Jay’s gendered depiction of the national credit thus enlisted American gentlemen’s anxieties about faithfulness and honour. It framed punctual payment of debts and performance of contracts not only as questions of political economy, but of morality as well. ‘Humanity as well as justice makes this demand upon you,’ in short, that Americans pay their taxes so that Congress need print no more paper money. ‘Let it never be said,’ he wrote, ‘that [America’s] infant glories and growing fame were obscured and tarnished by broken contracts and violated faith.’¹⁰⁶ This address would be reprinted in 1785, aptly prefacing a pamphlet in support of paying American debts to British merchants.¹⁰⁷

Jay returned to New York in 1784 a seasoned diplomat, having served as ambassador to Spain and as a member of the delegation in Paris that signed the treaty of peace. Almost as soon as he arrived, Congress sent him a new appointment, Secretary for Foreign Affairs.¹⁰⁸ He would accept the post on the conditions that the peripatetic Congress settle in New York, and that he be given significant powers, including sight of all foreign communications with Congress. In the following three years, Jay established himself as a *de facto* prime minister of the United States, albeit with a tiny staff operating out of rooms in Fraunces Tavern.¹⁰⁹ He was more than a conduit between Congress and its ambassadors in Europe: he wrote their instructions, and on the basis of their reports he made recommendations that effectively set foreign policy. Jay also took responsibility for making Congress consider the way its internal policies, and the actions of the state governments, affected the position of the United States on the world stage. This was a

¹⁰⁵ Circular Letter from Congress to their Constituents, 13 September 1779, *PJJ*, vol. 1, pp. 232-3.

¹⁰⁶ *Ibid.*, pp. 235-6.

¹⁰⁷ [Nathaniel Hazard], “Observations in the Peculiar Case of the Whig Merchant” (New York, 1785), Evans #19151.

¹⁰⁸ Charles Thomson to John Jay, 18 June 1784, in *ibid.*

¹⁰⁹ Stahr, *John Jay*, p. 199.

concern Hamilton had made use of in *Rutgers v Waddington*. The 'importance of the case,' he had declared, derived 'from its influence on the national character' in the eyes of the world.¹¹⁰

Like a gentleman's, a nation's character had wide-ranging implications for its status, credit, and power. It had to be looked after. A nation that could not abide by its agreements could not expect other nations to abide by them either. Thus, as Jay saw it, achieving Congress's policy goals with regard to European nations depended on correct behaviour among American states. There was no strict division between domestic and international spheres. Rather, obligations and attachments between nations, states, and individuals sat on a continuum – all were subject to the same 'principles of universal liberty,' in Hamilton's phrase. Treaties between nations could be considered in the same light as contracts between men, and subject to the same rules of reciprocity. One could not sue for the fulfilment of a contract before fulfilling one's own obligation, and that obligation trumped whatever internal resolutions or laws one might have made. Jay's foreign policy was animated by the same liberal sense of justice that characterised the new elite ideology.

One foreign policy question dominated Jay's agenda as he took up his post in December 1784, but it was a many-faceted one. The peace treaty he had helped negotiate, and which had been finally ratified by Congress that January and the British in April, had generated a complex set of reciprocal duties. Neither side was in full compliance. The United States complained that the British had failed to evacuate forts in the Northwest territory, including at Detroit and Niagara, that fell within United States territory and were supposed to be handed over 'with all convenient speed.' The British, for their part,

¹¹⁰ Quoted in Mitchell, *Alexander Hamilton*, p. 343, emphasis in original.

objected that Americans were violating articles four and six, which protected the property of loyalists and creditors. Article five had also provided that Congress should 'earnestly recommend' that state legislatures compensate loyalists for wartime confiscations, a recommendation to which the states had not acceded.¹¹¹ As foreign secretary, Jay's effort to secure British acquiescence entailed promoting the enforcement of the treaty among Americans as well.

Jay's diplomatic strategy, as outlined in his instructions for an ambassador to Britain, helps demonstrate the nature of the connection between liberal principles and economic power. Naturally, he sought to frame British and American relations in terms of mutual interests, not only in relation to countries like Spain, but in regard to each other. On the question of the debts owed by Americans to British merchants, which were protected by the fourth article of the treaty, Jay put the matter in a mutually beneficial light. Not only would '*our*' merchants sustain losses if the payment of debts was 'unseasonably and immediately pressed,' but so would '*their*' merchants, the creditors.¹¹² The way to realise the full value of the loans was to be liberal, that is, flexible. It was in British creditors' interests to see American merchants prosper rather than fail, so they could pay back their debts. This sense of mutual interest was a central feature of liberal political economy and philosophy, and for Jay it applied just as much between nations as between individual gentlemen.

British policy, however, stood on a rejection of these principles. Post-war Navigation Acts shut American merchants out of most trade with the British empire. Such

¹¹¹ The Definitive Treaty of Peace [Treaty of Paris], 1783, (The Avalon Project, Yale Law School) http://avalon.law.yale.edu/18th_century/paris.asp

¹¹² Report on Instructions for a Minister to Great Britain, 5 February 1785, in Mary Giunta ed., *The Emerging Nation: A Documentary History of the Foreign Relations of the United States under the Articles of Confederation, 1780-1789* (National Historical Publications and Records Commission: Washington, 1996), vol. 2, p. 541.

a policy had been advocated as early as the summer of 1783 in a widely-read and much-reprinted pamphlet, *Observations on the Commerce of the American States*, and quickly adopted. The pamphlet's author, the Earl of Sheffield, predicted that British exports to America would continue even while American merchants were excluded, and that Congress would be unable to respond to the British restrictions. 'It will not be an easy matter to bring the American states to act as a nation,' he wrote, 'they are not to be feared as such by us.'¹¹³ This lack of coordination among the states was of concern to Jay, Hamilton, and their friends. As Duane had lamented to Washington, 'federal attachment, and a sense of national obligation, continue to give place to vain prejudices in favour of the independence and sovereignty of the individual states.'¹¹⁴

America's diplomatic elite could put forward two justifications for increasing Congressional power. The central government needed to be able to coordinate commercial regulation in order to combat British mercantilism, and it needed to show that it could enforce the treaty on its own side. Both of these were necessary before the United States could negotiate with Britain on a fair footing. At the same time, British intransigence over trade could also be a source of encouragement. 'If European commercial restrictions produce unanimity and tend to raise a national spirit in our country, which will probably be the case, then I shall think them blessings,' wrote Jay to the President of Congress in April 1784.¹¹⁵ Enhanced negotiating strength was not the ultimate goal of the centralising movement. Rather, foreign policy was tied into a larger network of ideology and strategy, the essence of which was a defence of elite economic power.

¹¹³ John Holroyd, Earl of Sheffield, *Observations on the Commerce of the American States* (J. Debrett: London, 1783), p. 109.

¹¹⁴ Duane to Washington, 16 December 1784, PGW, vol. 2, p. 187.

¹¹⁵ John Jay to Charles Thomson, 7 April 1784, *PJJ*, vol. 3, p. 125.

For Hamilton, the Treaty of Paris had proved a useful instrument in the protection of loyalist property rights against the New York legislature. It supported rather than replaced the general principles he put forward. From the point of view of American gentlemen, the provisions of the treaty that protected the rights of property and contract, even when that property belonged to loyalists and the contracted debt to British merchants, nonetheless served to support and entrench their conception of justice. The treaty, as construed not just by Hamilton but by Duane, Washington, Jay, and their allies, was a weapon to be used against democratic state legislatures. In that sense, it could be seen as a precursor to the constitution itself. By the spring of 1786, Jay was openly advising Congress that 'policy as well as justice demands that infractions of the Treaty of Peace should not pass unnoticed... It would redound more to the honour as well as advantage of the United States to do justice while unpresed,' than to wait until 'less meritorious motives' might be imputed.¹¹⁶

The perspective of American elites admitted no sharp distinction between foreign and domestic spheres. The challenges faced by Congress in the conduct of its policy abroad were not separate from the threat posed to justice by republican legislative sovereignty. Treaties were one form of law that remained out of the hands of the states, even while they required the consent of state representatives. Once ratified, the Treaty of Paris effectively became a constitutional document, governing the behaviour of Americans within their own states. Of course, the treaty only fulfilled this function inasmuch as it was actually enforced. The *Rutgers* verdict was a victory, but a small one. It was clear to American diplomats and their networks that for the most part the treaty provisions were going unmet. For the British ministry, that merely provided an excuse not

¹¹⁶ Report on British Consuls, 8 March 1784, in Giunta, *Emerging Nation*, vol. 3, pp. 121-2.

to fulfil its own obligations. But for Americans like Hamilton and Jay, its real meaning occurred in the context of the discursive struggle over private property and public, political power.

Justice, Debt, and the Treaty of Peace, 1784-87

This struggle remained fraught throughout the United States in the middle years of the 1780s. In South Carolina, the issue of the treaty was intractably entangled with the problem of debt and the role of the state with regard to property and contract. With Governor Mathews' agreement to protect British merchants in Charleston after the evacuation, their position had rapidly come to determine the political and economic tensions in the city and the state at large. South Carolinians, seeking to restore their pre-war lifestyles by replacing lost goods, rushed to buy imported furniture, clothing, and luxuries. It was British, not American, merchants who could provide them. At the same time, planters' greatest economic need was to replace the large proportion of slaves lost during the war, many taken away by the British themselves. Once more, precisely as Lord Sheffield had predicted, it was the British who were able to provide them at the best price.¹¹⁷ The irony could not have been lost on the gentlemen of South Carolina.

With British merchants and their local counterparts competing to provide goods to the returning inhabitants of Charleston, and to supply the reconstruction of the state, 'the impoverished inhabitants of South Carolina now experienced no other want but that of money,' as David Ramsay put it in his history. 'As a substitute for cash they stretched their credit to the utmost, and contracted debts which to several were ruinous and to all

¹¹⁷ Holroyd, *Observations on the Commerce*, pp. 154-5.

inconvenient.¹¹⁸ At the same time as they were contracting further debts to pay for post-war purchases, the ratification of the peace treaty renewed Americans' liability for debts contracted to the British before the war. The overwhelming economic burden of these debts created a commensurate political burden on the state. 'Ruin,' declared Governor Moultrie at a special session of the legislature in 1785, 'is now pendant over the heads of hundreds... It is in the power of the law if it is allowed to operate forcibly to transfer the whole property of a large part of your own citizens, into the hands of aliens.'¹¹⁹

With great lamentation, Moultrie called for 'an interposition of the legislature in private contracts.'¹²⁰ He knew that what he was asking for defied the principles of justice by which the lawyers and leaders of South Carolina, and gentlemen revolutionaries across the United States, measured their conduct, and he phrased his request in precisely those terms. It was the calamitous prospect of mass forfeit, the ruin of the entire property-owning class of the state, that forced his hand. The legislators agreed. In doing so, they also apportioned blame elsewhere: namely, to the British. Aedanus Burke was among the most vociferous. In an anonymous pamphlet published in time for the assembly session, he recalled the depredations of war. 'Now,' he wrote, 'in the capacity of creditors, they have us in worse servitude, if it is possible.' It was true that the author had supported a lenient policy towards the British in Charleston in 1782, 'but I am now sorry that I fell into such an error.' The motto on the pamphlet's cover warned, 'Never trust thine enemy.'¹²¹

As in New York, the balance of public opinion and political forces around the

¹¹⁸ David Ramsay, *History of South Carolina* (The Reprint Company: Spartanburg, S.C., 1962), vol. 2, p. 133.

¹¹⁹ *Journals of the House of Representatives 1785-1786*, eds. Lark Adams et al. (University of South Carolina Press: Columbia, 1979), p. 314.

¹²⁰ *Ibid.*, p. 313.

¹²¹ [Aedanus Burke], *A Few Salutary Hints...* (New York: S. Kollock, 1786 [Charleston, 1785]), Evans #19645

question of legislative authority over property and contract was fine and complex. While the assembly accepted Moultrie's call for debtor relief, the strength and tone of such measures was a question of both politics and rhetoric. These were debates that continued throughout the decade, as the assembly periodically reconsidered its acts, and as pressure from petitioners, protesters, and courts mounted each time debts came due. Those, like Edward Rutledge and Charles Cotesworth Pinckney, who were simultaneously lawyers, planters, and members of the state's ruling caste, sought to limit legislative interference in property as much as possible. David Ramsay, the Pennsylvania-born doctor who had supported John Laurens' bill to arm and free slaves, was also a spokesman for the rights of property and contract against political power. They worked to pass legislation that would save elite debtors from ruin, while preserving the honour and credit of the state.¹²²

In 1787, the merchant Alexander Gillon, leader of the Marine Anti-Britannic Society active against British merchants since 1784, put forward a bill to have debts paid in instalments. He repeated Moultrie's argument of 1785, that the 'full operation' of the law would bring ruin on the state itself, not only individuals. David Ramsay took this opportunity to delineate in clear terms his general position, which derived not 'from the situation and circumstances of the country' at that moment, but from deeper, more permanent convictions and principles. 'The power of all legislative bodies,' he said, 'was limited by the eternal law of justice and reason.' As Burke had argued in 1783, and Hamilton in 1784, Ramsay reasserted in 1787: democratic legislatures did not have unlimited legitimate power, but were restricted by a prior natural law. No legislature had the right to 'secure debtors in the quiet possession of their creditors' property.'¹²³ The assembly disagreed; it passed Gillon's bill. As one observer put it, 'an unjust act of

¹²² Nadelhaft, *Disorders of War*, pp. 160-164.

¹²³ Debate in the House of Representatives, 16 February 1785, quoted in *ibid.*, p. 171.

interested men in power.¹²⁴

Weeks after this defeat, Ramsay wrote to Thomas Jefferson, then taking a tour of France and Italy by carriage. He told Jefferson about the instalment act: it was compelled by 'political necessity,' he wrote, but 'I do not pretend to justify it.' The United States as a whole was in crisis. 'Our governments in the southern states are much more quiet than in the northern, but much of our quiet arises from the temporising of the legislatures in refusing legal protection to the prosecution of the just rights of creditors.' In referring to the unquiet north, he was thinking of Shays' Rebellion in Massachusetts. 'Our eyes now are all fixed,' he wrote, 'on the continental convention to be held in Philadelphia in May next.'¹²⁵ His hope was that a new central government would solve the Gordian knot of these entangled problems: British commercial domination and the lack of coordinated measures to resist it, the ruinous debt that resulted from that domination, and most importantly, the injustice and arbitrary power of state legislatures.

Americans contested the force of the peace treaty, the place of international law, the role of republican legislative power, and the status of property and contract throughout the 1780s. These rhetorical and political battles only make sense in the context of the economic climate and the powerful feelings evoked by years of warfare, loss, and suffering. But they were also questions of principle, bound up with unstable and developing ideologies. The actions of South Carolina's legislature show how shallowly liberal principles were entrenched in the moral, legal, and constitutional structures of the new republic. They received only piecemeal support in the machinations of diplomats, the decisions of judges, and the arguments of lawyers and politicians. Yet the need to continually articulate and represent the meaning of justice and the proper function of law,

¹²⁴ Joshua Ward to Isaac King, 28 March 1787, quoted *ibid*.

¹²⁵ David Ramsay to Thomas Jefferson, 7 April 1785, *The Papers of Thomas Jefferson Digital Edition*, eds. Barbara Oberg and J. Jefferson Looney (University of Virginia Press: Charlottesville, Rotunda, 2008).

property, and republican democracy provided the space in which ideology reformulated itself. It was the threat to property and the rights of contract that led American gentlemen towards their most coherent articulations of liberal thinking, and spurred them to generate new strategies of defence.

4. Security, Contract, and Private Power

The rich have an interest in their poor fellow-citizens, and (as some men use their wives) however tyrannical they may be *themselves*, they will not suffer *any body else* to tyrannize over them.¹

Settling the Western Lands, 1783-84

In June 1783, a few months after the crisis over pay that swept the army camp at Newburgh, George Washington wrote to his younger brother John. He was waiting 'with much impatience' for 'the arrival of the definitive treaty' with Britain, which would 'put a period not only to my military service, but also to my public life.' By no means had Washington lost interest in public affairs, however. In his brief letter to John, he set out his hopes for the new nation. The states should 'adopt a liberal and proper line of conduct for the government of this country,' he wrote, and it should be 'founded in justice.' Washington's idea of justice was defined, in essence, by the fulfilment of various kinds of contract. For him, all contracts were inflected with personal and moral qualities. 'We are a young nation and have a character to establish,' he wrote—just as he had once had his own character to establish as a young man.

If we do not fulfil our public engagement, if we do not religiously observe our treaties, if we shall be faithless to, and regardless of those who have lent their money, given their personal services, and spilt their blood, and who are now returning home poor and penniless, in what light shall we be considered?²

There was a seamless scalability here between the international and the individual,

¹ Pelatiah Webster, "An Essay on Credit," 10 February 1786, in Webster, *Political Essays on the Nature and Operation of Money, Public Finances, and Other Subjects* (Cruikshank: Philadelphia, 1791), Evans #23972, p. 439.

² George Washington to John Augustine Washington, 15 June 1783, *GW*, vol. 27, pp. 11-13.

between the support of America's allies, the provisions of its public creditors, and the sacrifices of the officers and men who had served in its army. Both Washington's own and his nation's character and credit depended on meeting the obligations thus created.

Two days later he wrote to the President of Congress in support of a petition 'from a large number of officers of the army,' calling for military colonies to be established in the west. It was in the 'unsettled country' that lay the best chance to achieve the justice Washington and his soldiers hoped for.³ How the status and boundaries of that land were defined, and how exactly it was to be transformed into private property, were central issues in the politics of the 1780s and in the creation of the new American republic. Both Congress and the states had their own separate stakes in the disposition of western land; so did the soldiers and the public creditors; so did the nations of Europe, and their merchants and investors; and so did the many men and families who might move west, or trade with those that did; and so, of course, did the Native Americans who lived there. Among these disparate constituencies and actors, a complex web of contractual relationships already existed. Politics, diplomacy, law, finance, and commerce—the issue of western land touched all of them at once.

It especially affected the new states' relations with their Indian neighbours. While the war with Britain was over by the end of 1781, war with Indians remained an intermittent reality well into the 1780s and beyond. The Treaty of Fort Stanwix officially ended fighting with the Iroquois in 1784, but it did not end violence on the frontier. While Washington remained commander-in-chief, waiting for the definitive peace treaty to arrive, he continued to advise Congress on the military establishment and the strategy the new nation should adopt for the future. In a September 1783 letter to James Duane, who

³ Washington to Elias Boudinot, 17 June 1783, *ibid.*, pp. 16-18.

was then in charge of the general's correspondence with Congress, Washington expounded on 'the line of conduct proper to be observed not only towards the Indians, but for the government of the citizens of America, in their settlement of the western country.' The core of his advice was to set a generous but strict limit on the extent of western settlement, and to 'establish a boundary line between them and us.'⁴

'To suffer a wide extended country to be overrun with land jobbers, speculators, and monopolisers or even with scattered settlers is, in my opinion, inconsistent with that wisdom and policy which our true interest dictates,' Washington wrote. Even more than the few families who settled on isolated frontier land, it was those who bought up large tracts cheaply for sale to future settlers, with regard to nothing but their own profits, who most infuriated the general. He regarded such speculators as no more than 'a parcel of banditti, who will bid defiance to all authority while they are skimming and disposing of the cream of the country at the expense of many suffering officers and soldiers who have fought and bled to obtain it.'⁵ Land speculators not only threatened to spark violence on the frontier by failing to respect Indian territory and encouraging isolated settlement, their property claims also undermined Congress's ability to use the land to provide for American veterans.

Western land was potentially a source of great wealth. It was attractive to speculators for that very reason. But in Washington's view, the process of turning the 'unsettled country' into private property, and thus wealth, had to be carefully controlled – for the sake of order and stability in the west, and of the new nation's character and contracts. 'No purchase under any pretence whatever should be made [from the Indians] by any other authority than that of the sovereign power, or the legislature of the state in

⁴ Washington to James Duane, 7 September 1783, *ibid.*, pp. 133-4.

⁵ *Ibid.*, pp. 136-7.

which such lands may happen to be,' he wrote.⁶ Thus, whereas he opposed the power of legislatures to interfere with private property in the case of confiscation, he endorsed strict public control over the western lands. The difference was that here he was concerned with the creation of new private property, not rights over what already existed. Precisely because such rights had such a central place in his understanding of justice and policy, the process of generating them could not be left in just anyone's hands.

After retiring from his command, Washington became still more closely involved in the regulation and development of America's western expansion. He was, he assured his friends, delighted to be returning to private life. 'I am become a private citizen on the banks of the Potomac, and under the shadow of my own vine and my own fig tree,' he told the Marquis de Lafayette in February, 1784.⁷ The same classical sentiment had recently been echoed by Thomas Paine, who wrote in the final instalment of *The Crisis*, in April, 1783, that America 'is now descending to the scenes of quiet and domestic life... to enjoy in her own land, and under her own vine, the sweet of her labors, and the reward of her toil.' But the general also concurred with Paine's next line: 'In this situation, may she never forget that a fair national reputation is of as much importance as independence.'⁸ To that end, Washington continued to press the cause of the soldiers and officers, the public credit, and the energy and authority of Congress.

Washington's sense of his own personal character was closely bound to what he considered the national character of the new republic he had represented in the field of battle. At the same time, as he returned to Mount Vernon to discover 'the deranged situation' of his own estate, 'occasioned by an absence of almost nine years,' Washington's

⁶ Ibid., p. 137.

⁷ Washington to the Marquis de Lafayette, 1 February 1784, *PGW*, vol. 1, pp. 87-88.

⁸ The American Crisis XIII, 19 April 1783, in Moncure Daniel Conway ed., *The Writings of Thomas Paine* (G.P. Putnam's Sons: New York, 1894), vol. 1, pp. 371-2.

precarious financial situation mirrored that of the United States.⁹ He was an extremely rich man, but in 1784 he found himself unable to harness and exploit his assets: his land, slaves, and machinery. America, too, was rich, especially in land and the promise of commercial agriculture. But the Congressional accounts were equally 'deranged' and in need of renewed attention. The fiscal programme of the Superintendent of Finance, Robert Morris, which would have established a Congressional taxing power, had been twice blocked by the opposition of a small minority of states. It was westward that both Washington and Congress looked to revive their flagging fortunes.

One of the first visitors to Mount Vernon in the early winter months of 1784 was Virginia's Governor, Benjamin Harrison. Washington had written to him in January, anticipating the visit, and beginning a conversation on public affairs in which he drew the metaphor between a gentleman and the United States explicitly. 'Like a young heir, come a little prematurely to a large inheritance,' he wrote, 'we shall wanton and run riot until we have brought our reputation to the brink of ruin.' Only then, he predicted, would the country 'do what prudence and common policy pointed out as plain as any problem in Euclid, in the first instance.' Yet Washington also knew that not all men were like such young heirs. He himself had waited a good long time for his own fortune. To Harrison he declared that 'my political creed therefore is, to be wise in the choice of delegates' to Congress, and give them the power to govern effectively.¹⁰ He kept faith, that is, in the wisdom of gentlemen.

