

Three

OF WARS AND REVOLUTIONS



Boston-born artist John Singleton Copley left the colonies in 1774, never to return; in 1783, while living in London, he depicted the 1781 Battle of Jersey in a 12 × 8 foot painting—only a detail is shown here—and offered his own argument about American liberty by picturing, near its center, a black man firing a gun.

BENJAMIN LAY STOOD BARELY OVER FOUR FEET TALL, hunchbacked and bowed, with a too-big head and a barrel chest and legs so spindly it did not appear possible they could bear his weight. As a boy in England, he'd worked on his brother's farm before being apprenticed to a glove maker, shearing and stitching skins. At twenty-one, he went to sea; in his hammock, by the light of tallow, he read books. Lay liked to call himself "a poor common sailor and an illiterate man," but in truth, he was widely read and well traveled. He sailed to Syria and to Turkey, where he met "four men that had been 17 Years Slaves"—Englishmen who'd been enslaved by Muslims.

He swabbed decks with men who'd sailed on English slave-trading ships, carrying Africans. He heard tales of dark and terrible cruelties. In 1718, Lay sailed to Barbados, where he saw people branded and tortured and beaten, starved and broken; he decided that everything about this arrangement was an offense against God, who "did not make others to be Slaves to us."¹



In protest of slavery, Benjamin Lay rejected anything produced by slave labor, became a hermit, and lived in a cave.

Lay and his also hobbled wife—a Quaker preacher with a crooked back—left Barbados after only eighteen months and returned to England. Maybe it was something about being so bowed, so easily dismissed, so set aside, that left them reeling at the horrors of slavery, the breaking of backs, the butchering of bodies. In 1732, they embarked for Pennsylvania to join William Penn's Holy Experiment. In Philadelphia, Lay turned bookseller, selling Bibles and primers along with the works of his favorite poets, like John Milton's *Paradise Lost*, and of his favorite philosophers, like *Seneca's Morals*, essays on ethics by an ancient Roman stoic.² He traveled from town to town and from colony to colony, only ever on foot—he would not spur a horse—to denounce slavery before governors and ministers and merchants. "What a Parcel of Hypocrites and Deceivers we are," he said.³ His arguments fell on deaf ears. After his wife died, he lost his last restraint. In 1738, he went to a Quaker meeting in New Jersey carrying a Bible whose pages he'd removed; he'd placed inside the book a pig's bladder filled with pokeberry juice, crimson

red. “Oh all you negro masters who are contentedly holding your fellow creatures in a state of slavery,” he cried, entering the meetinghouse, “you who profess ‘to do unto all men as ye would they should do unto you,’” you shall see justice “in the sight of the Almighty, who beholds and respects all nations and colours of men with an equal regard.” Then, taking his Bible from his coat and a sword from his belt, he pierced the Bible with the sword. To the stunned parishioners, it appeared to burst with blood, as if by a miracle, spattering their heads and staining their clothes, as Lay thundered, from his tiny frame: “Thus shall God shed the blood of those persons who enslave their fellow creatures.”⁴

The next month, Benjamin Franklin printed Lay’s book, *All Slave-Keepers That keep the Innocent in Bondage, Apostates*, a rambling and furious three-hundred-page polemic. Franklin sold the book at his shop, two shillings a copy, twenty shillings a dozen. Lay handed out copies for free.⁵ Then he became a hermit. Outside of Philadelphia, he carved a cave out of a hill. Inside, he stowed his library: two hundred books of theology, biography, poetry, and history. He’d decided to protest slavery by refusing to eat or drink or wear or use anything that had been made with forced labor. He also refused to eat animals. He lived on water and milk, roasted turnips and honey; he kept bees and spun flax and stitched clothes. Franklin used to visit him in his cave. Franklin at the time owned a “Negro boy” named Joseph. By 1750 he owned two more slaves, Peter and Jemima, husband and wife. Lay pressed him and pressed him: *By what right?*

Franklin, himself a runaway, knew, as every printer knew, and every newspaper reader knew, that every newspaper contained, within its pages, tales of revolution, in the stories of everyday escapes. Among them, in those years, were the following. Bett, who had “a large scar on her breast,” ran away in 1750 from a man on Long Island. She was wearing nothing but a petticoat and a jacket in the bitter cold of January. Primus, who was thirty-seven, and missing the first joint of one of his big toes, probably a punishment for an earlier attempted escape, ran away from Hartford in 1753, carrying his fiddle. Jack, “a tall slim fellow, very black, and speaks good English,” left Philadelphia in July of 1754. Sam, a carpenter, thirty, “a dark Mulatto,” ran away from a shop in Prince George’s County, Maryland, in the winter of 1755. “He is supposed to be lurking in Charles County,” his owner wrote, “where a Mulatto Woman lives, whom he has for some Time called his Wife; but as he is an artful Fellow, and can read and write, it is probable he may endeavor to make his Escape out of the Province.” Will, forty, ran away from a plantation in Virginia in the summer of 1756; he was, his owner said, “much scar’d on his back with a whip.”⁶

When Benjamin Franklin began writing his autobiography, in 1771, he turned the story of his own escape—running away from his apprenticeship to his brother James—into a metaphor for the colonies’ growing resentment of parliamentary rule. James’s “harsh and tyrannical Treatment,” Franklin wrote, had served as “a means of impressing me with that Aversion to arbitrary Power that has stuck to me thro’ my whole Life.”⁷ But that was also the story of every runaway slave ad, testament after testament to an aversion to arbitrary power.

In April 1757, before sailing to London, Franklin drafted a new will, in which he promised Peter and Jemima that they would be freed at his death. Two months later, when Franklin reached London, he wrote to his wife, Deborah, “I wonder how you came by Ben. Lay’s picture.” She had hung on the wall an oil portrait of the dwarf hermit, standing outside his cave, holding in one hand an open book.⁸

The American Revolution did not begin in 1775 and it didn’t end when the war was over. “The success of Mr. Lay, in sowing the seeds of . . . a revolution in morals, commerce, and

government, in the new and in the old world, should teach the benefactors of mankind not to despair, if they do not see the fruits of their benevolent propositions, or undertakings, during their lives,” Philadelphia doctor Benjamin Rush later wrote. Rush signed the Declaration of Independence and served as surgeon general of the Continental army. To him, the Revolution began with the seeds sown by people like Benjamin Lay. “Some of these seeds produce their fruits in a short time,” Rush wrote, “but the most valuable of them, like the venerable oak, are centuries in growing.”⁹

In 1758, when Benjamin Lay’s portrait hung in Benjamin Franklin’s house, the Philadelphia Quaker meeting formally denounced slave trading; Quakers who bought and sold men were to be disavowed. When Lay heard the news he said, “I can now die in peace,” closed his eyes, and expired.¹⁰ Within the year, another Pennsylvania Quaker, Anthony Benezet, published a little book called *Observations on the Inslaving, Importing and Purchasing of Negroes*, in which he argued that slavery was “inconsistent with the Gospel of Christ, contrary to natural Justice and the common feelings of Humanity, and productive of infinite Calamities.”¹¹ Bett and Primus and Jack and Sam and Will had not run away for nothing.

There were not one but two American revolutions at the end of the eighteenth century: the struggle for independence from Britain, and the struggle to end slavery. Only one was won.

I.

BENJAMIN FRANKLIN WROTE a new will before he sailed to London in 1757 because Britain and France were attacking each other’s ships, and he feared his might get sunk. The fighting had broken out three years before, only weeks after Franklin printed his “JOIN, or DIE” snake, slithering across a page. The battling had begun not at sea but on land, in Franklin’s own colony of Pennsylvania. Britain sorely wanted land that the French had claimed in the Ohio Valley, complaining, “the French have stripped us of more than nine parts in ten of North America and left us only a skirt of coast along the Atlantic shore.”¹² Leaving that skirt behind, English settlers had begun advancing farther and farther inland, into territories occupied by native peoples but claimed by France. To stop them, the French had starting building forts along their borders. The inevitable skirmish came in May 1754, when a small force of Virginia militiamen and their Indian allies, led by twenty-one-year-old Lieutenant Colonel George Washington, ambushed a French camp at the bottom of a glen.

Born in 1732 in Westmoreland County, Virginia, Washington had inherited his first human property at the age of ten, traveled to the West Indies as a young man, and accepted his first military commission at the age of twenty. Tall, imposing, and grave, he cut a striking figure. He was, as yet, inexperienced, and his first battle proved disastrous for the Virginians, who retreated to a nearby meadow and hastily erected a small wooden garrison that they named, suitably, Fort Necessity. After losing a third of his men in a single day, like so many stalks of wheat hacked down by a scythe, the young lieutenant surrendered. Only weeks later, delegates from the colonies met in Albany to consider Franklin’s proposal to form a defensive union, and, though they approved the plan, their colonial assemblies rejected it.