'The moment the Governor and other company came in,' that March, so did an important letter.¹¹ It was from Thomas Jefferson, and it reminded Washington of a project he had once had in mind to turn the Potomac river into a canal, all the way up to the Ohio.

⁹ Washington to Lafayette, 1 February 1784, *PGW*, vol.1, p. 89.

¹⁰ Washington to Benjamin Harrison, 18 January 1784, *ibid.*, pp. 56-57.

¹¹ Washington to Thomas Jefferson, 24 March 1784, *ibid.*, p. 231.

Jefferson's letter began by reporting that 'the deed for the cession of western territory by Virginia' to the United States had been 'executed and accepted.' This was a crucial moment in the history of the west, for it settled control of Washington's 'unsettled country' on Congress, not on any state legislature. Moreover, according to the stipulations of Virginia's representatives, the cession was to be unencumbered by any existing property claims. The entire Northwest Territory, as it would be known, was to be disposed of at Congress's discretion, and the speculative 'banditti' kept out. At the same time, Jefferson pointed out, Virginia maintained control of certain rivers which, he believed, were 'the true doors to western commerce.' The Potomac, once improved, would 'pour into our lap the whole commerce of the western world.'¹²

Washington's reaction was enthusiastic. But he differed from Jefferson on the manner of funding the project. Since the beginning of the decade, when Congressional finances crashed, Virginia's legislature had been making emissions of paper money, passing tender laws, and delaying the collection of taxes, measures designed to relieve debtors and to counteract the dire shortage of circulating currency. Even Washington's neighbour George Mason, a staunch advocate of unforgiving fiscal policy and creditor rights, supported postponement of tax collection in the spring of 1783.¹³ Jefferson had suggested that the Potomac canal be funded by taxation. Washington replied, 'it appears to me, maugre [i.e. notwithstanding] all the sufferings of the public creditors, breach of public faith, and loss of public reputation, that payment of taxes which are already laid will be postponed as long as possible! How then are we to expect new ones, for purposes more remote?'¹⁴ He suggested instead a privately owned and funded corporation,

¹² Jefferson to Washington, 15 March 1784, *ibid.*, pp. 215-7.

¹³ Norman Risjord, *Chesapeake Politics, 1781-1800* (Columbia University Press: New York, 1978), p. 102.

¹⁴ Washington to Jefferson, 29 March 1784, *PGW*, vol. 1, p. 237.

established by legislative charter.

By October, Washington was ready to put his proposal in full to Governor Harrison. In the intervening time, he had first attended the general meeting of the Society of the Cincinnati in Philadelphia, and then, in the summer, made the journey westward to inspect his own extensive property there.¹⁵ On his return he wrote a long letter to Harrison, persuading him of the merits of the canal scheme. His argument was more than a matter of the wealth commerce would bring through the canal. There was also, he told the governor, a 'political consideration... of still greater importance.' In order to maintain American unity, it would be necessary 'to apply the cement of interest, to bind all parts of the union together by indissoluble bonds.' Without such a cement, there was nothing to keep the western settlers loyal to the new republic. 'I speak now from my own observation,' Washington wrote, that they 'stand as it were upon a pivot – the touch of a feather would turn them either way,' perhaps even into the arms of the Spanish or British empires.¹⁶

Both Washington and Jefferson agreed that the spirit of commerce had thoroughly taken hold among Americans, and that, whatever misgivings they might have, the only plausible policy was to accept and exploit it.¹⁷ In other words, they agreed on the growing superiority of economic over political power, at least in the pale of American territorial expansion and international commerce. This realisation was reiterated by Washington's understanding that the best way to pursue this union of interests with the west was through another commercial venture: the Potomac Company. An act should be passed by the Virginia and Maryland legislatures, he told Harrison, 'to incorporate and encourage

¹⁵ There he engaged a new superintendent in the hope of finally making a profit from rents; Washington to Thomas Freeman, 23 September 1784, *PGW*, vol. 2, pp. 78-80.

¹⁶ Washington to Harrison, 10 October 1784, *ibid.*, p. 92.

¹⁷ See Jefferson to Washington, 15 March 1784, *ibid.*, p. 216; Washington to Jefferson, 29 March 1784, *ibid.*, p. 239.

private adventurers.¹⁸ They would put up the money and would be rewarded by the proceeds of future tolls on the canal. Like the Bank of North America, established in 1782 at the instigation of Robert Morris, the Potomac Company would be a publicly sanctioned, privately owned enterprise, controlled by wise gentlemen for their own profit and the public good together.¹⁹

With James Madison, chairman of the committee on commerce, as his agent in the Virginia legislature, Washington marshalled his proposal to success the following January. What was needed, he had told Madison, was 'a happy medium' which would not 'vest too much power and profit in a private company' yet would 'hold out sufficient inducements to engage men to hazard their fortunes in an arduous undertaking.'²⁰ As in the case of the western lands themselves, the Potomac navigation involved creating property that had not previously existed: the right to charge tolls on the canal. In such cases, Washington did not believe the representatives of the public should give up absolute control to just any private owners. But neither did he trust the legislature to undertake the project itself. He agreed with Jefferson that 'public undertakings are carelessly managed and much money spent to little purpose.' Madison, for his part, had seen how his fellow legislators gutted his Port Bill to uphold what he saw as petty local jealousies.²¹

The solution was to lend public authority to private directors, through the legal process of incorporation. A similar tactic had helped the Charleston elites regain control

¹⁸ Washington to Harrison, 10 October 1784, *ibid.*, p. 94.

¹⁹ On such optimistic public entrepreneurship in the 1780s, see Onuf & Matson, *A Union of Interests*; on the canal project, see Stuart Leibiger, *Founding Friendship: George Washington, James Madison, and the Creation of the American Republic* (University of Virginia Press: Charlottesville, 1999), pp.33-57; John Larson, *Internal Improvement: National Public Works and the Promise of Popular Government in the Early United States* (Chapel Hill: University of North Carolina Press, 2001), pp. 9-20; Joel Achenbach, *The Grand Idea: Washington's Potomac and the Race to the West* (Simon & Schuster: New York, 2004).

²⁰ Washington to James Madison, 3 December 1784, *PGW*, vol.2, p. 166.

²¹ See Drew McCoy, "The Virginia Port Bill of 1784," *Virginia Magazine of History and Biography*, vol. 83 (1975).

of the city in 1783. In Philadelphia, the status of such arrangements would soon become the focus of a major political conflict, as the legislature took on Robert Morris' bank. In the Chesapeake, Washington's vast authority served to smooth over the conceptual difficulties. He thus embodied the notion, nowhere explicitly affirmed but always under the surface, that private property formed the ideal basis of a well-ordered society so long as it was owned and controlled by the right kind of people. Corporate power had the advantage of bypassing the democracy of republican legislatures, while also counteracting the democratisation of property itself.²²

In November, Richard Henry Lee reported to Washington from Congress with news of the Treaty of Fort Stanwix, formally ending hostilities with the Iroquois. This, following on from the Virginia cession earlier in the year, was another vital key to opening western expansion. Yet Lee also had bad news. James Monroe had returned from a tour of the northwest frontier with information that the British were refusing to abandon their forts there. The blame, according to the British, lay with New York 'for pushing the law of confiscation beyond the terms of peace, and Virginia for not repealing the laws that impede the recovery of British debts.'²³ If the United States could not enforce the contract it had made in the Treaty of Paris, then the British would continue to bar the way to the western country, which was itself so vital to establishing American credit. As John Adams would argue in London six months later, 'the holding possession of the posts on the frontiers, had kept out of our hands a valuable trade, which would have gone a great way to enable us to pay our debts.'²⁴

Not only British creditors, but American ones as well, including the army officers

²² See Andrew Schocket, *Founding Corporate Power in Early National Philadelphia* (Northern Illinois University Press: DeKalb, 2007).

²³ Richard Henry Lee to George Washington, 20 November 1784, *PGW*, vol. 2, pp. 142-3.

²⁴ John Adams to John Jay, 6 June 1785, in Giunta, *Emerging Nation*, vol. 2, p. 654; see also Adams to Jay, 17 June 1785, *ibid.*, p. 661.

whom Washington had needed to placate at the Philadelphia meeting of the Cincinnati that spring, were in anxious expectation of payment. The potential of the west, as a source of commerce and more immediately as a fund of land that could be sold for ready profit, was fundamental to meeting those expectations. As early as 1780, years before the boundaries of the new republic had been established by the peace treaty, publicists like Thomas Paine and Pelatiah Webster had put their trust in the western lands to be the financial basis of prosperous independence.²⁵ The question that remained was how and by whom the sale and settlement of these lands would be controlled. For control, in Washington's view, was both necessary and difficult. 'People have got impatient,' he told Richard Henry Lee in Congress, 'and though you cannot stop the road, it is yet in your power to mark the way; a little while, and you will not be able to do either.'²⁶

Lands, Banks, and Public Finance, 1781-85

Through the 1780s, the American west remained unsettled in both senses of the word. The uncontrollable tide of migration that Washington seemed to expect in his letter to Lee did not materialise in that decade; the speculative boom he feared arrived only in the 1790s. The two were related: land speculation of the kind Washington disdained was unleashed precisely by the failure of Congress to find sufficient buyers among the industrious families and communities they most desired as settlers. While the slow development of Congressional western policy and the consequent uncertainty of property titles discouraged migration in the first decade of independence, the land brought under the common ownership of the United States by the peace treaty and the Virginia cession

²⁵ Thomas Paine, *Public Good: being an examination into the claim of Virginia to the vacant western territory* (John Dunlap: Philadelphia, 1780) in Eric Foner ed., *Thomas Paine: Collected Writings* (Library of America: New York, 1955) pp. 253-286; Pelatiah Webster, "An essay on the extent and value of our western unlocated lands," 25 April 1781, in Webster, *Political Essays*.

²⁶ Washington to Lee, 14 December 1784, *PGW*, vol. 2, p. 183.

of 1784 remained an untapped common fund.²⁷ As such, it was the basis of American credit. While the future exploitation of the land was under negotiation, a complex structure of financial securities grew up on its foundation. Potential value could be realised in the present, and past debts paid from the future's purse, by the manipulation of the cords of contract.

For individual states with access to land, such a policy was the obvious way to defray war debts. South Carolina, for example, paid its soldiers not only in confiscated slaves, but also in securities derived from confiscated land.²⁸ Slaves were a depreciating asset which, without active surveillance, stood at high risk; that is, they were human beings who grew old, and would run away or stop working unless disciplined by an owner or overseer. Land, by contrast, was immobile and, often, appreciating. It was thus a far more effective asset for the state. Whereas slaves were transferred directly into the hands of the soldiers in payment, land was not parcelled out in the same way. Instead, states could create certificates redeemable in some form—in payment for taxes or in specie—at a future date, backed by the value of the land, which would be sold at some point later on. In this way, states could leverage their assets by creating certificates worth more in total than the land itself, paying off more debts than they ever could by simply selling it.

Following the collapse of its paper currency in 1781 and the appointment of Robert Morris as Secretary of Finance, Congress sought a means of similarly generating securities and exploiting the future value of its assets. The solution it found was the Bank of North America, established in Philadelphia. With an initial \$400,000 in specie, the

²⁷ See generally Peter Onuf, *Statehood and Union: a history of the Northwest Ordinance* (Indiana University Press: Bloomington, 1987); Thomas Perkins Abernethy, *Western Lands and the American Revolution* (University of Virginia Institute for Research in the Social Sciences: New York, 1937).

²⁸ Nadelhaft, *Disorders of War*, pp. 62-3, 76.

bank would issue notes that were by law to be payable for taxes in all the states.²⁹ As Morris put it in his advertisement for potential subscribers, 'when the credit of the bank is established, and it is known to possess considerable funds, the notes will not only have an equal currency with gold and silver, but even be preferable to those precious metals.' Whereas Congress had lost credit in itself, the bank's would be based on both its capital fund and on the credit of its individual subscribers. 'The exigencies of the United States require an anticipation of our revenues.... The use, then, of a bank is, to aid the government by their monies and credit, for which they will have every proper reward and security.'³⁰

When Morris established the Bank of North America, the United States was at one of its lowest points in the entire eight-year military campaign. Independence was far from secure, let alone control over the western lands. Investing in the bank was a leap of faith by which individual subscribers, including Morris himself, simultaneously supported the war effort and bet on its success. This was not so difficult a gamble for Americans who would lose their fortunes if not their lives in the event of a British victory, but by contributing to the national bank, chartered by Congress, such men also committed themselves to the future of Congress as an institution and to federal union in general. By the time the Treaty of Paris was signed, and America's extensive borders were agreed, the bank interest stood squarely behind Congress and its administration of the western lands. If there was a solid foundation to Morris' promise of 'every proper reward,' then it lay in the soil of the frontier country.

Rather than speculating directly in land, then, many American moneyed men placed

²⁹ In fact 63 per cent of the bank's initial capital came from Congress, using specie given by France; Thomas Doerflinger, *A Vigorous Spirit of Enterprise: Merchants and Economic Development in Revolutionary Philadelphia* (University of North Carolina Press: Chapel Hill, 1986), p. 297.

³⁰ Robert Morris, "To the Public," *Pennsylvania Packet* 28 May 1781, in Ferguson, *Papers of Robert Morris*, vol. 1, pp. 85-86.

their bets on Congressional credit. Investing in the Bank of North America was one way to do this. At the close of the war, another much more widespread opportunity emerged: the market in final settlement certificates and other instruments that Congress used to pay its debts to soldiers, contractors, and officials. Few of those regular soldiers who were cut loose from the army to return home and rebuild after the war could afford to hold onto such paper promises. Their only option was to sell them onto the market at below face value. Speculators and their agents could buy up large volumes of such 'scrip' cheaply, to profit according to the fidelity of Congress.³¹ Sales of western land were the most likely source for final payments on Congressional debt, especially as the failure of the impost made establishment of a taxing power seem less imminent. Speculation in scrip was therefore ultimately based on land, even while at the same time it made land ownership more abstract, mediated by layers of securitisation—that is, by networks of contracts.

Morris' Bank of North America was founded on specie, so that while the real potential wealth of its investors (and thus the bank's credit) came from commerce and thus, ultimately, from the land, nonetheless there was no direct link between land and the bank itself. This was not, however, the only way to set up a bank. In February 1784, months after the British evacuation of New York, Chancellor Robert Livingston set out to establish the Bank of the State of New York, which would issue notes on the security not of specie but of land itself, directly.³² His proposal for a land bank provoked a dispute among the city's elite that helped define the nature and role of finance in the new republic, as well as its relationship to the social order. The leading character in this battle was Alexander Hamilton, who was simultaneously establishing himself as a lawyer, and acting in defence of loyalist property rights against the legislature's regime of

³¹ Doerflinger, *Vigorous Spirit of Enterprise*, pp. 310-14.

³² Robert Wright, *Origins of Commercial Banking in America, 1750-1800* (Rowman & Littlefield: Lanham, Md., 2001), p. 82.

confiscation. Property and law together make up the elements of the key struggle for power in post-revolutionary America.

In this matter, Hamilton acted in the first instance as the agent of his brother-in-law, John Barker Church, a merchant then living in Paris. Church was an investor in the Bank of North America who was interested in setting up his own institution in New York. Chancellor Livingston's proposal threatened that plan. Writing to Church in March, Hamilton captured the main appeal of a land bank when he wrote that the country members of the state assembly had 'began to be persuaded that the land bank was the true philosopher's stone that was to turn all their rocks and trees into gold.'³³ Because it was clearly based in real property, the visible source of wealth, such a bank seemed at once more transparent and less risky than something like Morris'. Yet as Hamilton hinted, it was precisely the ability of a money bank to abstract value from its underpinnings in real estate that made it useful. However solid, land could not always be easily sold, whereas money was liquid from the start. In the fluctuating commercial world, that flexibility was vital.³⁴

Behind the question of liquidity, there was another reason a money bank appealed to Hamilton and his friends more than a land bank. These institutions potentially wielded enormous power, by controlling flows of capital and credit at scales far larger than any individual acting alone. Shareholders in turn controlled the bank by electing its directors; Hamilton's constitution for the Bank of New York specified an annual general election for the thirteen directors, who would then choose a president from among themselves. The directors were to 'dispose of the money and credit of the bank for the interest and benefit

³³ Alexander Hamilton to John Barker Church, 10 March 1784, *PAH*, vol. 3, p. 521.

³⁴ See Wright, *Origins of Commercial Banking*, pp. 88-95.

of the proprietors.³⁵ Thus, to own stock in any successful bank was to have substantial influence over the economy at a regional and national level. The nature of the bank's capitalisation was the most effective method of restricting who could own its stock. Anyone who owned land of sufficient value could pledge it for stock in a land bank. A money bank, by contrast, required shares to be purchased with specie. A single share in the Bank of New York cost \$500.³⁶ Only gentlemen with access to ready money could join. In this way economic power was protected in the hands of the commercial community.

All three banks established in the United States in the 1780s were money banks: first Morris' Bank of North America in Philadelphia, then Hamilton's Bank of New York and a third, the Bank of Massachusetts, established in 1784 by a group of Boston merchants who elected James Bowdoin as their first president.³⁷ With the arrival of peace, the original Congressional charter granting a monopoly to the Bank of North America expired, permitting the establishment of the two institutions to the northward. By the end of 1784, financial activity in the three leading port cities was organised in the hands of moneyed elites. All three banks were forbidden by their constitutions, however, from engaging in trade. Banks did not replicate the activities of merchants; rather, they allowed them to diversify their holdings and extend their influence over the country's internal economy. As Hamilton put it while lobbying for the New York bank's charter, 'by promoting industry and commerce' a bank also 'necessarily promotes agriculture and renders landed property more valuable.'³⁸ The effect was to integrate economic activity under the control of small groups of gentlemen.

³⁵ Hamilton, "Constitution of the Bank of New York," *PAH*, vol. 3, pp. 514-8.

³⁶ Mitchell, *Alexander Hamilton*, p. 347.

³⁷ N.S.B. Gras, *The Massachusetts First National Bank of Boston, 1784-1934* (Harvard University Press: Cambridge, Ma., 1937), p. 26.

³⁸ Quoted in Mitchell, *Alexander Hamilton*, p. 352.

If anyone was at the centre of the network that made up the new republic's financial elite, it was Robert Morris. His influence and connections, which both reflected and contributed to his personal credit, were the very reasons he was appointed Secretary of Finance. Leaving that office at the end of 1784, Morris returned to private business but remained at the head of the Philadelphia commercial community. When George Washington wanted to interest America's moneyed men in his Potomac Canal company, it was to Morris that he naturally turned. As soon as the process of establishing the company and acquiring charters from the Virginia and Maryland legislatures was complete, Washington wrote to Morris outlining the scheme. 'Were I disposed to encounter present inconvenience for a future income,' wrote the general, 'I would hazard all the money I could raise upon the navigation of the river. Or had I inclination and talents to enter into the commercial line, I have no idea of a better opening than the one I have descanted upon to make a fortune.'³⁹

There were 'no charms' to such a hazard for Washington personally, he told Morris.⁴⁰ Although the general did stand to benefit directly from the increased value of his own property in the west and on the Potomac, as he had earlier admitted to Jefferson, Washington's relationship to the circuits of national finance was less as an investor than as a promoter and conduit.⁴¹ His own capital, like that of most southern gentlemen, remained tied up in his estate and slaves. Like Hamilton, who held only one share in the Bank of New York—which qualified him to serve as a director—Washington avoided financial risks and sought to preserve his status as a disinterested statesman.⁴² But as his letter to Morris shows, that strategy by no means prevented him from playing a part in the

³⁹ George Washington to Robert Morris, 1 February 1785, *PGW*, vol. 2, p. 315.

⁴⁰ *Ibid.*

⁴¹ See Washington to Jefferson, 29 March 1784, *PGW*, vol. 1, p. 238.

⁴² In this regard see Wood, "Interests and Disinterestedness".

capitalist development of America's western lands. Just as Hamilton's was in New York, Washington's primary concern was the distribution of power in society. He knew that capital was one form of power, but that it could not operate independently of discourse, law, and politics.

From Mount Vernon, Washington had used his influence to establish the Potomac company in two states, draw in public and private investment, and begin work on the canal. But this was only one part of a much larger project. Washington involved himself in the politics of westward expansion not simply to encourage a rise in land values or the growth of internal markets. This, he was sure, would happen anyway. Nor did he simply want to see Congress establish a fund from which to pay off the national debt. Washington's policy advice delayed more than it advanced those goals. Rather, what was most important to the general was that the vast field of potential in the west—potential value, potential citizens, and potential political and economic communities—was managed and controlled so as to strengthen rather than undermine social order in the new republic.

By the 15th of March 1785, news had arrived at Mount Vernon of the conclusion of a treaty with the 'western Indians,' to follow that with the Iroquois at Fort Stanwix the previous year.⁴³ These two treaties, combined with the cession of Virginia's western claims to Congress, opened the way still further to the sale and settlement of the western lands. Following an initial Land Ordinance drawn up by Thomas Jefferson and passed in April 1784, a new committee was formed that March to consider a revised ordinance which would establish a mechanism for survey and sale of the land. William Grayson of Virginia and Hugh Williamson of North Carolina both sat on this 1785 committee, and

⁴³ Washington to Richard Henry Lee, 15 March 1785, *PGW*, vol. 2, p. 437.

both were correspondents of Washington. So too, of course, was Richard Henry Lee, the president of Congress. Through his letters to these men, Washington made his feelings known about the future course of western settlement. His political influence, not only in Virginia but in bordering states and beyond, ensured that he was listened to.

There were several elements to Washington's preferred western land policy. He advocated 'compact and progressive seating,' that is, settlement closest to the existing edge of settlement first, with neighbours living relatively close to one another and without any empty plots in between. Such a pattern would 'give strength to the Union, admit of law and good government, and federal aids at an early period,' he told Hugh Williamson. Communication between settlers themselves and between the frontier and the east would be facilitated by proximity, communication (or surveillance) being necessary for 'law and good government.' If land was allowed to be purchased across a larger area, instead of restricted to plots bordering existing settlement, this would 'open up a large field to land jobbers and speculators, who are prowling about like wolves in every shape.'⁴⁴ The temptation to sell large plots of land to speculators at cheap prices, transferring to them both the trouble and profit of selling individual plots to settlers, should be resisted. Not only would it bring in less money to Congress in the long run, but it would interfere with orderly and controlled settlement.

When it came to organising the sales themselves, Washington sought first and foremost to avoid a secondary market that would be open to speculation and would put power into the hands of middle-men. He advocated holding sales in a single location, either as close as possible to the land itself or 'at the seat of Congress,' namely New York. Actual settlers, he believed, would be the most likely purchasers in sales held close to the

⁴⁴ Washington to Hugh Williamson, 15 March 1785, *ibid.*, p. 440.

land; and if eastern sales were also necessary, then New York would be a far preferable site than the small western towns of each state: in New York, the moneyed interest would control the market.⁴⁵ Yet the limit of Washington's influence showed itself at this point, for the representatives at Congress ultimately represented their own states, and in the ordinance of the 20th of May they stipulated land sales in each of them. 'It was absolutely necessary to accede to the measure,' Grayson told the general apologetically, 'before we could advance a single step.'⁴⁶ From Washington's perspective, it was another example of local jealousy and narrow views undermining sound policy.

The Attack on the Bank, 1784-86

Whether in land or finance, small networks largely controlled access to economic power and worked through the 1780s to keep the circle closed. In 1784, after its Congressionally mandated monopoly expired, the Bank of North America found itself unable to restrict access entirely. One way to enter the charmed circle of Philadelphia banking was to buy Bank of North America stock, and this simple method was so popular that the market price of the stock increased to above the initial offering's \$400 per share. The bank's directors took the opportunity to draw in more capital by issuing a further thousand shares at \$500 each. But rather than purchase this stock, a coalition of investors took the alternative path of establishing their own institution, the Bank of Pennsylvania. They even drew their specie from the Bank of North America itself, by cashing in its notes. Yet before things went too far, the directors of Morris' bank reduced the price of the new stock back to \$400, and brought their competitors into the fold.⁴⁷ This brief struggle expanded the bank's shareholder base, but it protected the monopolistic position of the

⁴⁵ Washington to William Grayson, 25 April 1785, *ibid.*, pp. 519-20.

⁴⁶ Grayson to Washington, c.4-8 May 1785, *ibid.*, p. 536.

⁴⁷ See Doerflinger, *Vigorous Spirit of Enterprise*, pp. 299-300.

original bank, and kept it restricted to the leaders of Philadelphia's merchant community.

Elections to Pennsylvania's assembly later that year brought to the capital a new group of legislators, united in their opposition to the bank and its control over the state's economy. They were led by a Westmoreland county landowner and militia captain, William Findley, and they represented the interests of rural landowners and the agrarian inland economy. Among those interests, access to good terms of credit was central. Because agricultural production cycles involved year by year uncertainty, farmers required flexible lines of credit to tide over a bad year and make the most of a good one. Moreover, of course, they usually had nothing to secure their loans but the land itself. Morris' bank sought to minimise its holdings in land in favour of specie and securities, and it also stipulated short and strict terms on its loans. From February 1785, petitions reached Philadelphia from rural Pennsylvanians claiming it was 'impossible' for them to borrow money from the bank, and they expected their representatives in the legislature to do something about it.⁴⁸

Morris and his friends, the petitioners alleged, were using the bank 'to acquire influence in our public councils, and an ascendancy in the government, subversive of the dearest rights of the people.'⁴⁹ Moreover, they were protected and supported in these endeavours by a charter of the Pennsylvania legislature itself. The agrarian legislative programme led by Findley was therefore twofold: to revoke the charter of the Bank of North America, and to establish a state land bank that would provide access to credit on the security of real estate. While the merchant bankers had control over the state's economy, they did not have the 'ascendancy in government' their opponents feared. Pennsylvania's powerful unicameral legislature, created by the revolutionary constitution

⁴⁸ *Pennsylvania Evening Herald*, 23 February 1785, quoted in Bouton, *Taming Democracy*, p. 111.

⁴⁹ *Ibid.*

of 1776, put political power in the hands of electors—all taxpaying men—and their representatives. By securing their economic power through the public act of incorporation, the bank's proprietors risked subjecting themselves to popular legislative sovereignty. Like the battle over confiscation, the struggle that ensued over the bank pitted public, political power against private, economic power, with the notions of law, property, and contract at its centre.

In March, 1785, the assembly passed a new emission of paper money and established a committee to determine the future of the bank charter. The committee's report was damning. The bank, it said, was incompatible with 'that equality which ought to exist between the individuals of a republic.' It was an 'engine of enormous power' that would ultimately dictate to the legislature 'what laws to pass and what to forbear.' It drew specie from the countryside and paid it out in dividends to shareholders, including foreigners. Before long, the committee report concluded, the operation of the bank would see 'the good people of America reduced once more into the state of subordination and dependence upon some one or other of the European powers.'⁵⁰ However seriously Pennsylvanians took the threat of Europe's empires, they knew the bank's control of capital endangered their republican democracy. On the 4th of April, the bill to repeal the charter passed its second reading, ready to be enacted in the next legislative session that September.⁵¹

During this five month period of grace, the bank's directors began a campaign to prevent the revocation taking place. Yet the limits to their concessions only demonstrated how fundamentally the bank's policy contradicted the aims of the legislators. While the

⁵⁰ *Pennsylvania Gazette*, 30 March 1785, quoted in Janet Wilson, "The Bank of North America and Pennsylvania Politics, 1781-1787," *Pennsylvania Magazine of History and Biography*, vol. 66 (1942), p. 8.

⁵¹ *Ibid.*, p. 9. This delay in enactment was a provision of the 1776 constitution.

directors agreed to start accepting the state's paper money in payment and deposits, it did so with the caveat that paper accounts were to be kept strictly separate from the rest. Potentially volatile state currency could not be allowed to contaminate the bank's general reserves. While the leading investors, including the bank's president Thomas Willing, made transactions and paid taxes in state paper, they were careful never to allow large stocks of it to build up in their own or the bank's accounts. As Robert Morris pointed out the following year, all the paper money issued by the state had passed through the bank's hands in the intervening time, except the money created for the use of the new land bank.⁵² But for all that, the bank continued to control the state's specie and its flow of credit.

An alternative defensive strategy was to appeal to Congress, which had given the bank its original charter and much of its initial capital. At the board's behest, Willing wrote to James Wilson, a lawyer and shareholder, asking him to write to Congress in the bank's defence. 'When this political child of theirs has once breathed its last,' Willing wrote, 'they have no Promethean power to call another such into existence. Confidence, once lost, is not often, if ever, to be regained.' In terms quite similar to Aedanus Burke's appeal against confiscation in South Carolina, Willing decried the legislature's assault on the sanctity of property. 'This is perhaps the only instance when a politic body has been annihilated and private interest and property violated, without any the least charge of abuse of power,' and without a trial 'before a jury of twelve men.' The assembly's act was a violation of both the state constitution and the Articles of Confederation, Willing charged. Moreover, it was 'a stab, a mortal stab... to the honour of Congress, and the

⁵² Ibid., p. 10; Bouton, *Taming Democracy*, p. 136; of course, what was deposited in the bank did not long stay there: in fact only 14 shillings in paper was still in its possession.

credit of all America.⁵³

'I have devoted a large portion of my time, and... a very precious part of it too, to the service of my country in the establishment of the bank,' Willing told Wilson. 'It is my pride, it is my greatest glory that it has thus far succeeded... I conjure you by every tie you have to an institution of which you were an early protector, by every tie you have to the country you live in, to exert every nerve in its defence.'⁵⁴ But that summer, Congress could hardly raise a quorum to pass the Land Ordinance; its power over the state legislatures was questionable at best. What Wilson wrote in answer to Willing's plea was not a petition to them alone. Nor did it address the rural Pennsylvanians who opposed the bank. As Willing put it to his son-in-law and business partner William Bingham, 'other fugitive and weekly pieces will directly follow, to suit the people at large.'⁵⁵ Wilson's 'very ingenious pamphlet' was intended for Congress and the assembly, but still more, it was designed to appeal to the legal and political reasoning of the emerging class of gentlemen.

Wilson divided his *Considerations on the Bank of North America* into two main parts. In the first, he offered a legal argument to prove that, regardless of the actions of the Pennsylvania legislature, the charter granted by Congress would remain both valid and sufficient to protect the bank as a corporation. To do so required an ingenious parsing of the power and jurisdiction of Congress as established by the Declaration of Independence and the Articles of Confederation. 'The United States,' Wilson argued, 'have *general* rights, *general* powers, and *general* obligations, not derived from *any* particular states, nor from *all* the particular states, taken *separately*; but resulting from the union of the whole.' In other words, Congress had powers that had not been specifically granted to it by the states, because they could not exist in the individual states, but were created by the

⁵³ Directors' Minutes, 12 May 1785, quoted in *ibid.*, pp. 10-11.

⁵⁴ *Ibid.*

⁵⁵ Thomas Willing to William Bingham, 29 August 1785, quoted in *ibid.*, p. 12.

act of union itself. The two examples Wilson gave were Congress's power over 'the purchase, the sale, and the government' of western lands, and its power over 'an institution for circulating paper, and establishing its credit over the whole United States,' the national bank.⁵⁶

Citing the Land Ordinance of April 1784, Wilson explicitly linked the bank to the control of America's national territory: 'any argument... against the power of Congress to grant a charter to the Bank of North America' could be applied 'with equal strength and fitness' against its power to create new states in the west.⁵⁷ This analogy was central to his argument that the Congressional charter was sufficient without that of Pennsylvania. But the shadow of the western land also fell over the rest of Wilson's pamphlet, in two ways. Quoting at length from the contemporary Scottish economists Adam Smith and James Steuart, Wilson noted that 'the improvement of that country,' Scotland, was 'entirely owing' to its banks. Both credit and circulating currency 'is of particular importance in young and flourishing countries,' he declared. 'When we view the extent and situation of the United States,' the need for an institution like the bank became clear.⁵⁸ At the same time, when Wilson referred to the 'anticipation of future revenue' by which public credit could be established, through the bank, it was the west that provided the most obvious source.⁵⁹

'The judicious operations of banking,' Adam Smith had written, enable a country not only to augment its capital but to render 'a greater part of that capital active and productive,' and 'increase the industry of the country.' If 'gold and silver money,' specie, was a metaphorical highway by which goods were circulated, banking created 'a sort of

⁵⁶ James Wilson, *Considerations on the Bank of North America* (Philadelphia: Hall & Sellers, 1785), Evans #19388, p. 10.

⁵⁷ *Ibid.*, p. 13.

⁵⁸ *Ibid.*, pp. 20-21.

⁵⁹ *Ibid.*, p. 25.

wagon-way through the air,' freeing specie from circulation so that it could be used in investment.⁶⁰ Scottish-born himself, Wilson used the eighteenth-century economic development of Scotland as a model for future American growth, based on the development of underused land through capitalist investment. Yet this vision lay somewhere in the future. By revoking the charter, the Pennsylvania assembly would weaken the foundations of credit and confidence on which it was based. 'Those acts of state, which have hitherto been considered as the sure anchors of privilege and property, will become the sport of every varying gust of politics, and will float wildly backwards and forwards on the irregular and impetuous tides of party and faction.'⁶¹ Paradoxically, business required the security of government protection through incorporation, but freedom from government intervention.

Mediating this relationship between government and business, public and private power, were what Wilson called the 'rules of justice, of faith, and of honor.' These rules were distinct from 'interest,' and they protected property and institutions like the bank from being 'at the mercy of the community.'⁶² Having established the Bank of North America as a corporation 'for ever hereafter,' the Pennsylvania legislature had bound itself to 'the rules and maxims by which compacts are governed.' They had made a contract with the bank's proprietors, which could not legally or justly be broken. It was not the bank's existence as a corporation that was at stake, according to Wilson, but the 'credit of the United States' itself, the 'confidence' and 'sentiments of the citizens of the United States and of foreigners.' Such confidence broken, 'the result of the conclusion will be that the United States does not deserve, or that they will not receive, support in their system of

⁶⁰ Ibid., p. 20.

⁶¹ Ibid., p. 17.

⁶² Ibid., pp. 16-17.

finance,' neither foreign loans nor investment.⁶³ There was no economic future for America, Wilson implied, once the authority of contract had been undermined.

Findley and his party were not convinced. When the assembly reconvened in September, there was a brief hearing in which Wilson spoke in favour of the bank, and the attorney-general of the state, Jonathan Sergeant, spoke against. On the 13th, the charter was finally revoked. This was what the bank's directors and investors must have expected. Indeed, the price of bank stock had already fallen below par over the preceding months. Nonetheless, the final blow set off a further chain of events as investors worked to ensure the security of their deposits. Without corporate status, shareholders feared they would be personally liable for the bank's debts. Evidently not everyone was convinced by Wilson's argument that the Congressional charter would suffice. However conservative the directors had been about their lending before, they now contracted activity further still. Moreover, their activities came under increased scrutiny from anxious investors. All things considered, the loss of public protection posed a serious danger to the bank's profitability and to the economic power of its proprietors and directors.

'The step lately taken by the legislature of Pennsylvania,' wrote a group of New York investors in January, 1786, 'has given rise to questions of a delicate and important nature.' Among the authors was Alexander Hamilton, acting as the attorney of his brother-in-law John Barker Church. They were writing instructions for Jeremiah Wadsworth, a Connecticut merchant who was also a partner in the Bank of New York, and who was travelling south to attend the next shareholders' meeting of Morris' bank. Wadsworth's mission was, first, to determine whether the bank could be 'continued with safety and advantage,' a prospect which the New Yorkers deemed 'inseparable from its existence as a

⁶³ Ibid., pp. 8, 17-19.

corporation... [I]f this cannot be maintained all hopes of security or utility in our apprehension fail.' Both the legal status and financial activities of the bank had to be examined. 'We cannot help feeling great anxiety to know what our true situation is; and to extricate ourselves from one (if such it is) in which we might hazard much more than we intended.'⁶⁴

Of the activities that drew the investors' anxiety, the most voluminous and therefore the most dangerous was the extensive speculation in western lands pursued by James Wilson himself. Without complying with the 'usual forms,' Wilson had drawn \$100,000 from the bank for use in speculation. A number of men acted as guarantors for Wilson's debt, including Robert Morris for \$10,000. Meanwhile John Nixon, a bank director, held mortgages on the land 'for the security of these individuals.' Wilson recounted these details, at Wadsworth's request, to the shareholders.⁶⁵ Nobody spelled it out at the meeting, but the value of Wilson's land was, in the nature of speculation, far from certain: this left his guarantors and the bank with considerable exposure. It was clear that the directors had indeed been guilty of 'partiality' in making loans.⁶⁶ The question for Wadsworth and his fellow New Yorkers was whether the directors were properly representing the interests of shareholders at large. Church, for one, was unconvinced. 'After the unwarrantable lengths they have gone in assisting Wilson,' he told Hamilton, 'I do not think the property can with propriety be confided to their management.'⁶⁷

Nonetheless, the decision of the shareholders' meeting on the 9th of January was that the bank could continue as long as it remained protected as a corporation under

⁶⁴ Pieter Johan Van Berckel, William Edgar, Sampson Fleming, William Denning, and Alexander Hamilton (for John Barker Church) to Jeremiah Wadsworth, 3 January 1786, *PAH*, vol. 3, pp. 643-4. This group included the Dutch representative in America.

⁶⁵ Jeremiah Wadsworth to Alexander Hamilton, 9 January 1786, *ibid.*, pp. 645-6.

⁶⁶ *Ibid.*, p. 646.

⁶⁷ John Barker Church to Hamilton, 5 April 1786, *ibid.*, p. 657.

Pennsylvania law. Without the state charter, the case relied on the Congressional one, which Wilson had called 'the foundation on which [the bank] rested.'⁶⁸ The New York investors demanded that an 'experiment should be made without delay,' to ascertain 'in what light it may be perceived by those laws.'⁶⁹ Wadsworth passed a motion, seconded by Gouverneur Morris, that instructed the bank's directors 'to obtain as speedily as may be a legal decision' on whether the bank was still to be treated as a corporation. If it was not, all present agreed, then the contract between the shareholders and the bank itself would have been broken, and as Robert Morris put it, 'every stock holder might withdraw by right.'⁷⁰ Thus in the early months of 1786, the Bank of North America faced a complete dissolution. However central it had become to the economic machinery of the state and the region, it remained dependent on public, political power.

In Defence of the Bank, 1786

In the year that followed the repeal of the bank's charter, its proprietors orchestrated a campaign to reverse the decision and re-establish public support for the bank. Among its most powerful and perhaps unexpected advocates was the author of *Common Sense* and friend of the radical constitution, Thomas Paine. To judge from the abuse he received at the hands of the bank's opponents, they interpreted Paine's work on its behalf as a betrayal of the radical cause. He was, said assemblyman John Smilie, an 'unprincipled' author who 'hires out his pen for pay.' One poet wrote of Paine, '*Janus* is our own who props a bank, altho' he scorn's a throne; / And, should his breast with just resentment burn, / Would scorn a bank and prop a throne in turn.'⁷¹ Yet Paine's career in the 1780s had been

⁶⁸ Wilson, *Considerations on the Bank of North America*, p. 7.

⁶⁹ Berckel *et al.* to Wadsworth, 3 January 1786, *ibid.*, p. 644.

⁷⁰ Wadsworth to Hamilton, 9 January 1786, *ibid.*, p. 645.

⁷¹ Quoted in John Keane, *Tom Paine: A Political Life* (Bloomsbury: London, 1995), pp. 259, 262

remarkably consistent. He was a paid supporter of Robert Morris' financial programme, an opponent of paper money and legislative fiscal power, and like James Wilson, an advocate of the liberal, contractual understanding of justice.

Paine had even played a personal role in the establishment of the bank itself. He had accompanied John Laurens on a mission to France in the summer of 1781, where the Americans had secured a gift of silver coin that would make up the bulk of the initial capital for Morris' bank.⁷² Paine's contribution to the negotiations was limited, especially with his minimal French, but soon after he returned to America he was enlisted directly by Morris. The financier 'proposed that for the service of the country [Paine] should write and publish such pieces respecting the propriety, necessity and utility of taxation as might be likely to promote the public service of America.'⁷³ In February the following year, Paine made a secret, formal contract to write on behalf of the government in exchange for a salary of \$800 per year.⁷⁴ He did so throughout Morris' period as Superintendent of Finance, promoting the federal impost and the strict support of national and Congressional credit through the prompt payment of taxes.

While Paine's employment by Congress ended with the arrival of peace in 1783, his relationship with its leading characters did not. After witnessing George Washington's triumphal procession through New York he wrote to James Duane, who was yet to be appointed mayor of the city: 'I candidly tell you I am tired of having no home, especially in a country where, everybody will allow, I have deserved one.'⁷⁵ He spent much of the next few years nagging and importuning his powerful contacts for funds, an estate, or a pension. 'If I do but get enough to carry me decently through the world,' he wrote to

⁷² Ibid., pp. 212-3.

⁷³ Diary of Robert Morris, 18 September 1781, in Ferguson, *Papers of Robert Morris*, p. 290.

⁷⁴ Keane, *Tom Paine*, pp. 217-8.

⁷⁵ Thomas Paine to James Duane, 3 December 1783, quoted in *ibid.*, p. 248.

Washington in April 1784, 'I neither wish nor care for more.'⁷⁶ By the autumn of 1785, when the bank charter was repealed, Paine had secured \$3,000 from Congress, and an estate in New Rochelle, New York; he was also voted \$500 by the Pennsylvania assembly just a few days after the repeal bill passed its second reading. At the highpoint of the bank debate, he had 'between eight and nine hundred pounds' on deposit there.⁷⁷

Paine entered publicly into the question of the bank charter in December 1785, when the *Pennsylvania Packet* published a letter he had written to a Congressman, Thomas Fitzsimmons, soon after the repeal passed. Over the winter, he composed a substantial meditation which entered him fully into the political contest in Pennsylvania. This work was more than an occasional pamphlet. Titled *Dissertations on Government, the Affairs of the Bank, and Paper Money*, it was a substantial rendition of Paine's political economy. The longest, central section was dedicated to a painstaking dissection of the assembly's position on the bank. 'I have now gone through, line by line, every objection against the bank' put forward by the legislative committee in March, he wrote, 'and a more irrational, inconsistent, contradictory report will scarcely be found on the journals of any legislature in America.'⁷⁸ But this critique was buttressed, at its beginning and end, by discussions of the nature of republican government and finance. As Paine recognised, the question of the bank was deeply linked to a much larger debate that had been emerging through the middle of the decade.

As if to underscore the gravity of its subject, the pamphlet began with a definition of sovereignty, 'a power over which there is no control, and which controls all others.' Its

⁷⁶ Paine to Washington, 28 April 1784, *PGW*, vol. 1, p. 319; in the same letter, he offered reassuringly positive reflections on the Society of the Cincinnati, the first general meeting of which Washington was about to attend.

⁷⁷ "On the Advantages of a Public Bank," *Pennsylvania Packet*, 20 June 1786, quoted in Keane, *Tom Paine*, p. 260.

⁷⁸ [Thomas Paine], *Dissertations on Government, the Affairs of the Bank, and Paper Money* (Cist: Philadelphia, 1786), Evans #19880, pp. 39, 42.

first fifteen pages describe a theory of sovereignty and government derived from what Paine took to be the crucial distinction between 'despotic' states and republics. The location of sovereignty in a republic like America was 'where nature placed it, in the people.' This difference in location effectively created a difference in kind. 'A despotic government knows no principle but will,' wrote Paine; by contrast, the citizens of a republic 'renounce not only the despotic form, but the despotic principle, as well of governing as of being governed by mere will and power, and substitute in its place a government of justice.' If ever 'the administration of a republic' was to deviate from 'certain fundamental principles of right and justice... there is a kind of stepping out of the republican principle, and an approach towards the despotic one.'⁷⁹ Republican government, in other words, was defined by its adherence to certain rules of justice.

These rules were not to be defined by the will of the majority, even the majority of enfranchised citizens. Rather, republican citizens renounced the power to do anything 'not right in itself, [merely] because a majority of them may have strength or numbers sufficient to accomplish it.' This social 'compact' was the 'foundation of the republic,' which Paine framed specifically in opposition to any redistributive concept of justice. 'The security to the rich and the consolation to the poor is, that what each man has is his own,' secure from 'the despotism of numbers.' Likewise, 'the people in their original compact of equal justice or first principles of a republic, renounced, as despotic, detestable and unjust, the assuming a right of breaking and violating their engagements, contracts and compacts.' Whereas despots could declare right wrong and wrong right, 'the sovereignty in a republic is exercised to keep right and wrong in their proper and distinct places, and never to suffer the one to usurp the place of the other.' In this way it would

⁷⁹ Ibid., pp.1-3, 5-6.

remain 'a sovereignty of justice in contradistinction to a sovereignty of will.'⁸⁰

By constructing this dichotomy between despotic and republican sovereignty, Paine argued implicitly that there was only one viable option: the kind of government he advocated. By drawing this point out over the course of eight pages at the beginning of his pamphlet, Paine sought a quite different and much broader audience than James Wilson had done. Whereas Wilson addressed a political and financial elite that took the need to secure property against majoritarian tyranny for granted, Paine's step by step explanation was addressed to the ordinary constituents of the Pennsylvania legislature, those who had voted for radical representatives in the last two elections. Nonetheless, Paine was making precisely the same point as Wilson: legitimate power in a republic was limited by 'rules of justice, of faith, and of honour.' Revolutionary committees had given themselves powers 'suited to the spur and exigency of the moment,' Paine reminded his readers. But now it was time to stop thinking like 'committee-men' and start thinking like 'legislators,' to govern not only 'by the rule of the constitution' but also by 'the principles of the republic.'⁸¹

One group of Pennsylvanians to whom Paine naturally appealed was the urban artisans of Philadelphia itself. The anti-bank radicals in the assembly proposed a replacement that favoured their rural constituents, a state land bank that would provide loans secured by real estate. Only landowners would benefit; others might even lose what credit they could presently find. At the same time, the slowdown in commercial activity brought on by the bank crisis damaged the city's economy.⁸² Paine had always been influential among urban mechanics, and he expected them to support his position. But he

⁸⁰ Ibid., pp. 6-8.