The war came all the same, a war over the trade in the East Indies, over fishing rights off the

coast of Newfoundland, over shipping along the Mississippi River, and over sugar plantations on West Indian islands. Like all wars, its costs were borne most heavily by the poor, who did the fighting, while traders, who sold weapons and supplied soldiers, saw profits. “War is declared in England—universal joy among the merchants,” wrote one New Yorker in 1756.¹³ The colonists called it the French and Indian War, after the people they were fighting in North America, but the war stretched from Bengal to Barbados, drew in Austria, Portugal, Prussia, Spain, and Russia, and engaged armies and navies in the Atlantic and the Pacific, in the Mediterranean and the Caribbean. The French and Indian War did what Franklin’s woodcut could not: as far north as New England, it brought Britain’s North American colonies together. Not least, it also led to the publication of an *American Magazine*, printed in Philadelphia and sent to subscribers from Jamaica to Boston. As its editors boasted: “Our readers are a numerous body, consisting of all parties and persuasions, thro’ *British America*.”¹⁴

During earlier wars between the British and the French, the colonists had mostly done their own fighting, raising town militias and provincial armies. But in 1755, Britain sent regiments of its regular army to North America, under the command of the stubborn and tempestuous General Edward Braddock. Franklin viewed the appointment of Braddock as the Crown’s attempt to keep the colonies weak. “The British Government not chusing to permit the Union of the Colonies, as propos’d at Albany, and to trust that Union with their Defence, lest they should thereby grow too military,” he wrote, they “sent over General Braddock with two Regiments of Regular English Troops.”¹⁵ Charged with moving the French line, Braddock began to prepare to engage the French at Fort Duquesne, at the mouth of the Ohio River, on the western edge of the frontier. Franklin warned the general that his planned route, as serpentine as a snake’s path, would expose his troops to Indian attack. “The slender Line near four Miles long, which your Army must make,” he explained, “may expose it to be attack’d by Surprize in its Flanks, and to be cut like a Thread into several Pieces.” Braddock, it would seem, gave Franklin a condescending smile, the same smile the king gave his subjects. “These Savages may indeed be a formidable Enemy to your raw American Militia,” he said. “But upon the King’s regular and disciplin’d Troops, Sir, it is impossible they should make any Impression.”

Braddock and his troops proceeded with their march. Along the way, they plundered the people. Before long, many colonists found themselves fearing the British army as much as the French. “This was enough to put us out of Conceit of such Defenders if we had really wanted any,” wrote Franklin bitterly. Braddock’s troops were ignominiously defeated and Braddock was shot. During a beleaguered retreat, the dying general was carried off the field by Washington.¹⁶

Nothing daunted, William Pitt, the new secretary of state, determined to win the war and settle Britain’s claims in North America once and for all. In his honor, when the British and American troops finally seized Fort Duquesne, they renamed it Fort Pitt. But Pitt’s lasting legacy would lie in the staggering cost of the war. Before long, forty-five thousand troops were fighting in North America; half were British soldiers, half were American troops. Pitt promised the colonies the war would be fought “at His Majesty’s expense.” It was the breaking of that promise, and the laying of new taxes on the colonies, that would, in the end, lead the colonists to break with England.

Even before then, the most expensive war in history cost Britain the loyalty of its North American colonists. British troops plundered colonial homes and raided colonial farms. Like Braddock, they also sneered at the ineptness of colonial militias and provincial armies. In close

quarters, in camps and on marches, few on either side failed to notice the difference between British and American troops. The British found the colonists inexperienced, undisciplined, and unruly. But to the Americans, few of whom had ever been to Britain, it was the British who were wanting: lewd, profane, and tyrannical.¹⁷

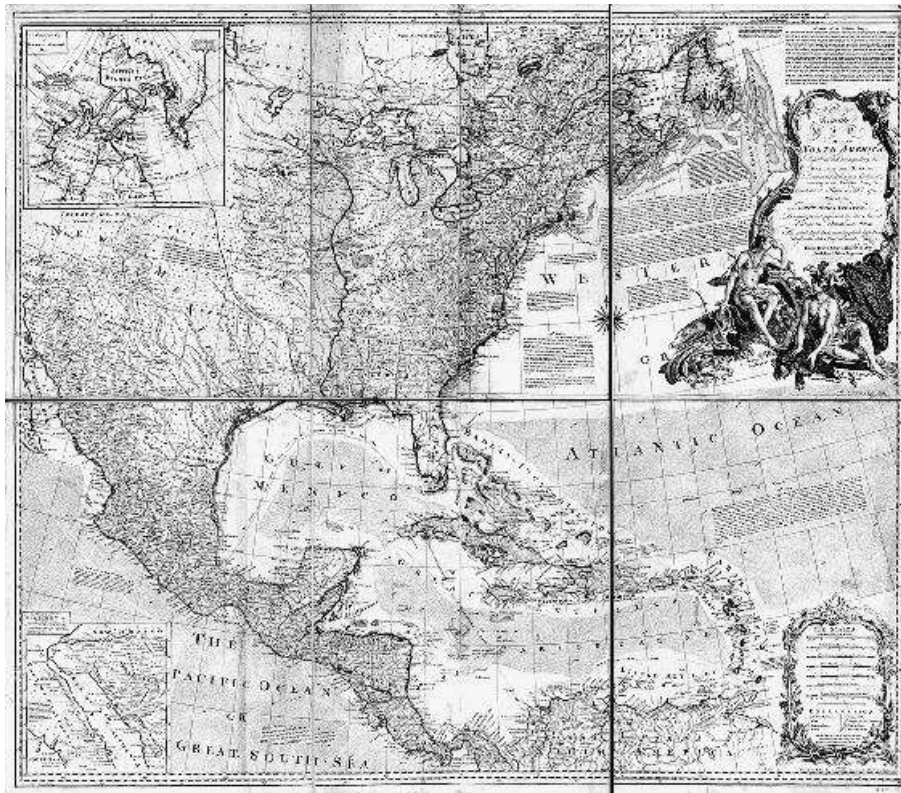
A clash proved difficult to avoid. In the British army, rank meant everything. British officers were wealthy gentlemen; enlisted men were drawn from the masses of the poor. In the colonial forces, there were hardly any distinctions of rank. In Massachusetts, one in every three men served in the French and Indian War, whether they were penniless clerks or rich merchants. In any case, differences of title and rank that existed in Britain did not exist in the colonies, at least among free men. In England, fewer than one in five adult men could vote; in the colonies, that proportion was two-thirds. The property requirements for voting were met by so many men that Thomas Hutchinson, who lost a bid to become governor in 1749, complained that the town of Boston was an “absolute democracy.”¹⁸

“There is more equality of rank and fortune in America than in any other country under the sun,” South Carolina governor Charles Pinckney declared. This was true so long as no one figured in that calculation—as Pinckney never would—people who were property, a number that included Pinckney’s forty-five slaves at Snee Farm, fifty-five people who constituted the source of his family’s wealth. Among them were Cyrus, a carpenter (valued by Pinckney at £120); Cyrus’s children, Charlotte (£80), Sam (£40), and Bella (£20); his granddaughter Cate (£70); and a very old woman named Joan, who might have been Cyrus’s mother. Pinckney placed the value of this great-grandmother at zero; she was, to him, worthless.¹⁹

In 1759, British and American forces defeated the French in Quebec, a stunning victory that led the Iroquois to abandon their longstanding position of neutrality and join with the English, which turned the tide of the war. In August 1760, the English captured Montreal, and the North American part of the war ended only six hundred miles from where it began, at the ragged western edge of the British Empire.

Weeks later, young George III was crowned king of Great Britain. Twenty-two and strangely shy, he was a boy of a man, dressed in gold, his white-buckled shoes tripping on a train of ermine. He presented himself to an uneasy world as a defender of the Protestant faith and of English liberties. He had declared, as Prince of Wales, “The pride, the glory of Britain, and the direct end of its constitution is political liberty.”²⁰ But by now, while his subjects in North America welcomed the coronation of their new king, they might as easily have recalled the wisdom of a proverb that Franklin had printed twenty years earlier in *Poor Richard’s Almanac*: “The greatest monarch on the proudest throne, is oblig’d to sit upon his own arse.”²¹

Mapmakers sharpened their quills to redraw the map of North America when peace was reached in 1763. Under its terms, France ceded Canada and all of New France east of the Mississippi to Britain; France granted all its land to the west of the Mississippi, territory known as Louisiana, to Spain; and Spain yielded Cuba and half of Florida to Britain. Britain’s skirt of settlement along the Atlantic looked now like bolts of fabric unfurled on the dressmaker’s floor.



London-printed maps commemorating the treaty that ended the Seven Years' War in 1763 marked out the importance of both the Caribbean and the continent.

“We in America have certainly abundant reason to rejoice,” the leading Massachusetts lawyer James Otis Jr. wrote from Boston in 1763. “The British dominion and power may now be said, literally, to extend from sea to sea, and from the great river to the ends of the earth.” If the war had strained the colonists’ relationship to the empire, the peace had strengthened both the empire and the colonists’ attachment to it. Added Otis, “The true interests of Great Britain and her plantations are mutual, and what God in his providence has united, let no man dare attempt to pull asunder.”²²

But the war had left Britain nearly bankrupt. The fighting had nearly doubled Britain’s debt, and Pitt’s promise began to waver. Then, too, the king’s ministers determined that defending the empire’s new North American borders would require ten thousand troops or more, especially after a confederation of Indians led by an Ottawa chief named Pontiac captured British forts in the Great Lakes and Ohio Valley. Pontiac, it was said, had been stirred to action by a prophecy of the creation on earth of a “Heaven where there was no White people.”²³ Fearing the cost of suppressing more Indian uprisings, George III issued a proclamation decreeing that no colonists could settle west of the Appalachian Mountains, a line that many colonists had already crossed.

In 1764, to pay the war debt and fund the defense of the colonies, Parliament passed the American Revenue Act, also known as the Sugar Act. Up until 1764, the colonial assemblies had raised their own taxes; Parliament had regulated trade. When Parliament passed the Sugar Act, which chiefly required stricter enforcement of earlier measures, some colonists challenged it by arguing that, because the colonies had no representatives in Parliament, Parliament had no right to levy taxes on them. The Sugar Act wasn’t radical; the response to it was radical, a

consequence of the growing power of colonial assemblies at a time when the idea of representation was gaining new force.

Taxes are what people pay to a ruler to keep order and defend the realm. In the ancient world, landowners paid in crops or livestock, the landless with their labor. Levying taxes made medieval European monarchs rich; only in the seventeenth century did monarchs begin to cede the power to tax to legislatures.²⁴ Taxation became tied to representation at the very time that England was founding colonies in North America and the Caribbean, which was also the moment at which the English had begun to dominate the slave trade. In the 1760s, the two became muddled rhetorically. Massachusetts assemblyman Samuel Adams asked, “If Taxes are laid upon us in any shape without our having a legal Representation where they are laid, are we not reduced from the Character of free Subjects to the miserable State of tributary Slaves?”²⁵

Taxation without representation, men like Adams argued, is rule by force, and rule by force is slavery. This argument had to do, in part, with debt. “The Borrower is a slave to the Lender,” as Franklin once put it in *Poor Richard’s Almanack*.²⁶ Debtors could be arrested and sent to debtors’ prison.²⁷ Debtors’ prison was far more common in England than in the colonies, which were in many ways debtors’ asylums.²⁸ But if there was an unusual tolerance for debt in the colonies, there was also an unusual amount of it, and in the 1760s there was, suddenly, rather a lot more of it. The governor of Massachusetts reported that “a Stop to all Credit was expected” and even “a general bankruptcy.”²⁹ The end of the French and Indian War led to a contraction of credit, followed by a crippling depression and, especially in the South, several years of poor crops. Tobacco plantation owners in the Chesapeake found themselves heavily indebted to merchants in England, who, themselves strapped, were quite keen to collect those debts. These planters, in particular, found it politically useful to describe themselves as slaves to their creditors.³⁰ During these same years, though, the sugar colonies in the Caribbean prospered, not least because the Sugar Act enforced a monopoly: under its terms, colonists on the mainland had to buy their sugar from the British West Indies.³¹ This difference did not pass unobserved. “Our Tobacco Colonies send us home no such wealthy planters as we see frequently arrive from our sugar islands,” Adam Smith would remark in *The Wealth of Nations*.³²

Parliament’s next revenue act induced a still more strenuous response. A 1765 Stamp Act required placing government-issued paper stamps on all manner of printed paper, from bills of credit to playing cards. Stamps were required across the British Empire, and, by those standards, the tax levied in the colonies was cheap: colonists paid only two-thirds of what Britons paid. But in the credit-strained mainland colonies, this proved difficult to bear. Opponents of the act began styling themselves the Sons of Liberty (after the Sons of Liberty in 1750s Ireland) and describing themselves as rebelling against slavery. A creditor was “lord of another man’s purse”; hadn’t British creditors and Parliament itself swindled North American debtors of their purses, and their liberty, too? Was not Parliament making them slaves? John Adams, a twenty-nine-year-old Boston lawyer and leader of the Stamp Act opposition, wrote: “We won’t be their negroes.”³³

The colonies were bound up in a growing credit crisis that would engulf the whole of the British Empire, from Virginia planters to Scottish bankers to East India Company tea exporters. But there were American particulars, too: with the Stamp Act, a tax on all printed paper, including newspapers, Parliament levied a tax that cost the most to the people best able to complain about it: the printers of newspapers. “It will affect Printers more than anybody,” Franklin warned, begging Parliament to reconsider.³⁴ Printers from Boston to Charleston argued

that Parliament was trying to reduce the colonists to a state of slavery by destroying the freedom of the press. The printers of the *Boston Gazette* refused to buy stamps and changed the paper's motto to "A free press maintains the majesty of the people." In New Jersey, a printer named William Goddard issued a newspaper called the *Constitutional Courant*, with Franklin's segmented snake on the masthead. This time, asked whether to join or die, the colonies decided to join.

In October, the month before the Stamp Act was to take effect, twenty-seven delegates from nine colonies met in a Stamp Act Congress in New York's city hall, where John Peter Zenger had been tried in 1735 and Caesar in 1741. The Stamp Act Congress collectively declared "that it is inseparably essential to the Freedom of a People, and the undoubted Right of Englishmen, that no Taxes be imposed on them, but with their own consent, given personally, or by their Representatives."³⁵ When they dined, they sent their leftovers to the debtors confined in a prison in the building's garret, making common cause with men deprived of their liberty by creditors.³⁶

The sovereignty of the people, the freedom of the press, the relationship between representation and taxation, debt as slavery: each of these ideas, with origins in England, found a place in the colonists' opposition to the Stamp Act. Still, Parliament professed itself baffled. In 1766, Benjamin Franklin appeared before the House of Commons to explain the colonists' refusal to pay the tax. At sixty, Franklin presented himself as at once a man of the world and an American provincial, wily and plainspoken, sophisticated and homespun.

"In what light did the people of America use to consider the Parliament of Great Britain?" the ministers asked.

"They considered the Parliament as the great bulwark and security of their liberties and privileges, and always spoke of it with the utmost respect and veneration," was Franklin's reply.

"And have they not still the same respect for Parliament?"

"No; it is greatly lessened."

If the colonists had lost respect for Parliament, why had this come to pass? On what grounds did they object to the Stamp Tax? There was nothing in Pennsylvania's charter that forbade Parliament from exercising this authority.

It's true, Franklin admitted, there was nothing specifically to that effect in the colony's charter. He cited, instead, their understanding of "The common rights of Englishmen, as declared by Magna Charta," as if the colonists were the barons of Runnymede, King George their King John, and Magna Carta their constitution.

"What used to be the pride of the Americans?" Parliament wanted to know.

"To indulge in the fashions and manufactures of Great Britain."

"What is now their pride?"

"To wear their old clothes over again till they can make new ones."³⁷

Here was Poor Richard, again with his proverbs.

And yet this defiance did not extend to Quebec, or to the sugar islands, where the burden of the Stamp Tax was actually heavier. Thirteen colonies eventually cast off British rule; some thirteen more did not. Colonists from the mainland staged protests, formed a congress, and refused to pay the stamp tax. But, except for some vague and halfhearted objections expressed on Nevis and St. Kitts, British planters in the West Indies barely uttered a complaint. (South Carolina, whose economy had more in common with the British West Indies than with the mainland colonies, wavered.) They were too worried about the possibility of inciting yet another

slave rebellion.³⁸

On the mainland, whites outnumbered blacks, four to one. On the islands, blacks outnumbered whites, eight to one. One-quarter of all British troops in British America were stationed in the West Indies, where they protected English colonists from the ever-present threat of slave rebellion. For this protection, West Indian planters were more than willing to pay a tax on stamps. Planters in Jamaica were still reeling from the latest insurrection, in 1760, when an Akan man named Tacky had led hundreds of armed men who burned plantations and killed some sixty slave owners before they were captured. The reprisals had been ferocious: Tacky's head was impaled on a stake, and, as in New York in 1741, some of his followers were hung in chains while others were burned at the stake. And still the rebellions continued, for which island planters began to blame colonists on the mainland: Did the Sons of Liberty realize what they were saying? "Can you be surprised that the Negroes in Jamaica should endeavor to Recover their Freedom," one merchant fumed, "when they dayly hear at the Tables of their Masters, how much the Americans are applauded for the stand they are making for theirs"?³⁹

Unsurprisingly, the island planters' unwillingness to join the protest against the Stamp Act greatly frustrated the Sons of Liberty. "Their Negroes seem to have more of the spirit of liberty than they," John Adams complained, asking, "Can no punishment be devised for Barbados and Port Royal in Jamaica?" Adams was the rare man whose soaring ambition matched his talents. He would learn to restrain his passions better. But in the 1760s, his anger at those who refused to support the resistance was unchecked. The punishment the Sons of Liberty decided upon came in the form of a boycott of Caribbean goods. In language even more heated than Adams's, patriot printers damned "the SLAVISH Islands of Barbados and Antigua—Poor, mean spirited, Cowardly, Dastardly Creoles," for "their base desertion of the cause of liberty, their tame surrender of the rights of Britons, their mean, timid resignation to slavery."⁴⁰



People held in slavery in Jamaica rebelled throughout the middle decades of the eighteenth century, leaving Jamaican slave owners reliant on British military protection and unwilling to join colonists on the continent in rebelling against British rule.

Planters bridled at the attack and floundered under the effects of the boycott. “We are likely to be miserably off for want of lumber and northern provisions,” one Antigua planter wrote, “as the North Americans are determined not to submit to the Stamp Act.”⁴¹ But they did not yield. And some began to consider their northern neighbors to be mere blusterers. “I look on them as dogs that will bark but dare not stand,” complained one planter from Jamaica.⁴²

Nor were the West Indian planters wrong to worry that one kind of rebellion would incite another. In Charleston, the Sons of Liberty marched through the streets, chanting, “Liberty and No Stamps!” only to be followed by slaves crying, “Liberty! Liberty!” And not a few Sons of Liberty made this same leap, from fighting for their own liberty to fighting to end slavery. “The

Colonists are by the law of nature free born, as indeed all men are, white or black,” James Otis Jr. insisted, in a searing tract called *Rights of the British Colonists, Asserted*, published in 1764, only months after he had rejoiced about the growth of Britain’s empire. Brilliant and unstable, Otis would later lose his mind (before his death in 1783, when he was struck by lightning, he had taken to running naked through the streets). But in the 1760s, he, better than any of his contemporaries, saw the logical extension of arguments about natural rights. He found it absurd to suggest that it could be “right to enslave a man because he is black” or because he has “short curl’d hair like wool.” Slavery, Otis insisted, “is the most shocking violation of the law of nature,” and a source of political contamination, too. “Those who every day barter away other men’s liberty, will soon care little for their own,” he warned.⁴³