⁸¹ Ibid., p. 9.

⁸² Eric Foner, *Tom Paine and Revolutionary America* (Oxford University Press: New York, 2005, revised ed.), pp. 195-6.

pitched his pamphlet to appeal to the interests of farmers as well. The bank, he argued, provided the means of pooling funds among merchants so that all could participate in the 'market for country produce.' Commercial and agricultural interests were equally supported by the bank, according to Paine. 'The more money the merchant has, so much the better for the farmer, who has produce to sell: and the richer the farmer is, so much the better for the merchant, when he comes to his store.'⁸³

Paine, like Wilson, held up the prospect of future prosperity imperilled by the unjust actions of the assembly. Even such 'great improvements' as 'inland navigation, building bridges, [and] opening roads of communication through the state' relied on the government's ability to secure credit through public confidence. Yet 'the faith of the government, under the present mode of conducting it, cannot be relied upon,' he concluded.⁸⁴ Westward economic development, predicated on extending inland communications, was tied up with what Wilson had called 'the rules and maxims by which compacts are governed.' Paine repeated Wilson's argument that different kinds of legislative acts had to be treated differently. The charter of incorporation 'is of the nature of a deed or contract' between the republic and the bank, 'signed, sealed, and delivered; and subject to the same general laws and principles as all other deeds and contracts are.' It could not be retroactively undone. 'That this is justice,' Paine declared, 'that it is the true principle of republican government, no man will be so hardy as to deny.'⁸⁵

At the same time as Paine's, another substantial essay appeared, defending the cause of the bank. The author was the elderly Philadelphia merchant, Pelatiah Webster, a cousin of Noah's and a fellow Yale graduate once ordained to the ministry in Massachusetts. The elder Webster had published a series of articles since the beginning of the revolutionary

⁸³ Thomas Paine, *Dissertations on Government*, pp. 36, 38.

⁸⁴ *Ibid.*, p. 53.

⁸⁵ *Ibid.*, pp. 10, 14.

war in which he discussed financial and commercial matters. A supporter of Robert Morris and an advocate of centralising the fiscal powers of the confederation, Webster had published his most famous work, *A Dissertation on the Political Union and Constitution of the Thirteen United States*, in 1783. James Madison would later cite this essay as providing the outlines of the federal constitution. In his 1786 *Essay on Credit*, Webster followed James Wilson in asserting the authority of Congress and its charter of incorporation. Furthermore, the repeal itself was a blow to 'mutual confidence... that band of union, which holds the states together.' By withdrawing its 'public and vigorous support' from the bank, Pennsylvania's assembly would 'weaken the union' and 'lessen its power of operation.'⁸⁶

Where Paine began with the question of sovereignty, Webster opened on another general principle: 'Credit,' he wrote, 'is the confidence which mankind place in the virtue and good character of its object... in a commercial sense, [it] is the confidence which people place in a man's integrity and punctuality in fulfilling his contracts and performing his engagements.'⁸⁷ Speaking from the perspective of Philadelphia's merchant community, Webster set out to explain the role of credit in society, and of banking in particular. He gave a brief account of the history of banking in Europe before going on to detail the operations of the Bank of North America, and its advantages to the people at large. This explanation was designed both to dispel public misconceptions about the bank, and to impress readers with its importance. 'The force and energy of credit,' Webster asserted, 'perfectly well established and permanent, is vast beyond conception.' Harnessed by an institution that was at once private and 'in some sense' public, such force and energy had

⁸⁶ Pelatiah Webster, "An Essay on Credit," 10 February 1786, in Webster, *Political Essays*, p. 455.

⁸⁷ Ibid., p. 427.

'extensive utility and public importance.'⁸⁸

If a bank was so useful to society, why not operate one directly through the government, under public ownership? Webster answered this question in two ways: first, because merchants were the best people to direct the operations of a bank, being the most 'acquainted with its nature and principles;' second, to prevent it from becoming an instrument of 'tyranny in the government.' A privately owned bank, by contrast, would be 'a check and restraint on government, when it becomes oppressive.' The bank's proprietors, 'the rich men of the state,' would oppose 'needless popular clamors,' for Webster declared, 'the rich have an interest in their poor fellow-citizens, and (as some men use their wives) however tyrannical they may be *themselves*, they will not suffer *any body else* to tyrannize over them.'⁸⁹ Just as husbands ruled over their wives, according to Webster's clerical training, so the rich through the agency of the bank would protect Pennsylvania from the tyranny of the legislative majority. 'The influence of merchants is the safest of any that can affect a government,' he noted.⁹⁰

Such sentiments can have had little influence on the farmers and artisans addressed by Paine. As in his earlier writings on political economy, Webster made his appeal upwards, to an imagined set of detached and relatively uninformed statesmen. In other words, his rhetorical strategy did not register the revolutionary change in the location of sovereignty that Paine's did; the older man's writing reflected the pattern of colonial politics under which he had spent most of his career. He showed an awareness of the conditions of contemporary debate only while ironically signalling his disapproval. '*Public faith*,' he wrote, 'is an old threadbare topic of argument, and is as much *out of fashion* as going to *church* or reading the *bible*, and has been dinned in the ears of some

⁸⁸ Ibid., pp. 435, 438.

⁸⁹ Ibid., p. 439.

⁹⁰ Ibid., p. 443.

folks, till, like the doctrine of repentance to sinners, it rather nauseates than convicts.'⁹¹

Like New England ministers Enos Hitchcock and Zabdiel Adams, Webster mistrusted revolutionary upheaval. Like them, he associated the practices and values of Christianity with those of the liberal social order characterised by his broad notion of credit.

Webster's social and political vision was founded on 'the sacred force of contracts.' In this, if not in his explicit invocation of religion, he aligned perfectly with Wilson and Paine. Sensing his own alienation, Webster feared his arguments would do more to 'disgust' than to 'persuade' the post-revolutionary public.⁹² It was clear to him that not all Pennsylvanians, not all Americans, shared his commitment to the concept of public faith or to the primacy of contractual justice. Not broad consensus but precisely the opposite was what led these doctrines to be 'dinned into the ears of some folks,' by his own essays and, in a different form, by the likes of Thomas Paine. Webster no doubt had a confused and anachronistic sense of his own audience, but he also shrewdly identified the limits of his rhetoric. He bluntly and impolitically aligned himself with 'the rich men of the state,' with the mercantile influence, and therefore with the Bank of North America. The public good would be best served, he concluded, by committing the government's support to their interests.

However different were their relationships to the bank, the foundations of their arguments, and the social outcomes they envisioned, Wilson, Paine, and Webster's thought overlapped in one crucial respect. They each saw the conflict over the bank charter as a battle between legislative, majoritarian sovereignty and what they believed to be a deeper republican principle, the rule of law and the 'sacred force of contracts.' Especially in Pennsylvania, where the constitution of 1776 had deliberately vested so

⁹¹ Ibid., p. 459.

⁹² Ibid.

much power in the unicameral and annually elected legislature, this was a battle over the meaning and outcome of the revolution itself. Addressing it required defining fundamental concepts like sovereignty and credit; it required each author not merely to assert the contest between majoritarian and contractarian justice, but to argue the merits of the latter. In doing so they helped to formulate more explicitly than ever before the lineaments of a general political vision. This was a vision with diverse appeal, but one which unmistakably favoured the private power of property and contract over the public power of popular legislatures.

Liberal Principles and Political Representation

In the months following the publication of Paine and Webster's pamphlets, petitions organised by friends of the bank began to reach the assembly in Philadelphia, 'praying that the charter of the bank of North America may be revived, in such manner that in future its existence be determined by the laws of the land, administered in the courts of justice, and not otherwise.'⁹³ This language was ambivalent enough to be constructed either as an implicit censure of the assembly for illegally passing the repeal, or as an admission that the original charter had failed to set the bank on a sure enough footing. Either way, it pressed the case that the courts, not the legislature, and therefore legal principles rather than popular politics, should govern the bank's fate in future. Thomas Willing published a note of thanks 'for the honorable and voluntary aid thus publicly given by [his] fellow-citizens.'⁹⁴ All this led up to an assembly debate held over several days towards the end of March, published the same year by the young Irish-born journalist Mathew Carey.

'No subject of debate that has been agitated before the legislature of Pennsylvania

⁹³ Quoted in Wilson, "Bank of North America," p. 16.

⁹⁴ *Pennsylvania Gazette*, 15 March 1786, quoted *ibid*.

ever drew such crowded audiences as attended the house during the four days the debate lasted,' reported Thomas Paine.⁹⁵ Yet the arguments put forward had all been rehearsed many times before, first in the anti-bank petitions and in the report of the original legislative committee, then in Wilson's counterblast, in the debate surrounding the final passage of the repeal act, and in the letters, pamphlets, and petitions on both sides that had continued to flow since that decision was made in September 1785. The bank's opponents pointed to its tendency to concentrate power and wealth, and argued that repealing the charter did not interfere with property because the proprietors could continue without the protection of incorporation. Robert Morris gave a point by point response to the specific charges against the bank, much as Webster's pamphlet had done, and denied the bank's political influence. Indeed, he pointed out in frustration, 'there are certain gentlemen from the country, who possess a kind of magic' evidently far more influential than his own 'reasoning.'⁹⁶

Morris turned out to be correct. When the debate was over and a vote called, the motion in favour of the bank was defeated by a vote of forty-one to twenty-eight. The same radical party that had first been elected in 1784 still controlled the majority in the assembly. But the publicity campaign mounted by the supporters of the bank since the previous September had yet to have its effect at the polls. The new election of 1786 presented the opportunity for a change of legislators and a corresponding change of fortunes for the bank. As the newspaper war grew more and more heated through the summer, with publicists on each side accusing the other of corruption and ulterior motives, Willing took pains to reassure his investors, including the New York group who

⁹⁵ Pennsylvania Gazette, 5 April 1786, quoted *ibid.*, p. 17.

⁹⁶ Mathew Carey, *Debates and Proceedings of the General Assembly on Pennsylvania, on the memorials praying a repeal or suspension of the law annulling the charter of the bank* (Carey & Co.: Philadelphia, 1786), Evans #19884, p. 53.

had sent Jeremiah Wadsworth to the shareholders' meeting that January, that the bank was 'going on with our business, having experienced no diminution of confidence among the trading or country interest.'⁹⁷ This was not altogether true, but then, it was intended as a self-fulfilling prophecy.

When the new legislators arrived in Philadelphia after the autumn election, the sanguine expectations of the bank's supporters seemed justified. Seven of their number did not return to their seats, while fully twenty-four of the forty-two radicals had been defeated: not counting the new members, the pro-bank party now had a majority of six.⁹⁸ Meanwhile, artisans in the city broke with the radical slate, reflecting Paine's split with his fellow Constitutionalists—supporters of the 1776 state constitution. Rural assemblymen too, if they came to the city without strong radical commitments, were easy prey for pro-bank lobbyists. William Findley's radical party, which had controlled the assembly since 1784 and had used that time to push through the repeal of the bank's charter, had proved a disappointment to many constituents. Voter turnout at the 1786 election was poor.⁹⁹ Benjamin Franklin, a figure of enormous influence who was not only a Constitutionalist but also, like Paine, a friend of Robert Morris and the bank, had returned to the state and taken the post of President of the Executive Council. The stage was set for a reversal of political fortunes.

The struggle was larger than the bank alone, of course. For poor and western Pennsylvanians the key electoral issue in 1786 was the funding of war debt and the arrangements surrounding land sales. Radicals proposed to fund debt certificates only at their maximum market value, rather than their face value, a solution that would

⁹⁷ Thomas Willing to P.J. Van Berckel, William Edgar, John Barker Church, and Sampson Fleming, 13 June 1786, quoted in Wilson, "Bank of North America," p. 26.

⁹⁸ Ibid.

⁹⁹ Bouton, *Taming Democracy*, p. 143.

drastically cut state liability and therefore taxes, but would deprive speculators in certificates of their profits. This was not only a potential blow to commercial speculators and their creditors. It also went against the spirit of contractual justice. Certificates were contracts with the state, and while they could be transferred among holders, they had to be honoured as a matter of public faith. Radicals also proposed that the same debt certificates should be accepted as payment for land claims against the state. Ironically, this measure would have given farmers exactly the advantage that speculators sought for themselves: they could purchase deeds for their land at the price of certificates rather than cash, a saving of between 85 and 94 cents on the dollar at contemporary market rates.

In the late autumn of 1786, representatives began to arrive in Philadelphia who had won their seats on the back of these proposals, known since earlier that year as 'the Plan'.¹⁰⁰ Among them was a lawyer, Hugh Henry Brackenridge, elected for Westmoreland County alongside William Findley himself. 'There are local interests of this western country to which it is necessary that particular attention be paid,' he had written in the new *Pittsburgh Gazette*. In his appeal to electors, he declared that the law for buying land 'by certificates... ought to be strongly urged at every session until it is gained,' and that settlers with insecure claims should be given greater rights to claim the legal title to the land they lived on.¹⁰¹ Brackenridge had an ambivalent position on the bank and its opponents, expressed in a pseudonymous letter to the *Gazette*. Westerners' interests were being ignored, he wrote, and 'land jobbers are running away with our property,' while 'members from our own county' were 'jankling about small points... All last year was taken up about the bank,' he wrote. 'The devil take them and the bank both.'¹⁰²

¹⁰⁰ Bouton, *Taming Democracy*, pp. 114-7.

¹⁰¹ *Pittsburgh Gazette*, 9 September 1786, in Claude Milton Newlin ed., *The Life and Writings of Hugh Henry Brackenridge* (Princeton University Press: Princeton, 1932), p. 73.

¹⁰² *Pittsburgh Gazette*, 30 September 1786, *ibid.* p. 75.

Appointed to a variety of legislative committees on western matters, Brackenridge worked to encourage state support for development. He succeeded in having five thousand acres assigned to endow an academy for Pittsburgh, and in establishing a new county with the city as its seat.¹⁰³ But in the matter of using debt certificates to purchase land titles, the cornerstone of his promise to Westmoreland electors, Brackenridge fell short. In fact, he changed his mind, and he was convinced to do so, it was alleged, by Robert Morris himself. When debate began on the bill in December, Brackenridge led the fight against it. 'It would be injurious to the people in the western country,' he argued, because it would raise the price of land. 'It was extremely difficult for people in this part of the country to obtain enough money to [secure titles to] land they had a right to by occupancy.' Allowing the use of certificates would only bring more buyers into the market, and thus 'tend to raise [the price] still higher.'¹⁰⁴

This reasoning did not convince his constituents, nor even his friends. 'History, in my opinion, can scarcely produce a man so eminent for his vanity, so prone to corruption and servility, as well as every other baneful quality proper to dignify a contemptible tool,' said one westerner later. 'On his appearance in this country I considered him as a man of virtue and was his friend... I am not now his enemy, but I despise him, as I have and ever will engines of oppression.'¹⁰⁵ Even before the report of his speech was published in Pittsburgh, word had travelled westward. Brackenridge, wrote a correspondent to the *Gazette*, had 'sold the good will of his country for a dinner of some stockholder's fat beef.'¹⁰⁶ He had been taken under the wing of Robert Morris and his friends, flattered and corrupted into betraying his voters. 'He may expect the people to look upon him with

¹⁰³ Ibid., p.85.

¹⁰⁴ *Pittsburgh Gazette*, 3 February 1787, *ibid.*, p. 77.

¹⁰⁵ Alexander Fowler, quoted in Bouton, *Taming Democracy*, p. 139.

¹⁰⁶ *Pittsburgh Gazette*, 20 January 1787, Newlin, *Hugh Henry Brackenridge*, p. 79.

indignation and treat him with contempt,' wrote Findley. When confronted with his broken promise, Brackenridge had replied 'that the people were all fools.'¹⁰⁷

'If they would let Mr Morris alone, he would make Pennsylvania a great people,' Brackenridge remarked, 'but they will not suffer him to do it.'¹⁰⁸ In fact, it was no longer the voters of Pennsylvania who stood in the way of Morris' ambitions, at least when it came to his central concern, the bank. Even Brackenridge had made no explicit promise either way on that question. As he reminded the inhabitants of Westmoreland county in a lengthy defense of his legislative conduct, 'this case of the certificates is the only one with respect to which I changed my mind.' A vote for the bank was an easy gift for him to give, in exchange for the pro-bank party's support on issues closer to his heart and his district, such as the Pittsburgh Academy. All that remained for the champions of charter repeal were legislative delaying tactics. 'The opposers of the bank, finding their cause as unpopular as it is unjust, are endeavouring to confound what they cannot confute,' wrote Paine in early March, 1787.¹⁰⁹ A week later, the bill for recharter was passed.

Years later, Hugh Henry Brackenridge wrote a novel, *Modern Chivalry*, which reflected on his time in Pennsylvania politics. In this work, modeled on the recently-translated *Don Quixote*, it is not the author's alter-ego Captain John Farrago who is elected to the assembly, but his buffoonish Irish servant, Teague O'Regan. Teague represents not only William Findley, Brackenridge's fellow representative from Westmoreland, but the generality of rural and western assemblymen, with whom Brackenridge professed to find little in common. Captain Farrago is an ironic observer of a society where patterns of deference have been turned upside down by revolution, expansion, and migration. Yet Brackenridge's own time in the capital told a quite different

¹⁰⁷ William Findley, *Pittsburgh Gazette*, 10 February 1787, quoted in *ibid.*, p. 80.

¹⁰⁸ *Ibid.*, p. 78.

¹⁰⁹ Wilson, "Bank of North America," pp. 27-28.

story. Far from being captive to what he saw as the ignorant whims of the electorate, or to the promises he had made them, he conceived his role as a legislator in light of the principles of Webster and Paine. 'A representative is not supposed to be a mere machine,' he wrote, 'a clock wound up, to run for many hours in the same way.'¹¹⁰

Brackenridge represented, both in his novel and in his own conduct, the paradox of representative democracy that post-revolutionary Americans faced more acutely now than they had done under the king's rule. If the real nature of a republic, as James Wilson and Thomas Paine had described it, lay in adherence to certain rules and maxims of justice rather than in the embodiment of a popular will through legislative sovereignty, then the task of the representative was as much to reach an understanding of the true public good than to do the bidding of the voters themselves. Once in Philadelphia, Brackenridge claimed he was '*struck by the power of reason*,' when he changed his mind over the land payment bill.¹¹¹ Through this particular type of reason—economic reason, contractual reason—Robert Morris and his allies separated representatives from the people they represented, and made republican legislative government secure from the threat of popular tyranny. Brackenridge was not the only example, although his prolific writing made him the most famous and instructive. After all, Morris' faction did regain control of the assembly.

This problematic, paradoxical relationship between the represented and their representatives highlights the role of self-fashioning in post-revolutionary American life. What mattered was not only the real and imagined interests of various groups in society, but the way people understood themselves, their place, and their role in the world. Writing like Wilson's, Paine's, and Webster's, and no doubt the conversation of the

¹¹⁰ Pittsburgh Gazette, 21 April 1787, Newlin, *Hugh Henry Brackenridge*, p. 83.

¹¹¹ Pittsburgh Gazette, 21 April 1787, quoted in Bouton, *Taming Democracy*, p. 139.

cultivated politicians and merchants in Philadelphia and elsewhere, encouraged readers and listeners to imaginatively identify with concerns and structures of thought that were far removed from their own and their communities' experiences. Men who thought in this way were described as having more 'enlarged' or 'federal' views. They considered the public good of the United States as a whole, not just of their electoral district; and of future generations, not just the immediate moment. The more abstract these considerations became, the more they demanded recourse to what appeared to be fundamental principles: sovereignty, credit, contract, and reason itself. Discourses surrounding such principles were no mere philosophical exercises. They were the very stuff of politics in the new republic.

'Though doubtless, in such a government, the lowest citizen may become the chief magistrate,' said the wise Captain Farrago in Brackenridge's novel, 'yet it is sufficient to possess the right; not absolutely necessary to exercise it.'¹¹² He was trying to convince a crowd of villagers somewhere in western Pennsylvania not to elect his servant as their assemblyman. 'The sciences, are open to all,' Brackenridge commented, 'but let him only who has taste and genius pursue them.' He did not advocate restricting the government to the rich as such, but like Alexander Hamilton believed that 'genius and virtue are independent of rank and fortune.'¹¹³ Yet in practice they were difficult to distinguish. Mostly, those who had the rank and fortune to travel widely and have diverse business interests, hold positions of command, and influence public affairs, were those who seemed the most possessed of genius and virtue, and also the most likely to present 'enlarged' and 'federal' opinions. The definitions of these concepts were themselves subject to power, and discursive structures set the boundaries within which they could be

¹¹² Hugh Henry Brackenridge, *Modern Chivalry* (Philadelphia, 1792), vol.1, pp.30-31, in Newlin, *Hugh Henry Brackenridge*, p. 118.

¹¹³ *Ibid.*, p. 119.

legitimately disputed.

Throughout the 1780s, the issue of western land remained central to this conceptual struggle. Economic development, territorial expansion, and commercial success were the promises that animated the idea of public good on a broad, national scale. George Washington, who, if anyone did, embodied what it meant to be a federal man in this decade, poured his energy into the projected Potomac canal while simultaneously keeping close watch over the Congressional proceedings relating to land sales. The ordinance that laid down the rules for settlement and sale in the federal territory was passed on the 20th of May 1785. It included a clause, not found in the earlier ordinance of 1784, protecting the private rights of contract. 'I am very glad to find you have passed an ordinance of Congress respecting the sale of the western lands,' Washington wrote to the Virginian representative William Grayson. He only 'regretted' that his hope of restricting the location of sales had been thwarted. 'These things,' he admitted, were 'not to be altered until liberality of sentiment is more universal.'¹¹⁴ Congress, because it represented the interests of each state and not of the nation itself, was prey to the jealousies of localism.

In November 1786, just as Hugh Henry Brackenridge arrived in Philadelphia, Washington wrote a letter to his brother Bushrod on the subject of representation. 'That representatives ought to be the mouth of their constituents, I do not deny,' wrote the general. But when it came to 'national matters,' instructions from constituencies to delegates would only throw them into 'embarrassment.' In such matters 'there must be a yielding of the parts to coalesce the whole.' Whereas 'a county, a district, or even a state might decide on a measure' thought to be beneficial 'in its separate and unconnected state,' that measure 'may be repugnant to the interest of the nation, and eventually to the state

¹¹⁴ George Washington to William Grayson, 22 June 1785, *PGW*, vol. 3, p. 69.

itself' as part of the union. It would be better, in such cases, if the legislators were left 'to judge from the nature of the case and the evidence before them.'¹¹⁵ As he had put it more bluntly the previous month: 'I am no friend to instructions.'¹¹⁶ Representative legislatures could be tools for Washington's idea of good government, but only if representatives themselves were free from the control of the people, free to respond to the call of their own self-fashioning, the call of broader interests and of deeper, more liberal principles.