Otis’s readers picked and chose which parts of his treatise to hold close and which parts to shed. But something had been set loose in the world, a set of unruly ideas about liberty, equality, and sovereignty. In 1763, when Benjamin Franklin visited a school for black children, he admitted that his mind had changed. “I . . . have conceiv’d a higher Opinion of the natural Capacities of the black Race, than I had ever before entertained,” he wrote a friend. In Virginia, George Mason began to have doubts about slavery, sending to George Washington, in December of 1765, an essay in which he argued that slavery was “the primary Cause of the Destruction of the most flourishing Government that ever existed”—the Roman republic—and warning that it might be the destruction of the British Empire, too.⁴⁴

Debt, taxes, and slavery weren’t the only issues raised in the political debates of the 1760s. The intensity of the debate strengthened new ideas about equality, too. “Male and female are all one in Christ the Truth,” Benjamin Lay had argued, expressing an idea that drew on a wealth of seventeenth-century Quaker writings about spiritual equality. “Are not women born as free as men?” Otis asked.⁴⁵ Even Benjamin Franklin’s long-suffering sister Jane began to entertain this notion. In 1765, Jane Franklin lost her husband, a saddler and ne’er-do-well named Edward Mecom, who had sickened while in debtors’ prison, and she’d begun taking in, as boarders, members of the Massachusetts Assembly. “I do not Pretend to writ about Politics,” she once wrote to her brother, “tho I Love to hear them.”⁴⁶ This was false modesty, a “fishing for commendation” about which her brother so often chided her. At her table, there was a lot for her to listen to, when, in 1766, Otis was elected as Speaker of the Massachusetts Assembly but the royally appointed governor refused to accept the results of the election. If Jane Franklin wasn’t, as yet, willing to write about politics, she had heard much worth pondering. Not long after the governor overturned the results of the election, she wrote to her brother to ask that he send her “all the Pamphlets & Papers that have been Printed of yr writing.”⁴⁷ She decided to make a study of politics.

In 1766, Parliament repealed the Stamp Act. The repeal “has hushed into silence almost every popular Clamour, and composed every Wave of Popular Disorder into a smooth and peaceful Calm,” John Adams wrote in his diary.⁴⁸ “I congratulate you & my Countrymen on the Repeal,” Franklin wrote to his sister.⁴⁹ The week after the news reached Boston, its town meeting voted in favor of “the total abolishing of slavery from among us.”⁵⁰ Pamphleteers began arguing for a colony-wide antislavery law; others counseled waiting until the end of the battle with Parliament, because, even as it repealed the Stamp Act, Parliament had passed the Declaratory Act, asserting its authority to make laws “in all cases whatsoever.” The next year, Parliament passed the Townshend Acts, taxes on lead, paper, paint, glass, and tea. When this,

too, led to riots and boycotts, the prime minister sent to Boston two regiments of the British army to enforce the law.

“The whol conversation of this Place turns upon Politics,” Jane reported to her brother. The Boston Town meeting resolved that “a series of occurrences . . . afford great reason to believe that a deep-laid and desperate plan of imperial despotism has been laid, and partly executed, for the extinction of all civil liberty.” When troops fired into a crowd in March 1770, killing five men, the Sons of Liberty called it a “massacre” and cried for relief from the tyranny of a standing army. But on the islands, planters called not for less military presence but more, the colonial assembly on St. Kitts begging the king to send troops to protect the colonists from “the turbulent and savage dispositions of the Negroes ever prone to Riots and Rebellions.”⁵¹

And still, the zeal for liberty raised the question of ending slavery. The Worcester Town Meeting called for a law prohibiting the importing and buying of slaves; by 1766, an antislavery bill had been introduced into the Massachusetts Assembly. But, mindful of how the question of slavery had severed the island colonies from the mainland, many in Massachusetts feared that further antislavery sentiment would sever the northern colonies from the southern. “If passed into an act, it should have a bad effect on the union of the colonies,” one assemblyman wrote to John Adams in 1771, when the bill came up for a vote.⁵² The next year, the Court of King’s Bench in London took up the case of *Somerset v. Stewart*. Charles Stewart, a British customs officer in Boston, had purchased an African man named James Somerset. When Stewart was recalled to England in 1769, he brought Somerset with him. Somerset escaped but was recaptured. Stewart, deciding to sell him to Jamaica, had him imprisoned on a ship. Somerset’s friends brought the case to court, where the justice, Lord Mansfield, found that nothing in English common law supported Stewart’s position. Somerset was set free.

The Somerset case taught people held in slavery two lessons: first, they might look to the courts to secure their freedom, and, second, they had a better shot at winning it in Britain than in any of its colonies. They began to act. Relying on the same logic that James Otis Jr. had expounded, they petitioned the courts for their freedom: “We expect great things from men who have made such a noble stand against the designs of their fellow-men to enslave them,” read a petition filed by four black men in Boston in April 1773. And they tried to escape to England: in Virginia that September, a slave couple ran away hoping to secure their freedom by reaching London, holding, as one observer put it, “a notion now too prevalent among the Negroes.”⁵³

This struggle for liberty was lost as the colonists returned, instead, to their battles with Parliament. The London-based East India Company was at risk of bankruptcy, partly due to the colonial boycott, but more due to a famine in Bengal, the military costs it incurred there, and collapsing stock value consequent to the empire-wide credit crash of 1772. In May of 1773, Parliament passed the Tea Act, which reduced the tax on tea—as a way of saving the East India Company—but again asserted Parliament’s right to tax the colonies. Townspeople in Philadelphia called anyone who imported the tea “an enemy of the country.” Tea agents resigned their posts in fear. That fall, three ships loaded with tea arrived in Boston. On the night of December 16, dozens of colonists disguised as Mohawks—warring Indians—boarded the boats and dumped chests of the tea into the harbor. To punish the city, Parliament passed the Coercive Acts, which closed Boston Harbor and annulled the Massachusetts charter, effective in June of 1774.



A British minister with the 1774 bill closing the port of Boston in his pocket pours tea down the throat of “America”—here, and often, depicted as a naked Indian woman—while another looks under her skirt.

In Virginia, James Madison Jr., twenty-three, eyed the events in Massachusetts from Montpelier, his family’s plantation in the Piedmont, east of the Blue Ridge Mountains. He’d graduated from Princeton two years before and was home tutoring his younger siblings. Far from the scene of action, he followed the news avidly and took pains to understand why the response to the tea tax was different in the northern and middle colonies than in the southern colonies. At Princeton, a Presbyterian college—a college of a dissenting faith—he’d made a study of religious liberty, and, after the dumping of the tea, he concluded that Massachusetts and Pennsylvania had resisted parliamentary authority in a way that Virginia did not because the more northern colonies had no established religion. Religious liberty, Madison came to believe, is a good in itself, because it promotes an independence of the mind, but also because it makes possible political liberty. Hearing word of the Coercive Acts, he began to think, for the first time, of war. He wrote to his closest friend, William Bradford, in Philadelphia, and asked him whether it might not be best “as soon as possible to begin our defense.”⁵⁴

Meanwhile, at Mount Vernon, George Washington, who’d been elected to the Virginia legislature in 1758, had chiefly occupied himself managing his considerable tobacco estate.⁵⁵ He hadn’t been much animated by the colonies’ growing resistance to parliamentary authority until the passage of the Coercive Acts. In September, fifty-six delegates from twelve of the thirteen mainland colonies met in Philadelphia, in a carpenters’ guildhall, as the First Continental Congress. Washington served as a delegate from Virginia. But if protest over the Stamp Act had temporarily united the colonies, the Coercive Acts appeared to many delegates to be merely Massachusetts’s problem. To Virginians, the delegates from Massachusetts seemed intemperate and rash, fanatical, even, especially when they suggested the possibility of an eventual independence from Britain. In October, Washington expressed relief when, after speaking to the “Boston people,” he felt confident that he could “announce it as a fact, that it is not the wish or interest of that Government, or any other upon this Continent, separately or collectively, to set up

for Independency.” He was as sure “as I can be of my existence, that no such thing is desired by any thinking man in all North America.”⁵⁶

From Philadelphia, James Madison’s friend William Bradford passed along fascinating tidbits of gossip about the goings-on at Congress. Bradford proved a resourceful reporter, and a better sleuth. From the librarian at the Library Company of Philadelphia—which supplied Congress with books—he’d heard that the delegates were busy reading “Vattel, Burlamaqui, Locke, and Montesquieu,” leading Bradford to reassure Madison: “We may conjecture that their measures will be wisely planned since they debate on them like philosophers.”⁵⁷

Wise they may have been, but these philosophers immediately confronted a very difficult question that has dogged the Union ever since. Congress was meant to be a representative body. How would representation be calculated? Virginia delegate Patrick Henry, an irresistible orator with a blistering stare, suggested that the delegates cast a number of votes proportionate to their colonies’ number of white inhabitants. Given the absence of any accurate population figures, the delegates had little choice but to do something far simpler—to grant each colony one vote. In any case, the point of meeting was to become something more than a collection of colonies and the sum of their grievances: a new body politic. “The distinction between Virginians, Pennsylvanians, New Yorkers, and New Englanders is no more,” Henry said. “I am not a Virginian, but an American.”⁵⁸ A word on a long-ago map had swelled into an idea.

II.

THE CONTINENTAL CONGRESS neither suffered the disunion and chaos of the Albany Congress nor undertook the deferential pleading of the Stamp Act Congress. Preparing for the worst, this new, more ambitious, and more expansive—*continental*—Congress urged colonists to muster their militias and stockpile weapons. It also agreed to boycott all British imports and to ban all trade with the West Indies, a severing of ties with the islands. The month the boycott was to begin, the Jamaica Assembly sent a petition to the king, with a bow and a curtsy. The Jamaicans began with an assurance that the island had no intention of joining the rebellion: “weak and feeble as this Colony is, from its very small number of white inhabitants, and its peculiar situation from the incumbrance of more than two hundred thousand slaves, it cannot be supposed that we now intend, or ever could have intended, resistance to Great Britain,” the Jamaicans explained. And yet, they went on, they did agree with the continentals’ fundamental grievance, declaring it “the first established principle of the Constitution, that the people of England have a right to partake, and do partake, of the legislation of their country.”⁵⁹

Unmoved, Congress offered Jamaica halfhearted thanks: “We feel the warmest gratitude for your pathetic mediation in our behalf with the crown.” Neither the king nor Parliament proved inclined to reconsider the Coercive Acts. The tax burden against which the colonists were protesting was laughably small, and their righteousness was grating. Lord North, the prime minister, commissioned the famed essayist Samuel Johnson to write a response to the Continental Congress’s complaints. Plainly, the easiest case to make against the colonists was to charge them with hypocrisy. In *Taxation No Tyranny*, Johnson asked, dryly, “How is it that we hear the loudest yelps for liberty among the drivers of negroes?” Johnson’s opposition to slavery

was far more than rhetorical; a free Jamaican, a black man named Francis Barber, was his companion, collaborator, and heir. (“To the next insurrection of negroes in the West Indies,” Johnson declared, in a toast he offered during the war.) But Johnson’s charge of hypocrisy amounted to no more than the charges made by Philadelphia doctor Benjamin Rush the year before: “Where is the difference,” Rush wondered, “between the British Senator who attempts to enslave his fellow subjects in America, by imposing Taxes upon them contrary to Law and Justice, and the American Patriot who reduces his African Brethren to Slavery, contrary to Justice and Humanity?”⁶⁰

By now, the seed planted by Benjamin Lay had borne fruit, and Quakers had formally banned slavery—excluding from membership anyone who claimed to own another human being. On April 14, 1775, one month before the Second Continental Congress was to meet in Philadelphia, two dozen men, seventeen of them Quakers, founded in that city the Society for the Relief of Free Negroes Unlawfully Held in Bondage. But once again, as in 1773, whatever the urgency of ending slavery, the attention of all the colonies was called away. Five days later, on April 19, 1775, blood spilled on the damp, dark grass of spring, on Lexington Green.

It began when General Thomas Gage, in charge of the British troops, seized ammunition stored outside of Boston, in nearby Charlestown and Cambridge, and sent seven hundred soldiers to do the same in Lexington and Concord. Seventy armed militiamen, or minutemen—farmers who pledged to be ready at a moment’s notice—met them in Lexington, and more in Concord. The British soldiers killed ten of them, and lost two men of their own. The rebel forces then laid siege to Boston, occupied by the British army. Loyalists stayed in the city, but Loyalists in Boston were few: twelve thousand of the city’s fifteen thousand inhabitants attempted to escape, the ragged and the dainty, the old and the young, the war’s first refugees.

John Hancock, John Adams, and Samuel Adams rode in haste to Philadelphia. The evacuation cleaved families. *Boston Gazette* printer Benjamin Edes carted his printing press and types to the Charles River and rowed across while, in Boston, his eighteen-year-old son was taken prisoner of war.⁶¹ Jane Franklin, sixty-three, rode out of the city in a wagon with a granddaughter, leaving a grandson behind. “I had got Pact up what I Expected to have liberty to carey out intending to seek my fourtune with hundred others not knowing whither,” she wrote to her brother, who was on his way back to America, after years in England, to join Congress.⁶²

Shots having been fired, the debate at the Second Continental Congress, which convened that May, was far more urgent than at the First. Those who continued to hope for reconciliation with Great Britain—which described most delegates—had now to answer the aggrieved, more radical delegates from Massachusetts, who brought stories of trials and tribulations. “I sympathise most sincerely with you and the People of my native Town and Country,” Benjamin Franklin wrote to his sister. “Your Account of the Distresses attending their Removal affects me greatly.”⁶³ In June, two months after bullets were first fired in Massachusetts, Congress voted to establish a Continental army; John Adams nominated George Washington as commander. The resolute and nearly universally admired Washington, a man of unmatched bearing, and very much a Virginian, was sent to Massachusetts to take command—his very ride meant as a symbol of the union between North and South.

All fall, Congress was occupied with taking up the work of war, raising recruits and provisioning the troops. The question of declaring independence was put off. Most colonists remained loyal to the king. If they supported resistance, it was to fight for their rights as

Englishmen, not for their independence as Americans.

Their slaves, though, fought a different fight. “It is imagined our Governor has been tampering with the Slaves & that he has it in contemplation to make great Use of them in case of a civil war,” young James Madison reported from Virginia to his friend William Bradford in Philadelphia. Lord Dunmore, the royal governor of Virginia, intended to offer freedom to slaves who would join the British army. “To say the truth, that is the only part in which this colony is vulnerable,” Madison admitted, “and if we should be subdued, we shall fall like Achilles by the hand of one that knows that secret.”⁶⁴

But the colonists’ vulnerability to slave rebellion, that Achilles’ heel, was hardly a secret: it defined them. Madison’s own grandfather, Ambrose Madison, who’d first settled Montpelier, had been murdered by slaves in 1732, apparently poisoned to death, when he was thirty-six. In Madison’s county, slaves had been convicted of poisoning their masters again in 1737 and 1746: in the first case, the convicted man was decapitated, his head placed atop a pole outside the courthouse “to deter others from doing the Like”; in the second, a woman named Eve was burned alive.⁶⁵ Their bodies were made into monuments.

No estate was without this Achilles’ heel. George Washington’s slaves had been running away at least since 1760. At least forty-seven of them fled at one time or another.⁶⁶ In 1763, a twenty-three-year-old man born in Gambia became Washington’s property; Washington named him Harry and sent him to work draining a marsh known as the Great Dismal Swamp. In 1771, Harry Washington managed to escape, only to be recaptured. In November 1775, he was grooming his master’s horses in the stables at Mount Vernon when Lord Dunmore made the announcement that Madison had feared: he offered freedom to any slaves who would join His Majesty’s troops in suppressing the American rebellion.⁶⁷

In Cambridge, where George Washington was assembling the Continental army, he received a report about the slaves at Mount Vernon. “There is not a man of them but would leave us if they believed they could make their escape,” Washington’s cousin reported that winter, adding, “Liberty is sweet.”⁶⁸ Harry Washington bided his time, but he would soon join the five hundred men who ran from their owners and joined Dunmore’s forces, a number that included a man named Ralph, who ran away from Patrick Henry, and eight of the twenty-seven people owned by Peyton Randolph, who had served as president of the First Continental Congress.⁶⁹

Edward Rutledge, a member of South Carolina’s delegation to the Continental Congress, said that Dunmore’s declaration did “more effectually work an eternal separation between Great Britain and the Colonies—than any other expedient which could possibly have been thought of.”⁷⁰ Not the taxes and the tea, not the shots at Lexington and Concord, not the siege of Boston; rather, it was this act, Dunmore’s offer of freedom to slaves, that tipped the scales in favor of American independence.

Not that it ever tipped them definitively. John Adams estimated that about a third of colonists were patriots, a third were Loyalists, and a third never really made a decision about independence.⁷¹ Aside from Dunmore’s proclamation of freedom to slaves, the strongest impetus for independence came from brooding and tireless Thomas Paine, who’d immigrated to Philadelphia from England in 1774. In January 1776, Paine published an anonymous pamphlet called *Common Sense*, forty-seven pages of brisk political argument. “As it is my design to make those that can scarcely read understand,” Paine explained, “I shall therefore avoid every literary ornament and put it in language as plain as the alphabet.” Members of Congress might have been

philosophers, reading Locke and Montesquieu. But ordinary Americans read the Bible, *Poor Richard's Almanack*, and Thomas Paine.

Paine wrote with fury, and he wrote with flash. "The cause of America is in a great measure the cause of all mankind," he announced. "'Tis not the affair of a city, a country, a province, or a kingdom, but of a continent—of at least one eighth part of the habitable globe. 'Tis not the concern of a day, a year, or an age; posterity are virtually involved in the contest, and will be more or less affected, even to the end of time."

His empiricism was homegrown, his metaphors those of the kitchen and the barnyard. "There is something absurd in supposing a continent to be perpetually governed by an island," he wrote, turning the logic of English imperialism on its head. "We may as well assert that because a child has thrived upon milk, that it is never to have meat."

But he was not without philosophy. Digesting Locke for everyday readers, Paine explained the idea of a state of nature. "Mankind being originally equals in the order of creation, the equality could only be destroyed by some subsequent circumstance," he wrote, a schoolteacher to his pupils. The rule of some over others, the distinctions between rich and poor: these forms of inequality were not natural, nor were they prescribed by religion; they were the consequences of actions and customs. And the most unnatural distinction of all, he explained, is "the distinction of men into kings and subjects."⁷²

Paine made use, too, of Magna Carta, arguing, "The charter which secures this freedom in England, was formed, not in the senate, but in the field; and insisted upon by the people, not granted by the crown." He urged Americans to write their own Magna Carta.⁷³ But Magna Carta supplies no justification for outright rebellion. The best and most expedient strategy, Paine understood, was to argue not from precedent or doctrine but from nature, to insist that there exists a natural right to revolution, as natural as a child leaving its parent. "Let us suppose a small number of persons settled in some sequestered part of the earth, unconnected with the rest, they will then represent the first peopling of any country, or of the world," he began, as if he were telling a child a once-upon-a time story.⁷⁴ They will erect a government, to secure their safety, and their liberty. And when that government ceases to secure their safety and their liberty, it stands to reason that they may depose it. They retain this right forever.