¹¹⁵ George Washington to Bushrod Washington, 15 November 1786, *PGW*, vol. 4, pp. 368-9.

¹¹⁶ George Washington to Bushrod Washington, 30 September 1786, *ibid.*, p. 278.

5. Against the Tyranny of Anarchy

...unless power is lodged somewhere to control the vice
and folly of the people we shall soon be involved in all the
horrors of anarchy and confusion.¹

Trouble in Western Massachusetts, 1781-86

The rise of William Findley and his radical allies in the Pennsylvania state legislature threatened the state's financial and traditional elite in the mid-1780s. In other states too, legislatures were passing paper money laws, delaying the collection of taxes, and adjusting the enforcement of credit arrangements in favour of debtors.² Yet in Massachusetts, hardly any such provisions were forthcoming. The bicameral General Court, sitting at Boston and subject to stringent property requirements, remained consistently and disproportionately in the hands of commercial and mercantile interests centred in the east. Since the ratification of the state's new constitution in 1780, the governor's mansion had belonged to only one man, the ex-merchant John Hancock. As a president of the Second Continental Congress, the first signer of the Declaration of Independence, and thus a hero of the revolution, Hancock's fame was unsurpassed throughout the state. Unlike George Clinton in New York, Hancock did not use his position to create a strong, interest-based political following.³ Rather, he let his name do

¹ William Ellery to Nathaniel Appleton, 2 October 1786, quoted in Irwin Polishook, *Rhode Island and the Union, 1774-1795* (Northwestern University Press: Evanston, IL, 1969), p. 144.

² This story is best told in Holton, *Unruly Americans*; for Pennsylvania see Terry Bouton, *Taming Democracy*.

³ For Clinton see John Kaminski, *George Clinton: Yeoman Politician of the New Republic* (Madison House: Madison, 1992). For Hancock see Harlow Unger, *John Hancock: Merchant King and American*

the talking, and as for governing, he followed the maxim of *Common Sense*: that government is best which governs least.

By the decade's mid-point, though, pressure was mounting on Hancock from two opposite sides. In the west, there were protests against heavy taxes, lack of money, and seizure of property for debts. At the end of 1776, after the fight against Britain moved southwards, taxation began to increase to pay for the war, and it continued to do so after 1781 as both Congress and the state faced the burden of public debt. Petitions for relief, and public conventions airing grievances against the state government, were commonplace from the beginning of the decade. An excise levied in November, 1781, on wines and spirits, coaches and carriages, and on tea, generated particular anger. 'We esteem it as a matter of great grievance that excise should be paid on any articles of consumption in a free republic,' complained the townsmen of Hadley, in Hampshire, one of the westernmost counties.⁴ Massachusetts had not fought a revolution to pay taxes on tea. Nor did western farmers think it fair that such taxes went into the pockets of eastern merchants, the holders of public securities, or even worse, to pay the salaries of public officials like Governor Hancock.

Heavy taxes, scarce money, and high burdens of debt naturally went along with each other, and conventions like the one in Hadley sought remedies across the board. They called for the state government to prevent suits for debt until the situation improved. Sometimes they went further. In February, 1782, for example, three hundred people gathered in Pittsfield, Berkshire county, to prevent the court of common pleas from sitting.⁵ Samuel Ely, a Yale graduate and former Connecticut preacher, led demonstrations

Patriot (John Wiley & Sons: New York, 2000).

⁴ Quoted in Robert Taylor, *Western Massachusetts in the Revolution* (Brown University Press: Providence, 1954), p. 109.

⁵ *Ibid.*, p. 111.

against the courts in Northampton, Hampshire's county seat, where the state Supreme Court held its circuit session. Ely was sent to jail in Springfield, but in June supporters came to set him free, resulting in a major confrontation between protesters and government troops. It was not only men who escaped the custody of the courts with the help of angry western citizens: in September, a crowd rescued two oxen from the sheriff of Berkshire county. Such disturbances continued throughout the west in 1782 and 1783, with Continental officers' pay joining the list of grievances after the Newburgh conspiracy.⁶

Leaders in the east had little sympathy for the dissatisfied farmers. Samuel Adams, who had served as a commissioner of the General Court to investigate the disturbance in Northampton in 1782, wrote to Noah Webster in 1784 about the state of public affairs, especially army pay and the 'county conventions.' The latter, he supposed, were the project of 'designing men' to impose 'upon credulous though well meaning persons to keep this country, who may be happy if they will, long in a state of discord and animosity.' It was right that the people should be vigilant towards their government. 'Such attention is the people's great security,' Adams wrote. 'But there is decency and respect due to constitutional authority,' and those who opposed 'the weight of government lawfully exercised, must be enemies to our happy revolution and the common liberty.' Elections, not conventions, were the best means of making the legislature accountable to public grievances, 'without the aid of any self-created conventions or societies of men whatever.'⁷

By 'self-created... societies of men,' Adams might have had in mind the Cincinnati, whom he had already been vocal in condemning along with his friend Elbridge Gerry. Yet

⁶ Ibid., pp. 120-22.

⁷ Samuel Adams to Noah Webster, 30 April 1784, in Henry Cushing ed., *The Writings of Samuel Adams* (G.P. Putnam and Sons: New York, 1908), vol. 4, pp. 305-6.

both Gerry and Adams supported the commutation of half pay which was to speed up Congressional payments to the Continental officers, and against which the conventions were protesting. 'States and individual persons are equally bound to fulfil their obligations,' he told Webster. Commutation, as a fulfilment of Congress's contract with the officers, 'fully coincided with my ideas of justice and policy.' As much as Adams hated the Cincinnati, the principles of 'justice and honour' took precedence.⁸ The westerners forming their 'self-created conventions' were making demands of the government that were inconsistent with those principles. As he had written to his cousin John the previous November, 'some men among us... under the guise of watchful patriots, are finding fault with every public measure, with a design to destroy... just confidence in government.'⁹ Adams hated Robert Morris as much as anyone, but he shared Morris' political prioritisation of confidence and credit.¹⁰

Adams' attitude was representative of mercantile interests in Boston and other seaport towns. A Boston town meeting 'unanimously determined to express the sorrow of the town' at the behaviour of the western counties. The General Court made only small gestures towards the accommodation of western demands, especially with regard to credit arrangements. While South Carolina was passing instalment acts to regulate collection of debts, the furthest Massachusetts went was to make them payable in certain neutrally assessed property as well as in specie.¹¹ In 1784, the state finally reduced the tax burden, and there were no county conventions or demonstrations in that year. Yet at the same time, this concession put pressure on the public accounts and threatened the holders of public debt. Commerce in Massachusetts was depressed as a result of the British

⁸ Ibid., pp. 304-5.

⁹ Samuel Adams to John Adams, 4 November 1783, *ibid.*, p. 288.

¹⁰ For Adams' attitude to Morris, see Adams to Elbridge Gerry, 9 September 1783, *ibid.*, pp. 286-7.

¹¹ Taylor, *Western Massachusetts*, pp. 117, 126; meanwhile, creditors could simply wait for the act to expire before demanding specie payment.

Navigation Acts passed in 1783 at the recommendation of Lord Sheffield. As in Charleston, local merchants in the port towns faced competition from British factors flooding the market with cheap goods. From their perspective, commotions in the west only made economic recovery more difficult.

As in the rest of the United States, many blamed Massachusetts' economic hardships on the moral failings of its citizens, and especially on their addiction to luxury, which led them to buy beyond their means and build up debts they could not pay. Men like Samuel Adams had long identified themselves with the ideal of an austere and virtuous Christian Sparta. They had won their revolutionary spurs by enforcing the non-importation agreements of the 1760s, and now, such men complained, Americans were betraying themselves by 'imitating the Britons in every idle amusement and expensive foppery [and] every unmeaning and fantastic extravagance.' As Samuel Adams put it to his cousin, 'You would be surprised to see the... expensive living of too many, the pride and vanity of dress which pervades through every class, confounding every distinction between the poor and the rich and evincing the want both of example and economy.'¹² For Adams, social order and public virtue relied on class distinction, while economic hardship went hand in hand with excessive consumption.

One writer in the *Boston Gazette* explicitly linked dissipation with attacks on creditors. 'How are our worthy patriots treated? Men who risked their lives and property in the cause of freedom—lent their hard money to assist in the contest, and took securities or paper money for it, which now lie dormant in their desks...' These '*once valuable men*,' the article continued, are now 'held up in polite assemblies as rigid republicans, men of contracted minds, only because they will not conform to gaming, sabbath breaking,

¹² Samuel Adams to John Adams, 2 July 1785, in Cushing, *Writings of Samuel Adams*, vol. 4, pp. 315-6.

drinking and every other vice...¹³ A week before, the *Massachusetts Centinel* had lamented, 'we are exchanging prudence, virtue, and economy, for those glaring spectres of luxury, prodigality, and profligacy.'¹⁴ These vices could hardly be pinned on western farmers. The perpetrators could only be rival elites, long on credit and short on respect for their elders. Yet Samuel Adams and his allies construed both city luxury and country revolt as parts of a general breakdown of order and government: both were threats to a sense of justice based on fidelity to obligations, financial and social.

John Hancock was not a member of this party of austere republicans. His extravagant conduct as governor had raised the suspicion of men like Adams even while his salary had been the subject of western grievances. By early 1785, he faced mounting pressure from enemies in Boston, who blamed him not only for setting a bad example of republican virtue, but also for his weakness in dealing with the protests against taxes and debts. The disturbances in Hampshire and Berkshire had failed to dislodge him, but at the end of January, under fire in the papers of the capital, Hancock finally offered his resignation, setting the stage for Massachusetts' first closely contested gubernatorial election, in May. 'Constant experience declares the influence of example to be greater than that of precept,' declared William Symmes, preaching the election-day sermon before Hancock's friend and replacement on the ballot, Lieutenant-Governor Thomas Cushing. Perhaps thinking of the west, he added, 'society cannot exist without order and government... No person can plead an exemption to the duty of submission to wise and just government.'¹⁵

Cushing's opponent was James Bowdoin, a gentleman well situated at the heart of

¹³ *Boston Gazette*, 24 January 1785, quoted in Charles Warren, "Samuel Adams and the Sans Souci Club in 1785," *Proceedings of the Massachusetts Historical Society*, vol. 60 (1927), p. 321.

¹⁴ *Massachusetts Centinel*, 15 January 1785, quoted in *ibid.*, p. 322.

¹⁵ William Symmes, *A Sermon Preached Before His Honor Thomas Cushing* (Adams and Nourse: Boston, 1785), Evans #19269, pp. 16-17.

Boston's financial and mercantile community, as well as a friend and ally of Samuel Adams. Bowdoin was the first President of the Bank of Massachusetts, established in 1784 around the same time as the Bank of New York.¹⁶ He also had significant personal investment in the state debt.¹⁷ His supporters could rely on him to be far more committed than Hancock had been to the protection of public and private credit. That would mean keeping up the collection of taxes across the state to pay interest on public securities, and meeting pro-debtor agitation with a firm hand. When it came to the voting, Bowdoin gained a strong majority in the most commercial and cosmopolitan towns, but he performed much worse elsewhere. With no candidate winning a majority, the election was decided in the General Court, where the senate decided in favour of Bowdoin.¹⁸ Opposed by both westerners and upwardly mobile easterners, the election was a close-run victory for the fiscal and social conservatives, setting the stage for a renewed period of social and political struggle.

'I confess it is what I have long wished for,' Samuel told John Adams, referring to Hancock's defeat and Bowdoin's election.¹⁹ One of the new governor's first acts was to issue a "Proclamation for the Encouragement of Piety, Virtue, Education and Manners, and for the Suppression of Vice," drafted by Samuel Adams himself, which declared the government's commitment to strict public order.²⁰ Without outright support in the General Court, Bowdoin's tax proposals, which involved raising massive new sums and beginning to pay off the principal as well as interest on the public debt, failed to pass in his first year in office. Yet the pressure of both tax and debt continued to weigh on

¹⁶ Gras, *Massachusetts First National Bank*, p. 26.

¹⁷ Van Beck Hall, *Politics Without Parties: Massachusetts, 1780-1791* (University of Pittsburgh Press: Pittsburgh, 1972), p. 118.

¹⁸ *Ibid.*, pp. 137-8.

¹⁹ Samuel Adams to John Adams, 2 July 1785, Cushing, *Writings of Samuel Adams*, vol. 4, p. 316.

²⁰ [James Bowdoin], *A Proclamation for the Encouragement of Piety...* (Adams and Nourse: Boston, 1785), Evans #19085.

western communities, and a renewed flow of petitions began to arrive in Boston, calling for paper money and tender laws. Rather than give way, the General Court hardened, and with it the commercial interests in the east fell into step behind Bowdoin. In 1786, he easily won re-election.²¹ The legislators whole-heartedly rejected the paper money proposal, and they levied heavier taxes that year than any since the end of the war.²²

By that summer, when the legislative session was over, the stricter policies of the new administration in the east were beginning to have provocative effects in the west. New conventions were organised across several counties, listing grievances and demands including not only paper money and the suspension of debt and tax collection, but also the abolition of the senate (which had given Bowdoin his initial election). They also protested against the decision to pay off public securities at face value: the tax burden could be vastly reduced by redeeming them at market value instead.²³ The conventions met with the same response from eastern newspapers and town meetings as they had done in 1784, including the charge that they were the creatures of British agents, 'whose every wish is for our overthrow and ruin.'²⁴ As early as July, Samuel Adams was complaining to his cousin of 'internal enemies... influencing many weak men to withhold the necessary aid of taxes, to destroy the public faith.'²⁵ However unfounded, these conspiratorial visions reflected an understanding among eastern elites that the government itself was under threat.

About that, they were not entirely wrong. Just as they had done in 1782 and 1783, western citizens went further than simply presenting their grievances and demands, they took direct action. Since it was the courts that were the closest and most direct

²¹ Hall, *Politics Without Parties*, p. 138.

²² Taylor, *Western Massachusetts*, pp. 130, 132.

²³ *Ibid.*, pp. 137-8.

²⁴ *Worcester Magazine*, quoted in *ibid.*, pp. 141-2.

²⁵ Samuel Adams to John Adams, 21 July 1786, Cushing, *Writings of Samuel Adams*, vol. 4, pp. 322-3.

embodiments of eastern authority and the oppressive structures of public and private finance, it was they that became the primary targets for civil disobedience and rebellion. If the judges could not sit, they could not perform the legal rituals necessary to deprive men of their livelihoods, to have their land and cattle seized and sold in payment of debts or taxes, or to censure and punish the protesters themselves. The strategy of western resistance that emerged in the late summer of 1786, then, was once more to shut down the courts. If the law was something like a set of chains that reached from Boston all the way to Northampton and Hampshire counties, its links were more vulnerable the closer they came to western communities themselves. Once sheriffs and bailiffs lost their legitimacy in the eyes of local men, they could rarely rely on force to prevail. Indeed, in some cases the very representatives of the law joined the resisters and threw off the authority of the state in the east.

In the first weeks of September, 1786, the Chief Justice of the Court of Common Pleas of Berkshire county, Dr. William Whiting, wrote an essay under the portentous pseudonym, Gracchus, the Roman tribune who had favoured a radical redistribution of land to citizen farmers. Whiting invoked an egalitarian concept of justice to condemn the policies of the Boston administration. 'Whenever some citizens have it in their power by compulsion to enrich themselves by the same means that impoverishes and depresses some other orders of people,' wrote the judge, 'that government is either defective in its original constitution, or else the laws are unjustly and unequally administered.' Listing the grievances of the people, much as the conventions had done in earlier years, he declared that 'it is the indispensable duty of the people to exert themselves' to remove such injustices. 'Whoever brands them with the odious names of mobbers, rioters, and disturbers of the peace, ought to be considered as being of the number of those who wish

to enrich themselves by the plunder of their fellow citizens.' He seemed to be licensing civil disobedience.²⁶

Berkshire men took him at his word, and shut the courts on the 12th of September. It was the time of year when, with the hay harvested, there was less than the usual amount of work to be done in the fields. Across Massachusetts and New Hampshire, then, early autumn saw an upsurge of organised dissidence, with courts stopped in Northampton, Worcester, Concord, Taunton, Exeter, Great Barrington, and Springfield. By the end of October, yeomen in Connecticut declared themselves 'in readiness at a moment's warning, to embody' as a mass and stop the debtor's court at New Haven.²⁷ Farmers remained committed to this method of resistance through the autumn of 1786. Only as state governments in New Hampshire, Connecticut, Vermont, and Massachusetts started to respond to the disruption with force did the insurgency begin to take on a military character. In December, systematic planning began for attacks on government power.²⁸ By then, governments and elites across the region had been stirred to action. They, of course, had their own understanding of events.

Response to the Uprising, 1786-87

The first official response to the disruption of the courts came as early as the 2nd of September, with a proclamation of Governor Bowdoin. The 'high handed offence' of the insurgents 'is fraught with the most fatal and pernicious consequences, [which] must tend to subvert all law and government; to dissolve our excellent constitution, and introduce universal riot, anarchy, and confusion, which would probably terminate in absolute

²⁶ Stephen Riley, "Dr William Whiting and Shays' Rebellion," *Proceedings of the American Antiquarian Society*, vol. 66 no.2 (1957), pp. 119-124, quotations at pp. 131-2.

²⁷ David Szartmary, *Shays' Rebellion: the making of an agrarian insurrection* (University of Massachusetts Press: Amherst, 1980), pp. 58-59, 65, quotation at p. 77.

²⁸ *Ibid.*, p. 98.

despotism,' he declared. He called on the officers of government, 'civil and military... to prevent and suppress all such violent and riotous proceedings,' as well as 'the good people of this commonwealth' to help them. He also authorised the Attorney General of the state to prosecute the 'ringleaders and abettors' of the court-closure in Northampton, and 'of any similar violation in future, whensoever and wheresoever it shall be perpetrated in this commonwealth.'²⁹ In short, Bowdoin called for the mobilisation of the full apparatus of the state. Reprinted in the New York newspapers, his proclamation marked the beginning of a nation-wide discussion of events in Massachusetts.

From the seat of Congress, news spread further south. General Henry Lee wrote to Washington on the 8th of September, enclosing Bowdoin's proclamation. 'The period seems to be fast approaching,' he opined, 'when these United States must determine to establish a permanent capable government or submit to the horrors of anarchy and licentiousness... Weak and feeble government are not adequate to resist such high handed offences.'³⁰ He followed this on the 1st of October with news that General Sullivan, the governor of New Hampshire, had routed the protesters in that state, but that in Massachusetts 'the insurgents have in very formidable shape taken possession of the town of Springfield, at which place the supreme court was sitting.' Henry Knox, wrote Lee, had been dispatched by Congress to the federal arsenal just outside Springfield.³¹ On the 17th, Lee reported that Knox had returned to New York, 'replete with melancholy information.'³²

The tenor of Lee's letters characterised the disquiet in Congress and greatly

²⁹ *By His Excellency James Bowdoin... A Proclamation, 2nd September* (Boston, 1786), Evans #19789.

³⁰ Henry Lee to George Washington, 8 September 1786, in Paul H. Smith ed., *Letters of the Delegates to the Continental Congress* (Library of Congress: Washington, 1995), vol. 23, p. 553; see note 2, which contradicts *PGW*, vol. 4, p. 241, note 2, on the identity of the enclosure.

³¹ Lee to Washington, 1 October 1786, *PGW*, vol. 4, p. 281.

³² Lee to Washington, 17 October 1786, *ibid.*, p. 295.

disturbed Washington.³³ He asked one correspondent, 'for Gods sake tell me, what is the cause of all these commotions? Do they proceed from licentiousness, British influence disseminated by the Tories, or real grievances which admit of redress?'³⁴ In this triad the general had neatly divided the elements of the elite response to the crisis. Since their vision of justice prioritised property rights and the sanctity of contract, elite observers could not accept the legitimacy of the protesters' central grievances. At the same time, the perceived dual threat of British influence and popular 'licentiousness' were, at root, mutually reinforcing. They played into the notion that anarchy and tyranny were ultimately identical. This notion allowed American gentlemen to attack democratic and popular politics in the name of liberty and the republic.

The response to what would later become known as Shays' Rebellion was, then, another episode in the unfolding discourse of post-revolutionary politics and justice. More than anything, it served to draw out more clearly than ever the basic contours in elite perception of American society, and the kinds of concerns that occurred to gentlemen's imaginations. The way the rebellion was understood from outside was just as important as the reality of action on the ground and the ideas and strategy that animated it. For most of the decade, American gentlemen had remained relatively incoherent and factious in their responses to the revolution and their ideas about social order. The eruption of violence in Massachusetts created a clear path to renewed unity of purpose. The summer of 1786 had seen bitter divisions in Congress over the proposed treaty with Spain and the future of western expansion. But the new threat to property, government, and order was a reminder of shared goals, goals that at their highest rhetorical pitch could be identified with the republic itself.

³³ David Humphreys to Washington, 24 September 1786, *ibid.*, p. 265.

³⁴ Washington to Humphreys, 22 October 1786, *ibid.*, p. 297.

Of all those who kept Washington informed during the Massachusetts crisis, none was more regular than his old army friend, General Henry Knox of Boston, who had served since the peace as Secretary of War. It was in that capacity that he had been dispatched by Congress to protect the arsenal at Springfield, when that town was occupied by the insurgents. Moving between there, Boston, and the Congressional capital at New York, Knox was a vital conduit for information. He also had strong opinions about the affair, which he did not hesitate to include in his dispatches to Mount Vernon. As both a soldier and a Massachusetts man, he took to heart the fact that citizens of his own country were now in arms against the government he had fought to establish, and felt a duty to restore order and dignity to the state. As a good federal man, Knox saw events on a national scale too. What was happening in Massachusetts was only part of a larger problem among all the United States.

'The machine works inversely to the public good in all its parts,' Knox wrote to Washington in late October, 1786:

Not only is state against state, and all against the federal head, but the states within themselves possess the name only without having the essential concomitant of government, the power of preserving the peace; the protection of the liberty and property of the citizens. On the first impression of faction and licentiousness the fine theoretic government of Massachusetts has given way, and its laws arrested and trampled under foot.

There was a note of criticism, here, of John Adams' 'fine theoretical' constitution of 1780. But the main target of Knox's disdain was the insurgents themselves. He was adamant that their 'ostensible' grievances were no more than 'a deception.' In fact, Knox saw the rebellion quite simply as class warfare. Where William Whiting saw an oligarchy in Boston enriching itself by impoverishing and oppressing the lower orders, Knox saw the inverse: 'the insurgents... feel at once their own poverty, compared with the opulent, and their own force, and they are determined to make use of the latter, in order to remedy the

Knox's letter also tried to explain from the perspective of the insurgents themselves what they were up to. Their 'creed,' he wrote, was that since all had participated in protecting American property from the British during the war, it "therefore ought to be the common property of all." Any opponent of this plan must be "an enemy to equity and justice, and ought to be swept from the face of the earth." In a word,' Knox concluded, 'they are determined to annihilate all debts public and private and have agrarian laws which are easily effected by the means of unfunded paper money which shall be a tender in all cases whatever.'³⁶ Whether he derived this impression from statements like Whiting's, or simply reasoned out the insurgents' case for himself, Knox clearly conceived that they had a conception of justice antithetical to his own, and one based on property and class. It was equally clear to him, of course, that such insurgents must be crushed.