Much the same language found its way into resolutions passed by specially established colonial conventions, held so that the colonies, untethered from Britain, could establish new forms of government. "All men are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity," read the Virginia Declaration of Rights and Form of Government, drafted in May 1776 by brazen George Mason. "All power is vested in, and consequently derived from, the people." James Madison, half Mason's age, had been elected to the convention from Orange County. He proposed a revision to Mason's Declaration. Where Mason had written that "all men should enjoy the fullest toleration in the exercise of religion," Madison rewrote that clause to instead guarantee that "all men are equally entitled to the full and free exercise of it." The proposed change was adopted, and Madison became the author of the first-ever constitutional guarantee of religious liberty, not as something to be tolerated, but as a fundamental right.⁷⁵

Inevitably, slavery cast its long and terrible shadow over these statements of principle: slavery, in fact, had made those statements of principle possible. Mason's original draft hadn't

included the clause about rights being acquired by men “when they enter into a state of society”; these words were added after members of the convention worried that the original would “have the effect of abolishing” slavery.⁷⁶ If all men belonging to civil society are free and equal, how can slavery be possible? It must be, Virginia’s convention answered, that Africans do not belong to civil society, having never left a state of nature.

Within eighteenth-century political thought, women, too, existed outside the contract by which civil society was formed. From Massachusetts, Abigail Adams wrote to her husband, John, in March of 1776, wondering whether that might be remedied. “I desire you would Remember the Ladies, and be more generous and favourable to them than your ancestors,” she began, alluding to the long train of abuses of men over women. “Do not put such unlimited power into the hands of the Husbands,” she told him. She spoke of tyranny: “Remember all Men would be tyrants if they could.” And she challenged him to follow the logic of the principle of representation: “If perticular care and attention is not paid to the Laidies we are determined to foment a Rebellion, and will not hold ourselves bound by any Laws in which we have no voice, or Representation.”

Her husband would have none of it. “As to your extraordinary Code of Laws, I cannot but laugh,” he replied. “We have been told that our Struggle has loosened the bands of Government every where. That Children and Apprentices were disobedient—that schools and Colledges were grown turbulent—that Indians slighted their Guardians and Negroes grew insolent to their Masters. . . . Depend upon it, We know better than to repeal our Masculine systems.”⁷⁷ That women were left out of the nation’s founding documents, and out of its founders’ idea of civil society, considered, like slaves, to be confined to a state of nature, would trouble the political order for centuries.

AT THE CONTINENTAL CONGRESS, in June, Pennsylvania delegate John Dickinson drafted the Articles of Confederation. “The Name of this Confederacy shall be ‘The United States of America,’” he wrote, possibly using that phrase for the first time. It may be that Dickinson found the phrase “the united states” in a book of treaties used by Congress; it included a treaty from 1667 that referred to a confederation of independent Dutch states as the “the united states of the Low Countries.” In Dickinson’s draft, the colonies—now states—were to form a league of friendship “for their Common Defence, the Security of their Liberties, and their mutual & general Wellfare.” The first draft brought before Congress called for each state’s contribution to the costs of war, and of the government, to be proportionate to population, and therefore called for a census to be taken every three years. It would take many revisions and a year and a half of debate before Congress could agree on a final version. That final document stripped from Dickinson’s original most of the powers his version had granted to Congress; the final Articles of Confederation are more like a peace treaty, establishing a defensive alliance among sovereign states, than a constitution, establishing a system of government. Much was makeshift. The provision for a census of all the states together, for instance, was struck in favor of an arrangement by which a common treasury was to be supplied “in proportion to the value of all land within each state,” and since, in truth, no one knew that value, what the states contributed would be left for the states to decide.⁷⁸

Nevertheless, these newly united states edged toward independence. On June 7, 1776, fiery Virginia delegate Richard Henry Lee introduced a resolution “that these United Colonies are, and

of right ought to be, free and independent States.” A vote on the resolution was postponed, but Congress appointed a Committee of Five to draft a declaration: Benjamin Franklin, John Adams, Thomas Jefferson, New York delegate Robert R. Livingston, and Connecticut delegate Roger Sherman. Jefferson agreed to prepare a first draft.

The Declaration of Independence was not a declaration of war; the war had begun more than a year before. It was an act of state, meant to have force within the law of nations. The Declaration explained what the colonists were fighting for; it was an attempt to establish that the cause of the revolution was that the king had placed his people under arbitrary power, reducing them to a state of slavery: “The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States.” Many readers found these words unpersuasive. In 1776, the English philosopher and jurist Jeremy Bentham called the theory of government that informed the Declaration of Independence “absurd and visionary.” Its self-evident truths he deemed neither self-evident nor true. He considered them, instead, “subversive of every actual or imaginable kind of Government.”⁷⁹

But what Bentham found absurd and visionary represented the summation of centuries of political thought and political experimentation. “There is not an idea in it but what had been hackneyed in Congress for two years before,” Adams later wrote, jealous of the acclaim that went to Jefferson. Jefferson admitted as much, pointing out that novelty had formed no part of his assignment. Of the Declaration, he declared, “Neither aiming at originality of principles or sentiment, nor yet copied from any particular and previous writing, it was intended to be an expression of the American mind.”⁸⁰ But its ideas, those expressions of the American mind, were older still.

“We hold these truths to be sacred & undeniable,” Jefferson began, “that all men are created equal & independant, that from that equal creation they derive rights inherent & inalienable, among which are the preservation of life, & liberty, & the pursuit of happiness; that to secure these ends, governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government shall become destructive of these ends, it is the right of the people to alter or to abolish it, & to institute new government.” He’d borrowed from, and vastly improved upon, the Virginia Declaration of Rights, written by George Mason. Having established that a right of revolution exists if certain conditions are met, it remained to establish that those conditions obtained. The bulk of Jefferson’s draft was a list of grievances, of charges against the king, calling him to account “for imposing taxes on us without our consent,” for dissolving the colonists’ assemblies, for keeping a standing army, “for depriving us of trial by jury,” rights established as far back as Magna Carta. Then, in the longest statement in the draft, Jefferson blamed George III for African slavery, charging the king with waging “cruel war against human nature itself, violating its most sacred rights of life & liberty in the persons of a distant people who never offended him, captivating & carrying them into slavery,” preventing the colonies from outlawing the slave trade and, “that this assemblage of horrors might want no fact of distinguished die, he is now exciting those very people to rise in arms among us.” This passage Congress struck, unwilling to conjure this assemblage of horrors in the nation’s founding document.

The Declaration that Congress did adopt was a stunning rhetorical feat, an act of extraordinary political courage. It also marked a colossal failure of political will, in holding back

the tide of opposition to slavery by ignoring it, for the sake of a union that, in the end, could not and would not last.

In July, the Declaration of Independence was read aloud from town houses and street corners. Crowds cheered. Cannons were fired. Church bells rang. Statues of the king were pulled down and melted for bullets. Weeks later, when a massive slave rebellion broke out in Jamaica, slave owners blamed the Americans for inciting it. In Pennsylvania, a wealthy merchant, passionately stirred by the spirit of the times, not only freed his slaves but vowed to spend the rest of his life tracking down those he had previously owned and sold, and their children, and buying their freedom. And in August 1776, one month after delegates to the Continental Congress determined that in the course of human events it sometimes becomes necessary for one people to dissolve the bands which have connected them with another, Harry Washington declared his own independence by running away from Mount Vernon to fight with Dunmore's regiment, wearing a white sash stitched with the motto "Liberty to Slaves."⁸¹

III.

DURING THE WAR, nearly one in five slaves in the United States left their homes, fleeing American slavery in search of British liberty. One American refugee renamed himself "British Freedom." New lyrics to "Yankee Doodle," rewritten as "The Negroes Farewell to America," were composed in London. In the new version, fugitive slaves leave the United States "for old Englan' where Liberty reigns / Where Negroe no beaten or loaded with chains."⁸²

Not many succeeded in reaching the land where liberty reigned, or even in getting behind British battle lines. Instead, they were caught and punished. One slave owner who captured a fifteen-year-old girl who was heading for Dunmore's regiment punished her with eighty lashes and then poured hot embers into the gashes.⁸³ However desperate and improbable a flight, it must have seemed a good bet; the shrewdest observers expected Britain to win the war, not least because the British began with 32,000 troops, disciplined and experienced, compared to Washington's 19,000, motley and unruly. An American victory appeared an absurdity. But the British regulars, far from home, suffered from a lack of supplies, and while William Howe, commander in chief of British forces, set his sights first on New York and next on Philadelphia, he found that his victories yielded him little. Unlike European nations, the United States had no established capital city whose capture would have led to an American surrender. More importantly, time and again, Howe failed to press for a final, decisive defeat of the Americans, fearing the losses his own troops would sustain and the danger of heavy casualties when reinforcements were at such a distance.