What was stirring in Massachusetts was 'a formidable rebellion against reason, the principles of all government, and the very name of liberty. This dreadful situation,' Knox went on, 'has alarmed every man of principle and property in New England.' Such men had formerly been overly sanguine. They had believed that the virtue of the people would support a mild government. But now, 'they start as from a dream,' to 'find that we are men, actual men, possessing all the turbulent passions belonging to that animal.' 'What is to afford us security,' they ask, 'against the violence of lawless men?' Thus, the 'men of reflection and principle are determined... to establish a government which shall have the power to protect them in their lawful pursuits.' Americans could no longer consider themselves different from 'other nations' in this respect. They must, Knox wrote, revert to 'brutal force to support the laws,' and to a government capable of exerting such force.

³⁵ Henry Knox to Washington, 23 October 1786, *ibid.*, p. 300.

³⁶ *Ibid.*

'Unless this is done we shall be liable to be ruled by an arbitrary and capricious armed tyranny, whose word and will must be law.'³⁷

Knox conflated anarchy and tyranny, and set them opposite the rule of law, just as Aedanus Burke and Thomas Paine had done in their essays on the Jacksonborough assembly and the Bank of North America. Like them, Knox also aligned law with reason, as opposed to the capricious, arbitrary will or passion. The difference was that while Burke and Paine had been critiquing the actions and rights of elected legislatures, Knox was talking about an armed and, he reported, organised rebellion. This distinction gave Knox the license to prescribe 'brutal force.' More generally, it shifted the rhetorical trajectory from seeking to limit government authority to seeking to expand it. The political theory was similar, but in these new circumstances it promoted quite a different policy. For some time, men of federal interests had been concerned with the weakness of American government, in its failure, for example, to respond to British commercial regulations. Now, the rebellion in Massachusetts lent that project the urgency of existential threat. Government, Knox argued, must be made stronger, if it was to stand at all.

Rufus King, a Massachusetts delegate to Congress, expressed similar doubts about the validity of 'theoretical' views of government. 'I myself have been an advocate for government free as air,' he wrote to Berkshire county judge, Theodore Sedgwick. 'My opinions have been established on the belief that my countrymen were virtuous, enlightened, and governed by a sense of right and wrong.' Recent events, he wrote, threatened to disabuse him. If indeed 'the great body of the people are without virtue, and not governed by any internal restraints of conscience, there is but too much reason to

³⁷ Ibid., pp. 300-301.

fear,' King wrote, 'that the framers of our constitutions and laws have proceeded on principles that do not exist.'³⁸ Yet King had more sympathy than Knox for the rebels. 'While I reverence the principles of rigorous justice, and earnestly desire that the constitution and laws may be superior to all opposition,' he told his colleague Elbridge Gerry, 'I feel compassion for those unfortunate men, who have thoughtlessly united in measures unauthorised by their sober reflections.'³⁹ It was error rather than wickedness that inspired the events in Massachusetts.

If the rebels had legitimate grievances, they were due to 'the burden of taxes' rather than a more general indebtedness or economic oppression.⁴⁰ But perhaps there were more sinister causes at work. As King put it to Gerry, 'we have supposed that no men of consequence have been connected with the insurgence.' This, he implied, may not be true. Rather than a popular movement pursuing class interests, as Knox surmised, King preferred to see the insurrection as a conspiracy, potentially instigated from above. There was at least one individual to whom he could point: Friedrich von Steuben, the Prussian officer who had been drill-master to the Continental Army, and who had just published in a New York newspaper an article under the pseudonym Belisarius. This article appeared to condemn both Congress and the government of Massachusetts for their conduct in opposing the insurrection, and to 'openly justif[y] the conduct of our insurgents.'⁴¹ Belisarius was the Roman general who plotted to become emperor; King was all too ready to impute the same motives to the Prussian.

Steuben, for his part, was the president of the New York Society of the Cincinnati,

³⁸ Rufus King to Theodore Sedgwick, 26 October 1786, in Smith, *Letters of the Delegates*, vol. 23, p. 612.

³⁹ King to Elbridge Gerry, 5 November 1786, *ibid.*, p. 636.

⁴⁰ King to John Adams, 3 October 1786, *ibid.*, p. 580.

⁴¹ *Ibid.*, pp.636-7. On the predilection to conspiracy theory in republican thought, see Gordon Wood, "Conspiracy and the Paranoid Style: Causality and Deceit in the Eighteenth Century," *William & Mary Quarterly*, Third Series, vol. 39 no. 3 (1982), pp. 401-441.

and a regular target of the society's opponents. Massachusetts elites including Gerry and Samuel Adams had been foremost among those opponents in the first years of the Cincinnati's existence. In late 1786 their suspicions were again aroused. As Mercy Otis Warren wrote to John Adams, 'the causes of the late western commotions may be easily investigated, but the consequences must be left to the hand of time. The Cincinnati who have been waiting a favourable tide to waft them on to the strong fortress of nobility, are manifestly elated by the present prospect.'⁴² Whether or not they were its secret instigators, Warren certainly feared the Cincinnati would benefit from the insurrection by reasserting the authority of military force and the necessity for strong, hierarchical government. Those, of course, were precisely the assertions Henry Knox, another founding member of the society, had been making in his letters to Washington.

For opponents of the Cincinnati, it made sense to link the 'anarchy' of the insurrection with the 'tyranny' of the would-be aristocrats. Aedanus Burke had drawn a similar connection in his pamphlets earlier in the decade. For the Cincinnati themselves, on the other hand, the insurrection was simply proof that post-war social order was too weak. The society and its members were instrumental in organising the suppression of the rebels. Knox wrote to the merchant Jeremiah Wadsworth, vice president of the Connecticut society, 'I shall depend on the noble and independent spirit of the late continental officers to step forward.' The Massachusetts society produced a series of resolutions, warning soldiers of the 'yet unpaid army' not to join the protests, and committing the society to insuring that 'public faith and private credit are made the sacred objects of government.'⁴³ In November, delegates from the New England branches met in

⁴² Mercy Otis Warren to John Adams, December 1786, in Jeffrey Richards and Sharon Harris eds., *Mercy Otis Warren: Selected Letters* (University of Georgia Press: Athens, Georgia, 2011), p. 211.

⁴³ Quoted in Myers, *Liberty Without Anarchy*, pp. 80-81. The fact that the resolutions called on soldiers not to join the insurgency reflected the fact that at least two of the rebel leaders were in fact Cincinnati

Boston 'upon confidential business' – as it happened, one of the delegates was Enos Hitchcock.⁴⁴ Meanwhile Knox was manoeuvring in Congress to prepare an army to put down the rebels.

Knox's plan was to raise continental troops on the pretext of fighting Indians on the frontier. 'Congress are fully impressed with the importance of supporting [Massachusetts] with great exertions,' he wrote to Washington.⁴⁵ Yet despite the support of the Congressmen, including Rufus King, the plan floundered for want of money. It was, instead, on the authority of Governor Bowdoin that an army was finally recruited in January 1787. This force was led by the president of the Massachusetts Cincinnati, Benjamin Lincoln, and privately funded by Boston merchants.⁴⁶ Two months later, Washington received a report from Lincoln which detailed his successful campaign. 'This business,' he wrote, 'is pretty fully accomplished.... The spirit of rebellion is now nearly crushed in this state.' There had been relatively little bloodshed. At almost every turn, rebels where they mustered were overwhelmed by government numbers and artillery.⁴⁷ For all the claims and fears of gentlemen that autumn and winter, the insurgency had never posed a serious military threat. What they had threatened was the functioning and legitimacy of the state government.

Consolidating the government's victory, the General Court passed a Disqualifying Act against supposed rebels. Lincoln himself thought the act too harsh, with 'so great a description of persons that in its operation many towns will be disenfranchised,' and more

members, and Daniel Shays himself had been eligible to join. As the resolutions admitted, soldiers and officers had a legitimate grievance over pay; *ibid.* p. 87.

⁴⁴ *Ibid.*, p. 84.

⁴⁵ Knox to Washington, 23 October, 1786, *PGW*, vol. 4, p. 302.

⁴⁶ Myers, *Liberty Without Anarchy*, pp. 86-7.

⁴⁷ Benjamin Lincoln to Washington, 4 March 1787, *PGW*, vol. 4, pp. 430-31.

trouble would result.⁴⁸ From Boston's perspective, though, the lesson of Shays' Rebellion had been that government should be more, not less, severe. Though James Bowdoin and a majority of legislators lost their seats in the June election, blamed for allowing the insurrection to start in the first place, their replacements continued in pro-merchant, anti-rebel policies. John Hancock returned to the governorship and Samuel Adams became president of the senate. Together they passed a requisition to raise more state troops, while the legislature also voted to reimburse shopkeepers who had lost property during the rebellion. These measures would not lessen the burden of taxation in the countryside. On the 15th of June, Hancock sent his new army to 'kill, slay, and destroy if necessary, and conquer by all fitting ways, enterprises, and means whatsoever, all and every one of the rebels.'⁴⁹

For Henry Knox, the proceedings of the Massachusetts campaign had utterly vindicated the Society of the Cincinnati and its motives. He wrote to Washington in March, a few weeks after Lincoln had sent his report, spelling out his position. 'In the only instance in which [the society] has had the least political operation,' he wrote, 'the effects have been truly noble.' Despite the officers remaining unpaid, and 'extremely depressed in their private circumstances,' nonetheless 'the moment the government was in danger, they unanimously pledged themselves for its support.' Washington had already declined to attend the convention of the society that year in Philadelphia. Now he was under great pressure to attend the national convention to review the federal government. Knox, too, recommended that he go, but he begged him to come 'one week earlier... to cheer the hearts of your old military friends with your presence.'⁵⁰ That spring, Knox remained anxious. 'So impressed is my mind with the evils about to happen,' he wrote,

⁴⁸ Ibid., p. 431.

⁴⁹ Quoted in Szartmary, *Shays' Rebellion*, p. 115.

⁵⁰ Knox to Washington, 19 March 1787, *PGW*, vol. 5, p. 97.

'that I have no hope of a free government but from the [constitutional] convention.'⁵¹ Free, he meant, from the tyranny of anarchy.

Rhode Island's Paper Money, 1786-87

Massachusetts was not the only focus of national attention between the summers of 1786 and 1787, nor the only source of elite consternation. If Shays' Rebellion represented the results of an unrelenting fiscal policy on the part of Bowdoin's merchant-dominated government, in Rhode Island the trouble was the opposite. There, agitation for relief measures took much the same form through the middle years of the decade, reaching a dangerous pitch in the spring of 1786. 'The people are almost drove to desperation,' one Rhode Islander wrote. Pressed by taxation designed primarily to meet payments on the public war debt, people assembled in town meetings to demand a package of measures similar to those sought by the townsmen of western Massachusetts. Paper money, a land bank, and the postponement of tax and debt payments were the key demands. In February, Gloucester's meeting called for 'a more easy and equitable way of paying taxes,' and Coventry's for 'a paper currency... to relieve the present distresses of the inhabitants of this state.' The state assembly, then in mercantile hands, was reluctant to accede to such demands.⁵²

Among the concessions granted by the legislators in the run-up to the spring elections were bounty payments to sheep and hemp farmers, a four month postponement of tax collection, and a law that mandated the value of debts to be determined by three impartial neighbours, rather than creditors themselves. Both the land bank and paper money, though, were rejected by the assembly. The latter, claimed one newspaper

⁵¹ Knox to Washington, 29 May 1787, *ibid.*, p. 201.

⁵² Roger H. Brown, *Redeeming the Republic: Federalists, Taxation, and the Origins of the Constitution* (Johns Hopkins University Press: Baltimore, 1993), p. 90; sources quoted therein.

correspondent in January, would be 'a perversion of law, of justice, and of humanity.'⁵³

Still, a majority of Rhode Island towns were in favour of it, and they had passed resolutions or presented petitions to that effect by mid-March.⁵⁴ Leaders from some of these towns met two weeks before the election to agree a pro-relief slate, naming John Collins as their candidate for governor. At the head of the ticket, they printed the slogan, 'To Relieve the Distressed.'⁵⁵ At the same time, merchant communities in Providence and Newport organised to oppose the populist measures, denouncing them in petitions to the legislature.⁵⁶

Their resistance was of no avail. On the 19th of April, election day, the governor, his deputy, and most of his party were thrown out of office and a radical legislature installed in Rhode Island. This electoral strategy succeeded in spite of the over-representation of Providence and Newport, the bulwarks of merchant power, mandated by the Charter of 1663 under which the state government still operated. The state's small size, in contrast to Massachusetts, might have made political organisation easier for the radicals; so did the absence of property stipulations for voting and office-holding. In any case, the victory was overwhelming. 'We are now experiencing one of the greatest revolutions ever known in this state which has long been noted for one of the most fluctuating governments in the union,' wrote one astonished supporter of the old regime. 'A paper currency is thought to be inevitable, which if made will be fraught with a thousand evils.'⁵⁷ For poor and rural Rhode Islanders, the triumph over 'numerous gentlemen' was to be celebrated like another Lexington and Concord.⁵⁸

⁵³ *Newport Mercury*, 21 January 1786, quoted in Polishook, *Rhode Island and the Union*, p. 113.

⁵⁴ *Ibid.*, p. 120.

⁵⁵ Brown, *Redeeming the Republic*, p. 91.

⁵⁶ Polishook, *Rhode Island*, p. 122.

⁵⁷ Peregrine Foster to Dwight Foster, 24 April 1786, quoted in Brown, *Redeeming the Republic*, p. 91.

⁵⁸ *Ibid.*, p. 92.

Among the first acts of the new government was to introduce emissions of paper money, as the law's preamble put it, 'to quiet the minds and to alleviate the distressed situation and circumstances of the good citizens of this state.'⁵⁹ At the same time, they made these new paper bills legal tender in all contracts and debts. If creditors refused to accept it, the debtor could lodge the money with the local court and consider the debt paid; and if the creditor didn't relent and accept the money within three months, it was forfeit to the state.⁶⁰ Even more offensive to the merchant community and its representatives were the penalties imposed by the legislature in June for actions that would contribute to the new currency's depreciation, actions that included refusing it, accepting it at depreciated rates, and even criticising it in conversation. Such 'subversive' behaviour was to be punishable by a heavy fine, and ultimately disenfranchisement.⁶¹ The radical legislature was trying to intimidate Newport and Providence merchants into accepting the paper money.

June's draconian measures passed with a reduced majority of only six votes, over the strong objections of the opposition. Yet they did not succeed in breaking the merchant resistance. Paper money continued to circulate at continually depreciating rates. In August, therefore, Governor Collins called a special session of the assembly to deal with this 'combination of influential men against the good and wholesome laws of the state.' The new act he passed stipulated that cases arising from the paper money laws would be heard immediately, by specially convened courts where necessary, so as to avoid delays; such cases would also be heard without a jury and without hope of appeal. These measures violated 'the natural and constitutional rights of the citizen,' complained

⁵⁹ Ibid., p. 94.

⁶⁰ Polishook, *Rhode Island*, p. 126.

⁶¹ Brown, *Redeeming the Republic*, p. 95.

opponents.⁶² But the radicals were angry too. Some talked of carrying the heads of paper money detractors on poles through the streets. Violence, already occurring in Massachusetts, seemed to lie just under the surface in Rhode Island. 'How unhappy the people,' lamented one merchant, 'where the laws are so unstable as ours, or rather where there is none at all.'⁶³

Nonetheless, a core of Rhode Island merchants and their allies refused to be cowed, either by the measures of the radical assembly or by the out-of-doors tactics of paper money advocates. In Newport and Providence, at least, there were sufficiently strong mercantile communities to establish a resistance. They could draw strength and courage from their out-of-state connections, from the firm stand of the Massachusetts government, and from the scorn that was beginning to be heaped on the Rhode Island radicals from many of the presses of the new nation. 'The merchants have shut up their stores,' recorded one Congressman, 'notwithstanding the severe penalties of the law. How the matter will terminate remains uncertain, some are apprehensive of a dissolution of government in that state.'⁶⁴ As long as both sides refused to back down, the conflict seemed to portend Rhode Island's complete collapse into anarchy.

While it was now, of course, illegal to disparage paper money within the state, opponents did find ways of expressing their unity in opposition. At the 4th of July celebrations of the Society of the Cincinnati in Providence that year, Enos Hitchcock gave the oration. Ostensibly, he told the story of the revolution; yet his audience may have heard words of encouragement in a more immediate context. '[B]y their increasing wealth and power,' he said of the American colonists before the revolution,

they became the object of avarice, envy and jealousy – measures were formed

⁶² Polishook, *Rhode Island*, p. 129.

⁶³ Quoted in Brown, *Redeeming the Republic*, p. 95.

⁶⁴ Timothy Bloodwell to Richard Caswell, 28 July 1786, in Smith, *Letters of the Delegates*, vol. 23, p. 421.

to drain them of all the fruit of their labour and industry, upon principles totally subversive to the rights of men... But the evil was too alarming and detestable to pass unnoticed. The genius of America, roused by reiterated and atrocious acts of tyranny and oppression, called forth the generous efforts of her sons, to oppose the destructive system; yea, to resist unto blood, rather than part with their freedom.⁶⁵

A few months later, the trial finally arrived, not on the battlefield but in the courtroom. The case of *Trevett v Weeden*, in which the defendant, a butcher, was sued for refusing to accept paper money in exchange for his meat, was to be the test case for the whole system of tender laws established by the assembly. It was held before a regular session of the state's highest court, without a jury, on the 25th of September, at the same time as to the northward Massachusetts men were shutting down their own courts. The room was packed with spectators. For the defence, two advocates appeared without fee: established Newport attorney Henry Marchant, and Major General James Varnum, the president of the Rhode Island Cincinnati and a delegate to Congress.⁶⁶ It was the latter who handled most of the argument, which he published in a pamphlet the following year. Varnum summed up his position in the preface to this work. 'The late political measures,' he wrote, produced 'a system of revenue and finance, subversive of private contracts, and public faith!'⁶⁷

What Varnum had to accomplish in *Trevett v Weeden* was similar to Alexander Hamilton's task in *Rutgers v Waddington*. That is, he needed to show not that his client had not broken the law, but that the law itself was null and void. Where Hamilton stood mainly on the force of the Treaty of Paris, however, Weeden's defence rested on the constitution of Rhode Island: not simply its royal charter, but the general foundation of

⁶⁵ Enos Hitchcock, *A Discourse on the Causes of National Prosperity* (Wheeler: Providence, 1786), Evans #19713, pp. 14-15.

⁶⁶ A position to which he had ascended, from vice president, on the death of Nathanael Greene, 19 June 1786. On the details of the trial, see Polishook, *Rhode Island*, pp. 133-5.

⁶⁷ James Mitchell Varnum, *The Case, Trevett against Weeden* (Carter: Providence, 1787), Evans #20825, p. iii.

the common law itself. Like Hamilton, and like the defenders of the Bank of North America charter, Varnum needed to establish the principles that would bind and counteract the sovereignty of the legislature. He also needed to convince the judges, who were appointed on one year terms by the legislature itself, that they had the power to annul its laws. It was a daunting task. But if successful, Varnum would add another plank to the bulwark that was gradually being constructed by American gentlemen in defence of property and contract, against the political power of legislative majorities.

Varnum's arguments 'displayed the oratorical strength of a Demosthenes, and the eloquence of a Cicero,' or so said John Carter, soon to publish Varnum's pamphlet record of the trial.⁶⁸ The centrepiece of his argument, 'by far the most important,' was that the law's call for trial without jury was unconstitutional, for it contradicted the rights established by Magna Carta and the English Bill of Rights. The legislature, Varnum said, had 'aimed... at a summary process, flattering themselves that the judges, being elected by the legislators, would blindly submit to their sovereign will and pleasure. But, happy for the state, our courts in general are not intimidated by the dread, nor influenced by the debauch of power!'⁶⁹ This gambit, playing as much on the judges' pride as the principles of the constitution, proved remarkably successful. It had been 'the attempts of the British Parliament to deprive us of this mode of trial [that] were among the principle causes' of the revolution. As Hitchcock had done, Varnum drew the parallel between 1776 and 1786.

Just as James Wilson and Thomas Paine had recently argued in the debate over the bank charter in Pennsylvania, Varnum advanced the rule of law to trump popular sovereignty. The revolution had not been made in order to institute legislative tyranny. 'Were there no bounds to limit and circumscribe the legislature,' he said, 'were they to be

⁶⁸ Polishook, *Rhode Island*, p.137 note 15.

⁶⁹ Varnum, *Trevett against Weeden*, p. 11.

actuated by their own will, independent of the fundamental rules of the community, the government would be a government of men, and not of laws.⁷⁰ And just as Hamilton had done, he cited Vattel on the 'general principles that are equally binding on all governments... the laws of nature and of nations.'⁷¹ The judges, argued Varnum, must not consider themselves subordinate to the legislature. They are 'bound by the laws of nature in preference to any human laws,' and by the constitution in preference to acts of the assembly.⁷² Thus, closing with emotive invocations of liberty and the 'fathers of our country,' Varnum charged the judges with nullifying the law. To the cheers of the onlookers, they did.⁷³

Perhaps the judges were impressed by the merchants' show of force, especially in Newport, the centre of opposition to the radical government, where the trial took place. But they were also affected by the legal arguments at work, which embodied ways of thinking inculcated by the New England legal establishment, brought up as they were on Coke and Blackstone, both of whom Varnum had cited. In any case, while the Chief Justice recused himself, his four colleagues rendered a verdict for the defence, declaring the law inconsistent with the constitution and therefore impossible for them to enforce. To the majority in Rhode Island, however, the decision was an outrage. The townsmen of Coventry declared that the judges had acted beyond their mandate.⁷⁴ Not only did the outcome of the case threaten the paper money policy, it also struck at legislative sovereignty and the basis of popular power. What exactly had the revolution been for, after all? Not everyone shared the position of Varnum, the judges, and the mercantile lobby. The issue of paper money, reported one Congressman, had 'convulsed the state

⁷⁰ Ibid., pp. 21-22.

⁷¹ Ibid., p. 23.

⁷² Ibid., p. 29.

⁷³ Ibid., p. 36; see Polishook, *Rhode Island*, p. 138.

⁷⁴ Ibid., pp. 138-9.

nearly to a civil war.'⁷⁵

The assembly's next move was to summon the judges to a hearing, with the intention of dismissing them from the bench. New candidates for the positions were ready and waiting. But again, by Varnum's own account, he succeeded in turning the course of events, this time as counsel for the judges themselves. Arguing that their terms were yearly and could not be interrupted at the mere will of the legislature, Varnum apparently convinced the state Attorney General, William Channing, that they could not be dismissed 'for a mere matter of opinion, without a charge of criminality.' Those of the minority party in the assembly, including the lawyer Henry Marchant, rose to confirm Channing's opinion 'by masterly display of legal talents.'⁷⁶ The legal establishment, it seemed, had triumphed a second time. Yet Varnum's victory did not have the lasting effect he might have hoped for. Rather, it opened a new phase of hostilities between the majority legislators and the opponents of paper money.