Then, too, Britain's forces were spread thin, across the globe, waging the war on many fronts. For the British, the American Revolution formed merely one front in a much larger war, a war for empire, a world war. Like the French and Indian War, that war was chiefly fought in North America, but it spilled out elsewhere, too, to West Africa, South Asia, the Mediterranean, and the Caribbean. In 1777, Howe captured Philadelphia while, to the north, the British commander John Burgoyne suffered a humiliating defeat at the Battle of Saratoga. This American victory helped John Jay, John Adams, and Benjamin Franklin, serving as diplomats in

France, to secure a vital treaty: in 1778, France entered the conflict as an ally of the United States, at which point Lord North, keen to protect Britain's much richer colonies in the Caribbean from French attack, considered simply abandoning the American theater. Spain joined the French-American alliance in 1779. Germany entered the conflict by supplying paid soldiers called, by Americans, Hessians. And, partly because the Dutch had been supplying arms and ammunition to the Americans, Britain declared war on Holland in 1780. The involvement of France brought the fighting to the wealthy West Indies, where, beginning in 1778, the French captured the British colonies of Dominica, Grenada, St. Vincent, Montserrat, Tobago, St. Kitts, and Turks and Caicos. The cessation of trade between the mainland and the British Caribbean exacted another kind of toll on Britain's profitable sugar colonies: Africans starved to death. On Antigua alone, a fifth of the slave population died during the war.⁸⁴

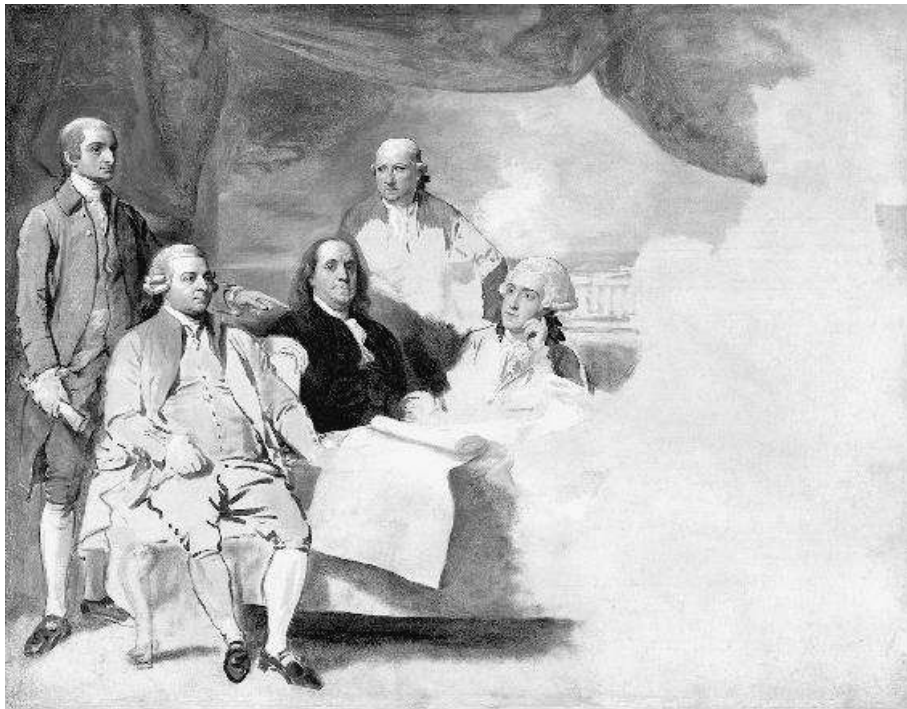


This political cartoon, published in London, shows “Britain,” on one side of the scale, warning, “No one injures me with impunity,” while, on the other side, “America,” trampled by her allies (Spain, France, and the Netherlands), cries, “My Ingratitude is Justly punished.”

To Americans, the Revolutionary War was not a world war but a civil war, between those who favored independence and the many who did not. John Adams, offhand, guessed that one in three colonists remained loyal to the Crown and another third hadn't quite decided, but Adams's guess did not begin to include the still greater numbers of Loyalists whom the British counted among their allies: the entire population of American slaves and nearly all Native American peoples. One reason the British continually failed to press their advantage was that they kept trying to change the field of fighting to a part of the colonies where they expected to find more Loyalist support, not only among the merchants and lawyers and farmers who remained loyal to the Crown but among their African and Indian allies. The battle, Howe's successor, Henry Clinton, believed, was “to gain the hearts & subdue the minds of America.”⁸⁵ That strategy failed. And when that strategy failed, Britain didn't so much lose America as abandon it.

At first, the Crown courted compliance. In 1778, the king sent commissioners authorized to

offer to repeal all acts of Parliament that had been opposed by the colonies since 1763, but when Congress demanded that the king recognize American independence, the commissioners refused. At this point, although Clinton held New York City and fighting continued to the west, the theater of war moved to the South: British ministers decided to make a priority of saving the wealthy sugar islands, to give up on the northern and middle mainland colonies, and to try to keep the southern colonies in order to restore the supply of food to the West Indies. Clinton captured Savannah, Georgia, in December 1778 and set his sights on Charleston, South Carolina, the largest city in the South. In Congress, this led to a debate about arming slaves. In May 1779, Congress proposed to enlist three thousand slaves in South Carolina and Georgia and to pay them with their freedom. “Your Negro Battallion will never do,” warned John Adams. “S. Carolina would run out of their Wits at the least Hint of such a Measure.”⁸⁶ He was entirely correct. The South Carolina legislature rejected the proposal, declaring, “We are much disgusted.”⁸⁷ Clinton captured Charleston in May of 1780.



Benjamin West, American-born History Painter to the King, began a painting of the British and American peace commissioners—including Benjamin Franklin, John Adams, and John Jay—but never finished the canvas.

In 1781, in hopes of taking the Chesapeake, the British general Lord Cornwallis fortified Yorktown, Virginia, as a naval base. His troops were soon besieged and bombarded by a combination of French and American forces. The French were led by the dazzling Marquis de Lafayette, whose service to the Continental army and impassioned advocacy of the American cause had included lobbying for French support. Cornwallis was vulnerable because British naval forces were occupied in the Caribbean. He surrendered on October 19, not realizing that British forces were that very day sailing from New York to aid him. Cornwallis’s defeat at Yorktown ended the fighting in North America, but it didn’t end the war. The real end, for Great Britain, came in 1782, in the West Indies, at the Battle of the Saintes, when the British defeated a

French and Spanish invasion of Jamaica, an outcome that testified not to the empire's weaknesses but to its priorities. Britain kept the Caribbean but gave up America.

Not surprisingly, the terms of the peace proved as messy and sprawling as the war. Loyalists confronted the same decision as the empire itself: whether to give up on America. "To go or not to—*is that the question?*" one bit of Shakespearean doggerel went. "Whether 'tis best to trust the inclement sky . . . or stay among the Rebels! / And, by our stay rouse up their keenest rage." Most, not near so indecisive as Hamlet, left if they could: 75,000, about one in every forty people in the United States, evacuated with the British. They went to Britain and Canada, to the West Indies and India: they helped build the British Empire. "No News here but that of Evacuation," one patriot wrote from New York. "Some look smiling, others melancholy, a third Class mad." None were more desperate to escape the United States than the 15,000–20,000 ex-slaves who were part of that exodus, the largest emancipation in American history before Abraham Lincoln signed the Emancipation Proclamation in 1863.⁸⁸ In July of 1783, Harry Washington, who'd left Mount Vernon years before to join Dunmore's regiment, managed to reach New York City, where he boarded the British ship *L'Abondance*, bound for Nova Scotia. A clerk noted his departure in a ledger called the "Book of Negroes," listing the 2,775 runaway black men, women, and children who evacuated from the city with the British that summer: "Harry Washington, 43, fine fellow. Formerly the property of General Washington; left him 7 years ago."⁸⁹

When Cornwallis surrendered at Yorktown, 60,000 Loyalists raced to get behind British lines. Knowing their property would be seized, if it hadn't been already—or that they themselves would be seized, as someone else's property—they chose to leave the United States for Britain or for other parts of its empire. They headed to New York, Savannah, or Charleston, cities still held by the British, and from which they would soon be disembarking. Out of 9,127 Loyalists who sailed from Charleston, 5,327 were fugitive slaves. In Virginia, the 2,000 black soldiers under Cornwallis's command who had survived the siege, described as "herds of Negroes," trudged through swamps and forests in hopes of reaching a British warship that Washington, under the terms of the surrender, had agreed to allow to sail to New York. They suffered from exhaustion; they suffered from hunger; they suffered from disease. Of thirty people who escaped Thomas Jefferson's Monticello, fifteen died of smallpox before reaching Cornwallis. Other fugitive slaves fled to the French. "We gained a veritable harvest of domestics," wrote one surprised French officer. Armed slave patrols pursued the fugitives, capturing hundreds of Cornwallis's soldiers and their families, including two people owned by Washington and five owned by Jefferson. In the race to reach British lines, pregnant women ran, too, in hopes that their newborns would earn their freedom papers in the form of a "BB" certificate: "Born Free Behind British Lines."⁹⁰

Reaching New York or Charleston or Savannah was only the beginning of the journey. In New York, Boston King, a runaway from South Carolina, heard a rumor that all the slaves in the city, some two thousand, "were to be delivered up to their masters," and he was haunted by fear of American slave owners marching through the city, "seizing upon their slaves in the streets, or even dragging them out of their beds." King, a carpenter, wrote in his memoirs that blacks in the city were too frightened even to sleep. A Hessian officer reported that as many as five thousand slave owners entered the city to recapture their slaves. George Washington had in fact ordered the keeping of the "Book of Negroes" so that owners might later seek compensation for slaves

carried off in British ships. In Charleston, soldiers patrolled the wharves to hold back the hundreds of people desperately seeking to realize what would be, for most of them, their last chance at securing the blessings of liberty for themselves and their posterity. Despite the patrols, dozens of people leapt off the docks and swam out to the last longboats heading to the British warships, including the aptly named *Free Briton*. The swimmers grabbed the rails of the crowded boats and tried to climb aboard. When they would not let go, the British soldiers on the boats tried to hack off their fingers.⁹¹

The Revolution was at its most radical in the challenge it presented to the institution of slavery and at its most conservative in its failure to meet that challenge. Still, the institution had begun to break, like a pane of glass streaked with cracks but not yet shattered. In January 1783, when Lafayette heard that the commissioners in Paris were near to arriving at a peace treaty, he wrote to Washington to congratulate him and to propose that together they finish work the Revolution had begun. "Let us unite in purchasing a small estate, where we may try the experiment to free the negroes," he suggested. "Such an example as yours might render it a general practice; and if we succeed in America," they could bring the experiment to the West Indies. "I should be happy to join you in so laudable a work," Washington wrote back, saying that he wished to meet to discuss the details.⁹²