Over the course of the winter and into the following spring, while the major engagements of Shays' Rebellion took place, the two parties in Rhode Island struggled with each other. A proposal to force every freeman to swear an oath that he would accept the paper money, on pain of disenfranchisement, was defeated in a referendum that October. So in December, the assembly passed a law forcing the immediate redemption of all promissory notes and short term credit arrangements, on which most mercantile activity depended. Twice, the majority tried to amend the state constitution to remove the extra representation of Newport and Providence, and twice they failed. Yet, come April and the new election, the supporters of paper money were voted back into office

⁷⁵ Edward Carrington to James Mercer, 1 September 1786, in Smith, *Letters of the Delegates*, vol. 23, p. 538.

⁷⁶ Varnum, *Trevett against Weeden*, pp. 51, 53.

overwhelmingly.⁷⁷ Meanwhile, paper continued to circulate, at ever depreciating rates, and the government continued to pay off its public securities in paper received for taxes.⁷⁸ Merchants, who held over half the public debt, refused to surrender their certificates in exchange for this money. In the end, they held out to good purpose: they were paid under the 1790 federal assumption.⁷⁹

As early as October, when the assembly had summoned the judges and the first round of retaliatory acts was projected, some Rhode Islanders linked the behaviour of the majority with the rural uprisings in Massachusetts. 'What madness,' wrote William Ellery, 'has seized the people of the New England states!' Like Washington, and other observers of the northern commotions, Ellery felt driven to conclude that the revolution had created too much liberty for an unworthy people. 'I begin to think that we do not deserve the privileges which we are possessed of, and that unless power is lodged somewhere to control the vice and folly of the people we shall soon be involved in all the horrors of anarchy and confusion.'⁸⁰ Some radical proposals went far beyond even the designs of the legislature. A convention at Smithfield in late September had called for the public purchase of ships and wharves, to conduct international commerce as a public enterprise and cut the merchants out of it completely.⁸¹ What was at stake, as so often in the 1780s, was the relationship between public and private, political and economic power.

In the end, James Varnum had a sanguine view of the affair and its eventual outcome. Writing in early April, 1787, he did not expect a mercantile victory at the forthcoming polls. He had little hope for immediate reform of Rhode Island politics. Nonetheless, he wrote, 'I do not feel any great degree of anxiety about the impolicy of this

⁷⁷ Polishook, *Rhode Island*, pp. 145-153.

⁷⁸ Brown, *Redeeming the Republic*, p. 96.

⁷⁹ Polishook, *Rhode Island*, pp. 155-6, see note 72.

⁸⁰ William Ellery to Nathaniel Appleton, 2 October 1786, quoted in *ibid.*, p. 144.

⁸¹ *Ibid.*

legislature. They represent only the present humors of the state; and even the state itself is but of very little consequence in the great scale of the union.' His mind was set on national affairs. 'It cannot be expected that the Convention at Philadelphia will frame and recommend a system that will ever be federally adopted.' Probably, Varnum predicted, the states would fail to agree on a solution to 'the defects of our present national government.' Rather, he wrote,

their increasing animosities will precipitate the period of anarchy and confusion. From these exuberant sources will arise a government that may be assisted in its formation and principles by the wisdom of the convention. For it is very possible that the majority of wealth, influence and numbers will meet their sentiments; and if so, the residue will be compelled to come in.⁸²

Anarchy Encroaching, 1786-87

Neither Varnum nor Henry Knox were the only members of the Cincinnati deeply interested in the goings on in the northeast. So too was Washington's former aide, Colonel David Humphreys of Connecticut. 'You will have seen by the public papers,' Humphreys wrote to Washington in late September, 1786, 'that everything is in a state of confusion in Massachusetts.' Not only that, but 'Rhode Island continues in a state of frenzy and division on account of their paper currency.' On the other hand, Humphreys reported, 'General Sullivan,' both governor and Cincinnati president in New Hampshire, 'has behaved nobly, and put a period to a very considerable insurrection' there; and in Connecticut, 'more gentlemen... belonging to the army,' including Humphreys himself, had just been elected to the assembly.⁸³ In other words, as he saw it, two sides of a great conflict were emerging, the disorderly forces of popular protest and paper money on one hand, and the proponents of order, represented most of all by the army and the Cincinnati,

⁸² James Varnum to Samuel Ward, Jr., 2 April 1787, in Smith, *Letters of the Delegates*, vol.24, p. 198.

⁸³ David Humphreys to Washington, 24 September 1786, *PGW*, vol. 4, p. 265.

on the other. New England, it seemed, would again be the tinderbox of an American crisis.

Humphreys had earlier that year returned home from Paris, where he had served as secretary to the American delegation since the end of the war, under John Adams and Benjamin Franklin.⁸⁴ At home in Hartford, he returned to the company of his fellow Yale graduates, but as his letters to Washington show, he also remained connected to an incipient national political network. From Humphreys' perspective, the Society of the Cincinnati was central to that network, yet in the autumn of 1786, the organisation was itself in crisis. With many of the state branches, including Connecticut's, having refused to ratify the amendments to the constitution laid down by Washington at the general meeting two years earlier, the society appeared fractured and leaderless. It was with Cincinnati business that Humphreys began his September letter. With the 'unanimous consent' of the other leaders in the state, he informed Washington that 'it would not be of any good consequence, or even advisable for you to attend the next general meeting.'⁸⁵

The condition of the Cincinnati on a national level seemed to echo not only the confusions in Massachusetts, but also the weakness of the federal government and the union of the states. Yet at the same time, as Humphreys and Knox pointed out in their letters, it was local Cincinnati who led the campaign against New England rebels. The virtue, responsibility, and brotherhood of the former officers formed a bulwark of order and respectability against encroaching chaos. In advising Washington not to attend the annual meeting, the Connecticut leadership held open the door for the wholesale rejection of his proposed reforms, and return to the original charter, including its political and hereditary principles. It must have seemed hardly a coincidence that New Hampshire,

⁸⁴ Parrington, *Connecticut Wits*, p.xxvii.

⁸⁵ Humphreys to Washington, 24 September 1786, *PGW*, vol. 4, p. 264.

which had been the most strident in rejecting Washington's reforms, had also been the most effective in crushing the rural insurrection. In his letters to Washington, Humphreys used the unfolding crisis in Massachusetts to express his hope for the general's glorious return.

'Government is prostrated in the dust,' Humphreys wrote on the first of November. 'The leaders of the mob, whose fortune and measures are desperate, are strengthening themselves daily, and it is expected that they will soon take possession of the continental magazine at Springfield.' Like Knox, Humphreys understood the rebellion as an expression of underlying class relations. The poor and indebted were taking advantage of the weakness of government to improve their situation. 'In the event of civil discord...', he told Washington, 'you could not remain neuter.'⁸⁶ There may be, he admitted, 'a few real grievances... but it rather appears to me, that there is a licentious spirit prevailing among many of the people; a levelling principle; a desire of change; and a wish to annihilate all debts public and private.'⁸⁷ In such a situation, Washington would surely have to intervene on the side of property, distinction, and contract. To be 'neuter,' neutral, was to be both powerless and unmanly.

Knox, Humphreys, and their friends had genuine reason to be afraid of 'civil discord' and the class warfare of 'desperate' men. Courts up and down the countryside, including the western sitting of the Massachusetts state Supreme Court, had been surrounded and shut down by armed mobs. The lack of violent confrontation in late 1786 only indicated the absence of any substantial government response. While not every westerner supported the protesters, few were supporters of the government, and even fewer were eager to risk their own lives to keep open the courts where tax and finance

⁸⁶ Humphreys to Washinton, 1 November 1786, *ibid.*, p. 325.

⁸⁷ Humphreys to Washington, 9 November 1786, *ibid.*, p. 351.

laws were administered and legitimated. Meanwhile, the threat to the federal arsenal served not only to underline the military danger but to pitch the crisis onto a national stage, making the weakness of Congressional government a factor in the breakdown of social and legal order in rural Massachusetts. These events took on symbolic and emotional power, as the letters among elite observers show. For Humphreys and some of his literary friends, one way of responding was to turn to the art of satire.

Through the autumn of 1786 to the summer of 1787, Humphreys, John Trumbull, Lemuel Hopkins, and Joel Barlow collaborated in the creation of *The Anarchiad*, a mock epic poem presented in fragments to the *New Haven Gazette and Connecticut Magazine*. It was apparently a runaway success. In November, Humphreys wrote to Washington that he would have sent some copies, but 'the demand has been so uncommonly great for those papers that there is not a single one to be obtained.'⁸⁸ It must also have been fun to write. The authors presented the poem as an archaeological discovery, so ancient that 'as it is the most perfect, it has undoubtedly been the model for all subsequent epic productions.' With this conceit, they could flip their derivative style on its head. 'Homer, Virgil, and Milton,' they asserted, had 'borrowed many of their capital beauties from it.' What's more, it was not the work of the present moment, subject to demands of accuracy and justification, but a prophecy from the deep past of what was now unfolding in America, which was no less than 'the restoration of Chaos and substantial night.'⁸⁹

In comparison with so much of the political writing of the time, *The Anarchiad* seems out of place. It was, after all, a joke. It avoided the grave pomposity of the new republic's earlier poetic works, like Barlow's ongoing *Vision of Columbus* project. At the same time, its themes reversed that earlier optimism. Surely, there was an extent to which

⁸⁸ Humphreys to Washington, 16 November 1786, *ibid.*, p.373.

⁸⁹ Luther Riggs ed., *The Anarchiad: A New England Poem* (Scholars' Facsimiles and Reprints: Gainesville, Florida, 1967), p. 5.

the poets were mocking their own, or each other's, youthful pretensions. Yet the poem also had an edge. It still had to be read in the context of events themselves, and those seemed grave enough. In mocking their old work the poets were reflecting bitterly on their own failure to establish the republic they hoped for, the failure to establish their concepts of justice and social order, and perhaps the failure of the republican experiment itself. The humour of the satire was a way of sublimating the authors' anxiety. It was also a way of escaping the burdens of political prose. Without the constraints of formal reason and rhetoric, the poem was free to express a more basic sense of the forces at play in the world.

The first snippet was published on the 26th of October, 1786. Eleven more instalments appeared over the following year, often with accompanying commentary. The poets rehearsed all the standard subject-matter of elite complaints, including instructions to legislators, and especially, of course, paper money:

There prowls the rascal, cloth'd with legal pow'r,
To snare the orphan, and the poor devour;
The crafty knave his creditor besets,
And advertising paper pays his debts;
Bankrupts their creditors with rage pursue,
No stop, no mercy from the debtor crew.⁹⁰

The Anarchiad thus divided its attention between the political battle taking place in Rhode Island, and the insurrection in Massachusetts. Both were encompassed by the triumph of 'the Anarch.' So was the weakness of Congress, and the prospect of default on international debts, which would result in loss of credit and honour to Americans: 'In faith and justice least, as last in birth, / Their race shall grow, a by-word through the earth.'⁹¹

As Humphreys told Washington, the poem's purpose was to bring 'the force of

⁹⁰ Ibid. p. 16.

⁹¹ Ibid., p. 19.

ridicule' to bear 'against the antifederalists and advocates for mobs and conventions.'

Laughter would prove stronger than argument. 'It was pleasant enough to observe how some leading men, of erroneous politics, were stung to the soul by shafts of satire,' Humphreys wrote in November.⁹² But under cover of verse, the poets were prepared to reproach those on their own side, too, including Washington himself: 'No more stands forth to check the rising feud, / Their great DEFENDER of the public good; / Retired, in vain his sighs their fate deplore, / He hears, unmoved, the distant tempest roar.'⁹³ As they had done earlier in the decade, these ambitious Yale men found themselves somewhat isolated from the elite they expected to support them. Like the Society of the Cincinnati, their literary pursuits were a way of forging and defending a more secure sense of status and identity, hitched to the flag of the new nation itself. "“Yes, they shall rise,”" the poem's hero foretold,

“...they shall rise, terrific in their rage,
And crush the factions of the faithless age;
Bid laws again exalt th' imperial scale,
And public justice o'er her foes prevail;
Restore the reign of order and of right,
And drive thee, howling, to the shades of night.”⁹⁴

By late February 1787, half way through the *Anarchiad* series, the military response to Shays' Rebellion had taken on a new character. As Humphreys reported to Washington, 'affairs have taken as favourable turn in Massachusetts, as could be expected.'⁹⁵ Correspondingly, the tone of the poem changed. Rather than lamenting 'the restoration of chaos and substantial night,' the poets mocked the hopes of imagined rebels and celebrated their own triumph. Benjamin Lincoln's army was one thing, but the 'more dang'rous foes' of anarchy were those 'arm'd with the pen,' whose 'arrows drink the fame /

⁹² Humphreys to Washington, 16 November 1786, *PGW*, vol. 4, p. 373.

⁹³ Riggs, *The Anarchiad*, p. 21.

⁹⁴ *Ibid.*, p. 24.

⁹⁵ Humphreys to Washington, 11 February 1787, *PGW*, vol. 5, p. 22.

Of each unfederal politician's name.'⁹⁶ On a more general level, though, the sense of the threat of anarchy remained. In early spring that year, neither Humphreys nor Washington set much store by the potential results of the federal convention. Delegates were to be chosen by state legislatures, and these could hardly be trusted. Connecticut, Humphreys feared, would like New York send delegates who were 'directly antifederal.'⁹⁷ The seventh and eighth instalments of the *Anarchiad*, that March, attacked populist officeholders, the 'unletter'd Statesman and Anarchian seer.'⁹⁸

If the convention failed to produce major reforms, and legitimate them with a convincingly unanimous voice, it would be nothing but a setback. A 'patch work to the present defective confederation,' as Knox put it, would not do.⁹⁹ The aim of the Cincinnati leaders was not simply to grant more power to the central government. Nor, of course, was it simply to put down insurrections and maintain the power of existing state governments. It was to comprehensively restore their vision of order to American society and politics. The 'itch of popularity' and the rise of 'electioneering' were symptoms of the breakdown in hierarchy and respect, of which outright rebellion was only a more extreme example. This contempt for state governments is probably what explains Steuben's controversial article about Shays' Rebellion, in which he wondered why Congress would send forces to support an 'abominable oligarchy.' The grievances of rural Massachusetts were 'totally unconnected with the federal government,' he wrote.¹⁰⁰ Most gentlemen, though, thought the underlying tension was not between state and federal governments, but between justice—contract, property, and the rule of law—and popular power.

⁹⁶ Riggs, *The Anarchiad*, p. 32.

⁹⁷ Humphreys to Washington, 24 March 1787, PGW, vol. 5, p. 103.

⁹⁸ Riggs, *The Anarchiad*, p. 36.

⁹⁹ Knox to Washington, 19 March 1787, PGW, vol. 5, p. 96.

¹⁰⁰ Belisarius, *New York Daily Advertiser*, 1 November 1786, quoted in John McAuley Palmer, *General von Steuben* (Yale University Press: New Haven, 1937), p. 340.

This did not, however, make the convention worthless. It was still possible 'an energetic, and judicious system' would be proposed.¹⁰¹ For Knox, this was a possibility worth pursuing, and in his private conversations with Humphreys, he tried to convince his fellow Cincinnatus.¹⁰² Connecticut was the last state to elect delegates to Philadelphia, on the 14th of May. Rhode Island never did. Ten days later, the tenth instalment of *The Anarchiad* appeared. Recalling the sacrifices of the revolution, and the depredations of the current situation—'bankrupt faith, annihilated laws... selfish systems, jealous, local schemes, / And union'd empire lost in empty dreams'—the poets predicted the dissolution of the union into four confederacies, with dire consequences. They rejected monarchy as a solution, and the examples of Poland and Venice, before finally charging the delegates at Philadelphia with the duty to establish a strong and unitary government:

When nature trembles, through the deeps convuls'd,
And ocean foams, and craggy cliffs repuls'd;
On you she calls ! attend the warning cry:
"YE LIVE UNITED, OR DIVIDED DIE!"¹⁰³

The Anarchiad offered no particular political programme. But it did successfully evoke the kind of world that most frightened its authors, and many of their friends and allies. This was a vision based on the political experiences of the past decade, and tied up with the revolution itself. At its core, the anxiety expressed by the young Connecticut Wits revolved around a broken and unpredictable social order, one in which they and their friends could not be guaranteed the power and status they expected from their birth or education, while men on whom they looked down could achieve the trappings of rank. The most compelling image of the mock epic depicts an invasion of 'imps... veiled in human guise,' who 'mix, undistinguished, with the common race.' This was the horror at

¹⁰¹ Knox to Washington, 19 March 1787, *PGW*, vol. 5, p. 96.

¹⁰² See Humphreys to Washington, 9 April 1787, *ibid.*, p. 131.

¹⁰³ Riggs, *The Anarchiad*, p. 63.

the heart of republican egalitarianism. Without clear and visible distinctions, who could tell or decide who was superior, and who inferior? As the imps 'fill every *rank*, in each *profession* blend,' the class structure underpinning New England society threatened to disappear completely.

It was not the most powerful, but precisely those on the periphery of the ruling class, who felt this threat most forcefully; and it was not the old, but the young, who felt the most deeply betrayed by the rapid vanishing of the system they had been preparing to join. In 'medicine's garb,' in the 'sable robes' of the minister, and 'at the wrangling bar,' could now be found new rivals for power and status. In April, 1786, Joel Barlow had followed his friend Noah Webster in taking the bar exams. He passed, but like Webster, failed to find law work.¹⁰⁴ Now, *The Anarchiad* deplored, 'the demon lurks beneath the lawyer's gown.' The state legislatures, in their folly, were only the most evident example of this general trend. 'See, from the shades, on tiny pinions swell,' continued the poem, 'And rise, the young DEMOCRACY of *hell*!...

O, glorious throng ! beyond all wisdom wise!
Expert to act, eccentric to devise!
In retrogressive march, what schemes advance!
What vast resources, and what strange finance!¹⁰⁵

New men brought novel approaches to political economy, and the Wits scorned both alike. 'Democracy' of this sort was a far more insidious threat than the open rebellion that had been crushed in Massachusetts. Though less dramatic, Rhode Island was the more troubling example in the long run. The sweeping disenfranchisement act passed by the Massachusetts legislature in the rebellion's wake was meant to prevent a similar political fate. In this sense, Shays' Rebellion had provoked a crucial shift in gentlemen's discourse

¹⁰⁴ Buel, *Joel Barlow*, pp. 77-8.

¹⁰⁵ Riggs, *The Anarchiad*, pp. 67-9.

and strategy. Through most of the decade, the critique of majoritarian democracy had taken the form of attacks on the political power of the individual states, and especially their legislatures. Figures like Alexander Hamilton and James Wilson had emphasised the proper *limits* of government power. The problem of armed insurrection reversed this emphasis. It helped the same set of gentlemen to argue that in fact, a *stronger* political power was necessary to protect the republic.

Rather than excessive strength, rhetoric like *The Anarchiad* implied it was the *weakness* of state governments that led to 'eccentric' and 'retrogressive' measures. Gradually, American gentlemen came to accept that the solution could not be merely defensive. They needed to take radical, positive measures to reassert their claims and their conception of justice. If the first few years of the post-war republic had impressed such men most with the threat of majoritarian tyranny, by the time the convention met in Philadelphia in May, that danger had been vividly re-imagined as anarchy.

Towards the Constitutional Convention, 1786-87

In the very month Massachusetts men were beginning to shut down courts across the state's western counties, September 1786, a rather forlorn group of officials from five states met at an inn in Annapolis, Maryland. The meeting resulted from talks orchestrated by George Washington at Mount Vernon in March of the previous year, which in turn had emerged out of the need for inter-state cooperation in his Potomac Canal project. Washington and his collaborator Madison hoped to build on the success of the cooperation on the Potomac to define, at Annapolis, a national commercial policy that would help mitigate the effects of the British Navigation Acts. As things turned out, the convention seemed to mark the limits of such inter-state cooperation. In Congress, bitter

division between northern and southern states had tainted proceedings ever since negotiations with the Spanish empire over access to the Mississippi had begun that summer. Yet to pursue national policy outside of Congress, as the convention attempted, could be interpreted as a dangerous usurpation. To many observers, the gathering in September seemed either suspicious or ridiculous.¹⁰⁶

Long before he reached Annapolis, James Madison had come to the conclusion that the confederation needed much broader reform than any commercial regulation could achieve. But as he wrote to Jefferson in August, 'I despair so much of its accomplishment at the present crisis that I do not extend my views beyond commercial reform. To speak the truth, I almost despair even of this.'¹⁰⁷ The nature of Madison's 'crisis' went well beyond the Congressional deadlock over the Spanish negotiations. In the same letter to Jefferson, he wrote at length about the 'general rage for paper money' and the battles playing out as a result of this 'epidemic malady' throughout the union. Madison even implied that the real cause of economic depression in America was the wasteful spending of the people. 'This fictitious money,' he told Jefferson, 'will rather feed than cure the spirit of extravagance which sends away coin to pay the unfavourable balance.'¹⁰⁸ What little hope Madison held out, then, was in transforming the Annapolis convention into a more radical movement for reform.

He was fortunate that the delegates who did turn up that September were men of similar federal views, and that among them was Alexander Hamilton. It was Hamilton who drafted the convention's report, which did just what Madison had wanted. 'Deeply impressed... with the magnitude and importance of the object confided to them on this occasion,' Hamilton wrote in his address to the states, 'your commissioners cannot forbear

¹⁰⁶ Richard Morris, *The Forging of the Union, 1781-1789* (Harper and Row: New York, 1987), p. 254.

¹⁰⁷ James Madison to Thomas Jefferson, 12 August 1786, *PJM*, vol. 9, p. 96.

¹⁰⁸ *Ibid.*, pp. 94-5.

to indulge an expression of their earnest and unanimous wish that speedy measures be taken to effect a general meeting of the states in a future convention, for the same and such other purposes as the situation of public affairs may be found to require.¹⁰⁹ Those 'other purposes' were crucial, for the commissioners agreed that America's problems went beyond the scope of commercial regulation. Still, the poorly attended meeting in Annapolis was not a particularly good portent. Like the authors of *The Anarchiad*, gentlemen like Hamilton and Madison were far from certain they were on the winning side.

Virginia's legislature took up the question of paper money on the 1st of November. It was a question so important to Madison that he made and kept two sets of notes for his own speech. Because it 'affects the rights of property' in a real sense, 'as much as taking away equal value land,' and yet it does so 'without trial by jury,' Madison argued—much as James Varnum had done weeks before—that paper money was both unjust and unconstitutional. It was also unnecessary and pernicious, he said, 'serving dissensions between the states... destroying confidence between individuals... [and] conspiring with the examples of other states to disgrace republican governments in the eyes of mankind.'¹¹⁰ Paper money was, in other words, a scalable threat, causing damage at individual, national, and even international levels. To Madison's gratification, a majority of more than four to one voted against it, declaring it 'unjust, impolitic, destructive of public and private confidence, and of that virtue which is the basis of republican governments.' It was a welcome triumph at a time when, Madison told his father, 'an appeal to the sword is exceedingly dreaded' in Massachusetts.¹¹¹

Responding to the news of this vote, Washington unburdened the full weight of his

¹⁰⁹ Address of the Annapolis Convention, *PAH*, vol. 3, pp. 687-8.

¹¹⁰ Notes for Speech Opposing Paper Money, *PJM*, vol. 9, pp. 158-9.

¹¹¹ Madison to James Madison, Sr., 1 November 1786, *ibid.*, p. 154.

anxiety about the future of the new republic. 'Let prejudices, let unreasonable jealousies, and local interest yield to reason and liberality,' wrote the general. 'Let us look to our national character, and to things beyond the present moment. No morn ever dawned more favourable than ours did—and no day was ever more clouded than the present!' Virginia's rejection of paper money was a rare good sign. 'Wisdom and good examples are necessary at this time to rescue the political machine from the impending storm. Virginia has now an opportunity to set the latter, and has enough of the former, I hope, to take the lead in promoting this great and arduous work.' Yet the news from Knox in Massachusetts was bleak. 'We are fast verging on anarchy and confusion!'¹¹² Washington's 'political machine' was the liberal republic of property and contract; the impending storm was the dual threat of popular sovereignty and popular resistance embodied in Rhode Island and Massachusetts.

Madison's strategy was to throw himself into the attempt at radical reform of the confederation itself, aimed at combating both threats at the same time. 'I have some ground for leaning on the side of hope,' he told Washington. For one thing, the Virginia assembly had approved 'the recommendation from Annapolis in favour of a general revision of the federal system.'¹¹³ Over the next several months, Madison set himself to preparing for the new convention to be held in Philadelphia. Considering the turnout in Annapolis, the enterprise was something of a desperate gambit. Indeed, it took all of Madison's political skill, and the weight of their mutual friendship, to convince even Washington himself to attend. It was the train of events during this period that turned the scale in Madison's favour. For every fearful report of rebellion, and for every incident of legislative tyranny enacted against property-holders and merchants, more of America's

¹¹² George Washington to Madison, 5 November 1786, *ibid.*, p. 161.

¹¹³ Madison to Washington, *ibid.*, p. 166.

gentlemen were convinced that such a radical and untested move was the only way to achieve national stability on their own terms.

What Madison had in mind was both a break from and a culmination of the strategies gentlemen had employed through the 1780s. The key post-revolutionary achievement for such men had been entrenching the control of property through a variety of institutions, neither public nor private: institutions like banks and other corporations. This in turn had necessitated a series of struggles, replaying themselves in state after state, over the extent of public, political power—in other words, popular power—over property relations, including contract, credit, and finance. In this sense, the focus of elite discourse had been on restricting the power of government, thereby carving out a separate sphere of power that could be safely wielded without the threat of popular interference. An ubiquitous element in this discursive strategy had been the appeal to fundamental principles of justice, enshrined in various ways through the common law, the law of nature, or the law of nations. Republican governments, gentlemen argued, became tyrannical as soon as they overstepped these limits.

Such fundamental principles, however, were not the only forms useful to gentlemen in their battle to restrict popular power. They could also draw crucial support from positive institutions, namely the Congress and its international treaties. In the case of *Rutgers v Waddington*, for example, it was the superior or anterior quality of the Treaty of Paris that acted to curb the legislative freedom of the state assembly. Congress was also a useful tool through which to control America's most valuable potential resource, the western lands. Wresting this control from the states had been the principal Congressional victory of the 1780s. The crucial point was that Congress was largely unresponsive to popular majorities in the states. While delegates did advocate on behalf of sectional

interests, as gentlemen they shared certain assumptions about justice. In September, 1786, the Rhode Island delegation had gone so far as to write to the new governor, John Collins, condemning the paper money policy. Such measures, they wrote, 'will infallibly terminate in the ruin of the state.'¹¹⁴ National power, then, could be trusted in ways that state power could not.

The Madisonian plan was a continuation of elite support for strengthening Congress at the expense of the states. Where it broke from prior elite strategy, though, and where it became frighteningly radical, was in its wish to redefine the basis of legitimacy and authority. By writing and ratifying a national fundamental law, Madison threatened to strip away the existing foundation of the discourse of justice, the unwritten constitution of principle that had been built up and cast in American terms since the revolution. This unwritten constitution could be accessed only through reason and forms of knowledge—legal, historical, and philosophical—to which gentlemen claimed privileged access. It consisted in discourse, in the ability to win an argument, or a court case, and the institutional structures that existed to measure and ratify such discursive claims—the legal and judicial profession, the colleges, the major press networks—were themselves constituents of elite power. Madison proposed to replace this complex assemblage with a written document legitimated through a vastly risky political process.

There were mitigating factors to that risk, and there were also reasons why it was worth taking. The existence of a written document would not preclude the need for interpretation, and would not in reality bypass the apparatus of legal and political judgement, even if it might helpfully give the impression of doing so. The same political networks and dispersed structures of power could be mobilised in the campaign for

¹¹⁴ Rhode Island Delegates to John Collins, 28 September 1786, in Smith, *Letters of the Delegates*, vol. 23, p. 571.

ratification. Moreover, and perhaps most importantly, if the whole project failed then the unwritten constitution of principle would not have been destroyed in the process. The attempt was necessary because elite discursive and governmental strategies were *already* failing. This was the crisis of the political machine to which Washington referred in November 1786. By the following May, it had only grown deeper. James Varnum may have won in court but Rhode Island still had paper money; James Bowdoin may have defeated the rebels in Massachusetts but he still lost his governors' seat; Congress could not raise a quorum, let alone make its power felt in the states. To change the course of the new nation, American gentlemen would once again have to become revolutionaries.

One element was central to Madison's radical plan, and it was this that formed the continuity between the old and new strategies. The reformed national government must have the power of veto over the governments of the states. Like so many of his friends and allies, Madison had long since added his voice to the chorus of opponents to majoritarian rule. His strongest blow in this contest came in the debate with Patrick Henry over religious taxes in Virginia in 1785, in Madison's famous Memorial and Remonstrance. If it were true 'that the will of the legislature is the only measure of their authority,' then, Madison argued,

in the plenitude of this authority, they may sweep away all our fundamental rights... they may control the freedom of the press, may abolish the trial by jury, may swallow up the executive and judiciary powers of the state; nay that they may despoil us of our very right of suffrage, and erect themselves into an independent and hereditary assembly...¹¹⁵

His argument was no more than a *reductio ad absurdum*, an appeal to common sense, or in other words to the unwritten constitution of 'fundamental rights' as the arbiter of

¹¹⁵ Memorial and Remonstrance Against Religious Assessments, in Jack Rakove ed., *James Madison: Writings* (Library of America: New York, 1999), pp.35-6. See Lance Banning, *Sacred Fire of Liberty: James Madison and the Founding of the Federal Republic* (Cornell University Press: Ithaca, NY, 1995), p. 95.

popular power and the enemy of legislative sovereignty.

But by the spring of 1787, Madison had no confidence left in this discourse of principled limitation. A curb on the states must be written into the constitution of the whole nation. As he told Thomas Jefferson that March, his aim was to achieve a 'stable government not infringing on fundamental principles,' but in order to do it the 'federal head' must be armed 'with a negative *in all cases whatsoever* on the local legislatures.' He underlined those words as he wrote.

...The effects of this provision would be not only to guard the national rights and interests against invasion, but also to restrain the states from oppressing the minority within themselves by paper money and other unrighteous measures which favor the interest of the majority.¹¹⁶

In this way Madison proposed that strictly defined institutional relations should replace the vagaries of discourse and legal knowledge as the guarantor of property rights and elite power. From his own point of view, his proposal would not revoke a sovereignty that state legislatures actually possessed, for they had no true right to act outside the limits of justice. But it would ensure, in the most direct way possible, that they would never stray.

There was a certain Enlightenment rationalism about this plan. Madison was seeking to formalise and perfect a hierarchy that had previously been imperfect and masked. The same attitude was at work in the Society of the Cincinnati. In naming and publicising their network of friendship and influence, and placing themselves under a formal set of rules, the officers had done more harm than good to their cause. Why did such clarity appeal? Like so many of his fellow gentlemen, Madison was driven by a sense of duty and revolutionary identity. These were the kind of men who felt the need to show 'a decent respect to the opinions of mankind' by making their intentions clear in an open declaration. They believed, at least Madison seems to have done, that if they

¹¹⁶ Madison to Thomas Jefferson, 19 March 1787, *PJM*, vol. 9, p. 318.

explained their ideas clearly and truthfully, they would win the consent of the people. It was that very attitude that led them to be so baffled and frightened by the popular politics of the 1780s. Madison always believed he was on the side of the righteous, and that what he was fighting was tyranny, anarchy, and confusion.

'The late turbulent scenes in Massachusetts and the infamous ones in Rhode Island have done inexpressible injury to the republican character in that part of the United States,' Madison told fellow Virginian Edmund Pendleton in February.¹¹⁷ A few months later, he wrote, 'The nearer the crisis approaches, the more I tremble for the issue.' He was well aware of the difficulties his plan entailed. 'The necessity of gaining the concurrence of the Convention in some system that will answer the purpose, the subsequent approbation of Congress, and the final sanction of the states,' he wrote, 'presents a series of chances, which would inspire despair in any case where the alternative was less formidable.'¹¹⁸ That unthinkable alternative, whatever political ramifications Madison saw in it, stemmed from the success of majoritarian populism like Rhode Island's.¹¹⁹ Even in Massachusetts, the threat of violent unrest had given way to the much more worrying prospect of 'wicked measures... sheltered under the forms of the constitution.'¹²⁰ In short, the true danger was not institutional breakdown but the overturning of social and economic hierarchy.

Madison believed American gentlemen would tear down the union themselves rather than submit to popular rule. So he thought of his own plan as a desperate attempt to save the fruits of revolution and national independence. Yet Madison could not imagine the possibility of accomplishing this goal from the other direction, by protecting popular

¹¹⁷ Madison to Edmund Pendleton, 24 February 1787, *ibid.*, p. 295.

¹¹⁸ Madison to Pendleton, 22 April 1787, *ibid.*, p. 395.

¹¹⁹ 'Nothing can exceed the wickedness and folly which continue to reign there. All sense of character as well as of right is obliterated.' Madison to Edmund Randolph, 2 April 1787, *ibid.*, p. 362.

¹²⁰ Madison to Pendleton, 22 April 1787, *ibid.*, p. 395.

legislatures and existing state constitutions. At root, he believed the vices of American politics grew from the 'injustice of the laws of the states.' This more than anything, he wrote, 'brings... into question the fundamental principle of republican government, that the majority who rule such governments, are the safest guardians both of public and of private rights.'¹²¹ That was the republican principle exactly as Jefferson had expressed it in his Virginia education plan. Both men, in their respective plans, expressed this principle and renounced it in the same breath. It was not an axiom but a dilemma. The people were not safe after all. They had to be made so, by the imposition of elite power through institutions of elite design.

As gentlemen from up and down the nation—though not from Rhode Island—began to convene in Philadelphia, they did so in the hope of turning a tide that seemed to be almost overwhelming. That April in Caroline County, Virginia, the home of Madison's friend Edmund Pendleton, the people had formed an association to resist auctions of debtor property; in neighbouring King William County a crowd had burned down the courthouse.¹²² No state was exempt from tumult. The constitutional convention was a response to the ordinary people who sought redress through both insurrection and election in the 1780s. It was meant to insure that they could never again turn the power of the state against what Madison and his allies saw as a just social order. Most of the attendant 'demi-gods,' as Jefferson dubbed them, came to Philadelphia with subdued hopes.¹²³ But they also came with feelings of purpose, duty, and honour. They came to promote a discourse of principle that had been reshaped and tempered in the preceding decade. By their own reckoning, they came to quell anarchy, crush tyranny, and to enthrone justice.

¹²¹ Vices of the Political System of the United States, in Rakove, *James Madison*, p. 75.

¹²² Morris, *Forging the Union*, p.265.

¹²³ Thomas Jefferson to John Adams, 30 August 1787, in *The Papers of Thomas Jefferson*, ed. Julian Boyd (Princeton University Press: Princeton, 1955), vol. 12, p. 69.

Conclusion

In what then does real power consist?
The answer is short and plain—in *property*.¹

An atmosphere of deep crisis had settled on American gentlemen by the end of 1786, a crisis that derived from the failure of gentlemanly strategies to set the terms of the new nation's politics. From the beginning of the decade, some had fantasised about instilling their own ideology of justice in the American population at large. Noah Webster wrote that proper schooling could 'implant in the minds of the American youth the principles of virtue and liberty and inspire them with just and liberal ideas of government.' It would give them 'an acquaintance with ethics and with the general principles of law, commerce, money, and government.'² In Benjamin Rush's formula, it would convert them 'into republican machines.'³ But this educational discourse bore little relation to the actual practice of life and the real relations of power in the new republic. The crucial field of struggle in which gentlemen sought to implement their own conceptions of order and justice was the law itself. They leant heavily on the common law and on the so-called law of nature and of nations to identify and legitimate their structuring principles. Whether in trials like *Rutgers v Waddington* and *Trevett v Weeden*, or in quasi-legal disputes like the one over the Bank of North America, the weapons of knowledge and reason were on their side even while public sentiment and the interests of

¹ Noah Webster, *An Examination into the Leading Principles of the Federal Constitution* (Prichard & Hall: Philadelphia, 1787), Evans #20865, p. 40.

² Webster, "On the Education of Youth," pp. 45, 66-67.

³ Rush, "Thoughts Upon the Mode of Education," p. 17.

the majority were against them. Through the first half of the 1780s, gentlemen put their trust in the discursive and institutional effectiveness of law.

As the end of the decade drew near, though, that trust began to seem misplaced. Gentlemen had not been wrong to think that they would find in the law, and the legal profession, a force that served the defence of their interests and privileges as a class. The court victories they won against the popular legislatures proved the point. Yet they also proved something else. Despite Hamilton's victory in New York and Varnum's in New Haven, and even despite the successful recharter of the Bank of North America, the threat posed by popular power and democracy only seemed to be growing. In the lower south and in Rhode Island, state legislatures were more or less flagrantly violating what James Wilson had called the 'rules of justice, of faith, and of honor.' And in Massachusetts, the power of state government to enforce such rules was sensationally brought into question by the court-closure and non-payment protests that became Shays' Rebellion, protests that were echoed outside New England as well. To gentlemen like Henry Knox, these were signs of the breakdown not only of social order, but of justice itself. It was nothing less than 'a formidable rebellion against reason, the principles of all government, and the very name of liberty.'⁴

This was the intellectual climate behind the most desperate and radical gambit of America's elite in the 1780s, the constitutional convention. It was, in retrospect, a remarkable coup. Yet for Madison, its principal architect, the convention was a failure. The document it had produced would never be enough to accomplish what he had intended, to crush the power of state legislatures and stifle the excess of democracy that, he believed, threatened justice and social order. As he explained it to Thomas Jefferson in

⁴ Henry Knox to Washington, 23 October 1786, *PGW*, p. 300.

October 1787, the 'mutability' and 'injustice' of state laws, their encroachments on the security of individual rights, had animated the whole project of constitutional reform. '[T]he evils issuing from these sources contributed more to that uneasiness which produced the convention, and prepared the public mind for a general reform, than those which accrued to our national character and interest from the inadequacy of the confederation to its immediate objects.' It was for this reason that Madison believed a federal veto power over any and all state laws was vital to the new government, and its failure in the convention was a fatal flaw. 'The restraints against paper money and violations of contracts are not sufficient,' he told Jefferson bitterly, when 'injustice can be effected by such an infinitude of legislative expedients.'⁵

Madison's fellow delegates were just as eager as he was to restrict the power of majoritarian state legislatures. But they also wanted to make sure that their proposal had the best possible chance of meeting the agreement of state ratifying conventions that would in all likelihood be populated mainly by state legislators themselves. Hence the compromise, Article One, Section 10 of the proposed constitution, which forbade states from, among other things, coining money, making tender laws, or passing any laws 'impairing the obligation of contracts.' It may not have been enough to satisfy Madison, but for others, like his friend Edmund Pendleton, 'the restrictions of paper emissions and unjust tender laws are alone of value sufficient to outweigh all objections to the system.'⁶ In that sense, the constitution was a victory for American gentlemen. But it was one that made sense only as part of a longer process of class struggle and ideological transformation, in which property and contract came to dominate conceptions of justice

⁵ Madison to Jefferson, 24 October 1787, *PJM*, vol. 10, p. 212. See Banning, *Sacred Fire*, p. 147.

⁶ Edmund Pendleton to Madison, 8 October 1787, *Documentary History of the Ratification of the Constitution Digital Edition*, John Kaminski et al. eds. (University of Virginia Press: Charlottesville, 2009); see Holton, *Unruly Americans*, pp. 228-231.

At the centre of that transformation were problems of identity, problems raised at the deepest level by the revolution itself. While Americans redefined themselves in terms of their nationhood, they also struggled to reconceive their relations to one another and to the institutions of law and state. For a time in the 1780s, with the war itself won, this ongoing struggle came to the foreground of Americans' discursive and political activity. Concepts of self, nationality, and justice shifted simultaneously and dynamically, structured by relations of race, gender, and class which were also subject to contest and change. Gentlemen revolutionaries identified themselves, and their own virtue and reputation, with that of their new nation, and constructed their idea of the republic and the nation accordingly.⁷ As George Washington put it in 1783, 'We are a young nation and have a character to establish.'⁸ By imagining the nation as a fellow gentleman, American elites could apply to the politics of the new republic the same set of principles and expectations that ideally governed their own behaviour.

Just as they should determine the behaviour of individual gentlemen, 'the rules of general and equal justice... [and] the true principles of universal liberty' should set limits on the conduct of the republic.⁹ Crucially, this meant that the popular sovereignty embodied in republican legislatures had to be qualified and restricted. As Thomas Paine put it during the dispute over the Bank of North America, 'certain fundamental principles of right and justice' should constitute the limits of legislative action. Legitimate

⁷ For the different ways this process of identification worked in the writing of several gentlemen, see Andrew Trees, *The Founding Fathers and the Politics of Character* (Princeton University Press: Princeton, 2004).

⁸ George Washington to John Augustine Washington, 15 June 1783, *WGW*, vol. 27, pp. 11-13.

⁹ Alexander Hamilton, "A Letter from Phocion to the Considerate Citizens of New York," *PAH*, vol. 3, pp. 485-6.

government meant 'sovereignty of justice in contradistinction to a sovereignty of will.'¹⁰

James Varnum made the same point in a Rhode Island courthouse in 1786. 'Were there no bounds to limit and circumscribe the legislature, were they to be actuated by their own will, independent of the fundamental rules of the community, the government would be a government of men, and not of laws.'¹¹ The battle for the character of the new republic turned on the question of popular rule. Not just in Philadelphia in 1787, but at every stage, gentlemen fought to hold back legislative power, and to limit the transformative potential of popular politics.

In the long term, the tendency of this discourse was to draw a line between political power and the real basis of social and economic life. As long as property and contract were protected from the will of the majority, even the most representative republican governments could never eliminate relations of inequality and class; and in any case, those underlying relations would always feed back into political institutions and distort their representative character. Most gentlemen in the 1780s were not prepared to give up on political power. But the tendency of separation allowed for class power to continue independently of the political process. While the authority of king and Parliament depended on political and moral legitimacy, the relations of property and class were not to be considered in the same terms. Rather, they themselves set the terms for the legitimacy of republican government. These ideological conditions helped determine the relationship between capital and the state in succeeding centuries. They underpinned the development of American capitalism.¹²

¹⁰ Paine, *Dissertations on Government*, pp. 42, 8.

¹¹ Varnum, *Trevett against Weeden*, pp. 21-22.

¹² Paul Gilje summarised this ideological change thus: 'Before independence many Americans clung to a set of values that emphasized family and community. In the years after the Revolutionary War that began to change, especially in the North and Northeast'; Gilje, "The Rise of Capitalism in the Early Republic," *Journal of the Early Republic*, vol. 16 no. 2 (1996), p. 170. Seth Rockman has more recently

Far from mounting a counter-revolution, gentlemen in the 1780s contributed to an acceleration of intellectual change in an atmosphere of crisis and creativity sparked by the revolution. What was taking place was the formation of a new ruling class, not the return of an old one. As we have seen, this process involved fierce conflict among gentlemen themselves, conflict that by no means ceased with the passage of the constitution.¹³ But it was, nonetheless, a process driven by class struggle. Gentlemen were united by their need to respond to a popular politics that threatened their power and status. The conception of justice that emerged from this process was framed in the language of equality, liberty, and reason, ideals we still find at the centre of western political imagination. Yet how we think today about this sense of justice and these ideals should be informed by the history of how they have been used in discourse and politics. Our world has been shaped by the ideas and the mechanisms of power that emerged from class struggle in the revolution's aftermath—that is, from the battle between democracy and America's gentlemen revolutionaries.

taken issue with the comfortable narrative in which 'the American Revolution ushered in a liberal society that maximized freedom via the capitalist marketplace,' arguing that enslaved labour must be considered central to early American capitalism and that its relationship with freedom must therefore be brought into question. 'Economic freedom for some and economic unfreedom for others were not coincidences but were inextricably linked'; Seth Rockman, "The Unfree Origins of American Capitalism," in Cathy Matson ed., *The Economy of Early America: Historical Perspectives and New Directions* (Pennsylvania State University Press: University Park, 2006), pp. 338-9; see also David Waldstreicher, *Runaway America: Benjamin Franklin, Slavery, and the American Revolution* (Hill & Wang: New York, 2004). I follow Rockman's definition of capitalism as 'the [system of] power relations that channel the fruits of economic development towards those who coordinate capital to generate additional capital, who own property rather than rent it, and who compel labor rather than perform it'; Rockman, "Unfree Origins," p. 345. As Rockman points out, such a definition illuminate connections between capitalism and unfreedom that are not limited to slavery alone, but instead characterise the system as a whole.

¹³ For the history of the Federalist Party after the ratification of the constitution, see David Hackett Fischer, *The Revolution of American Conservatism: the Federalist Party in the Era of Jeffersonian Democracy* (Harper & Row: New York, 1965); James Banner, *To the Hartford Convention: The Federalists and the Origins of Party Politics in Massachusetts, 1789-1815* (Knopf: New York, 1970); Linda Kerber, *Federalists in Dissent: Imagery and Ideology in Jeffersonian America* (Cornell University Press: Ithaca, 1970); Doron Ben-Atar and Barbara Oberg eds., *Federalists Reconsidered* (University of Virginia Press, Charlottesville, 1998). But of course, the Federalist Party by no means represented gentlemen in general or their interests as a class. Increasingly, as these works show, they came to represent the sectional interests of the north-eastern socio-political establishment.

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