No thinking person was unaffected by the challenge the struggle for liberty posed to the institution of slavery, America's Achilles' heel. In Philadelphia in 1783, James Madison, leaving Congress, was packing up, preparing to return to Montpelier. He wasn't sure what to do about Billey, a twenty-three-year-old man that he'd brought with him from Virginia when he'd first come to serve in Congress. Billey had been Madison's property since his birth in 1759, when Madison was eight years old. In 1777, the Pennsylvania legislature passed the first abolition law in the Western world, decreeing that any child born to an enslaved woman after March 1, 1780, would be free after twenty-eight years of slavery, and banning the sale of slaves. New York's John Jay declared that to oppose emancipation would be to find of America that "her prayers to Heaven for liberty will be impious."⁹³ In 1782, the Virginia legislature passed a law that allowed slave owners to free their slaves: one Virginia Quaker said, upon manumitting his slaves, that he had been "fully persuaded that freedom is the natural Right of all mankind & that it is my duty to do unto others as I would desire to be done by in the Like Situation."⁹⁴ Not many followed his lead. In 1782, Madison had bought a cache of books in Philadelphia, including a copy of Hobbes's *Leviathan*, even though short of cash and complaining that he would soon be "under the necessity of selling a negro," meaning Billey.⁹⁵

The terrible irony of the man who would draft the Constitution selling a man to buy philosophy was prevented by the terms of Pennsylvania's 1780 abolition law. Madison could not, in fact, sell Billey in Philadelphia. And in 1783, as he prepared to leave Philadelphia for Virginia, it was by no means certain, under Pennsylvania law, that he had any legal right to force Billey to go with him, either. "I have judged it most prudent not to force Billey back to Virginia even if it could be done," Madison reported to his father. "I am persuaded his mind is too thoroughly tainted to be a fit companion for fellow slaves in Virginia." That is, Billey, having spent three and a half years serving Madison in Philadelphia, a city where many black people were free, would be a problem on a plantation: he would incite rebellion. Trade in slaves was illegal in Pennsylvania. Madison might have tried to smuggle Billey out of the state, to sell him farther south, or into the Caribbean, but, he told his father, he was unwilling to "think of

punishing him by transportation merely for coveting that liberty for which we have paid the price of so much blood, and have proclaimed so often to be the right, and worthy pursuit, of every human being.” In the end, Madison decided to sell him, not as a slave but as an indentured servant, with a seven-year term. Billey renamed himself William Gardener, served out his seven-year term, became a free man, worked as merchant’s agent, and raised a family with a wife who, when Jefferson was in Philadelphia, washed Jefferson’s clothes.⁹⁶

Gardener found his freedom in Philadelphia. Other men and women met more clouded fates. Nearly thirty thousand Loyalists had sailed from New York to Nova Scotia, among them Harry Washington. Washington settled in Nova Scotia with some fifteen hundred families, the largest free black community in North America, where they flocked around a Methodist preacher named Moses Wilkinson and a Baptist named David George. But, living alongside twelve hundred black slaves brought to Nova Scotia by white Loyalists, the free black community faced continuing challenges. “The White people were against me,” George reported. After he attempted to baptize a white man and woman, a white mob tackled him on his pulpit. “It is known by experience that these Persons brought up in Servitude and Slavery want the assistance and Protection of a Master to make them happy,” wrote one white Nova Scotian, of free blacks. Swindlers took over their land allotments, selling off “ye Black men’s ground,” as one surveyor observed with dismay, without “even a shadow of a license.” The free black community began to wither. “Many of the poor people were compelled to sell their best gowns for five pounds of flour, in order to support life. When they had parted with all their clothes, even to their blankets, several of them fell down dead in the streets, thro’ hunger,” Boston King reported. “Some killed and ate their dogs and cats.”⁹⁷ It was as terrible a disaster as Jamestown.

While American exiles struggled to survive in Canada, Benjamin Franklin was in Paris, negotiating the terms of the peace. “A Grate work Indeed you have Done God be Praised,” his sister Jane wrote to him.⁹⁸ In September 1783, the American delegation signed the Treaty of Paris. Britain agreed to recognize the independence and sovereignty of the United States. The Americans agreed to make good on debts to British creditors. There were arrangements made for Loyalists and their property, and for the release of prisoners of war. Spain and France were largely cut out of the negotiations, and got very little from them, while Britain ended up with a very different and more far-flung empire than it had in 1775.

The terms of the peace cut the number of African slaves in Britain’s empire in half, which meant that the antislavery movement in England gained a more attentive audience, and the proslavery lobby was vastly weakened. Quite the reverse applied in the United States. In the aftermath of the American Revolution, slave owners in states like South Carolina gained political power, while slave owners in the West Indies lost it. West Indian planters were outraged by Britain’s decision to forbid trade between the islands and the United States, a decision that led to riots. A sizable number of the freed slaves who left the United States for other parts of the British Empire ended up in the Caribbean. In Jamaica, they began demanding the right to vote: they argued that taxation without representation was tyranny. In the end, the American challenge to empire contributed to a political and moral critique of slavery that was felt far more deeply in the British Empire than in the United States.⁹⁹

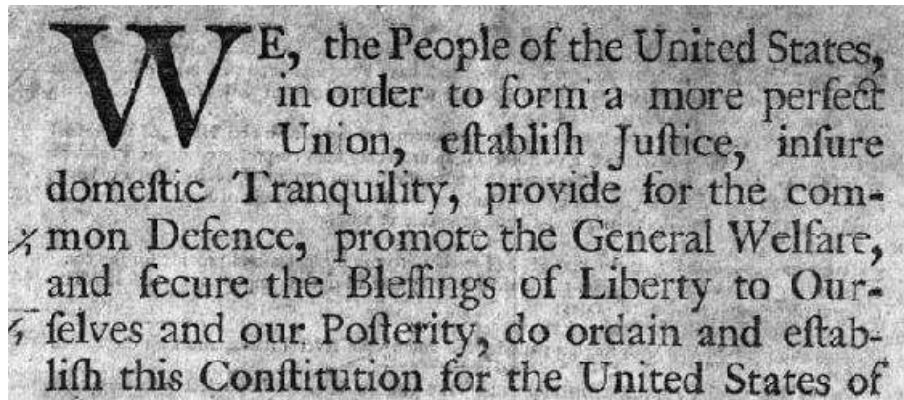
The peace made, George Washington rode on a gray horse into the city of New York, where a flag of thirteen stripes and stars had been raised on a pole in Battery Park. Only hours before, the British flag had waved. The last British troops had left the city, occupied since 1776, the last

British ship not yet quite out of sight. The city erupted in jubilation as Washington and his soldiers rode down Broadway. That night, Washington went to a tavern for a public dinner, where he raised his wine glass and offered thirteen toasts, to the new nation, to liberty, to America's allies, and more. "To the memory of those heroes who have fallen for our freedom!" And: "May America be an Asylum to the persecuted of the earth!" And finally: "May the remembrances of the day be a lesson to princes."¹⁰⁰

England would have no slaves. And America would have no king.

Four

THE CONSTITUTION OF A NATION



WE, the People of the United States, in order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common Defence, promote the General Welfare, and secure the Blessings of Liberty to Ourselves and our Posterity, do ordain and establish this Constitution for the United States of

Printers published the proposed Constitution as a broadside but also included it in newspapers, almanacs, and pamphlets.

JAMES MADISON, THIRTY-SIX, BOOKISH, AND WISE, reached Philadelphia on May 3, 1787, eleven days before the constitutional convention was meant to begin. He settled into his old rooms at Mrs. House’s hotel, a boardinghouse at Fifth and Market Streets, where he’d stayed during meetings of the Continental Congress. To prepare for the convention, he reviewed his notes on the construction of republics. George Washington arrived on May 13, on the eve of the convention, not nearly as quietly, greeted by crowds, the pealing of church bells, a regiment of cavalry, and a thirteen-gun salute. When Washington reached Mrs. House’s, where he’d planned to stay, the wealthy Philadelphia merchant Robert Morris met him there and insisted that Washington stay at his lavish mansion, a few blocks away. The next morning, Washington and Madison walked together to the Pennsylvania State House through a tender mist.¹

Very few of the delegates had arrived. “There is less punctuality in the outset than was to be wished,” Madison wrote to Jefferson, in Paris, on May 15, brooding.² Delay or no delay, from the start of the proceedings, Madison took careful notes, certain “of the value of such a contribution to the fund of materials for the History of a Constitution on which would be staked the happiness of a young people.” Past an arched doorway, in the Assembly Room of the State House, its tall windows flooding the room with light, the convention met from May 14 to September 17, from a season of planting to a season of harvest. Madison didn’t miss a single day, “nor more than a casual fraction of an hour in any day,” he explained, “so that I could not

have lost a single speech, unless a very short one.”³

Madison spoke softly and haltingly, the very opposite of the way he wrote. He was making a record for himself, and he was also writing down what happened in Philadelphia that summer for Jefferson. Ever since Jefferson left the country, in 1784, Madison had been taking notes of congressional deliberations for him, too. But Madison understood that, above all, he was making a record for posterity, a record of how a constitution had come to be written.

To constitute something is to make it. A body is constituted of its parts, a nation of its laws. “The constitution of man is the work of nature,” Rousseau wrote in 1762, “that of the state the work of art.”⁴ By the eighteenth century, a constitution had come to mean “that Assemblage of Laws, Institutions and Customs, derived from certain fix’d Principles of Reason . . . according to which the Community hath agreed to be govern’d.”⁵ Englishmen boasted that “England is now the only monarchy in the world that can properly be said to have a constitution.”⁶ But England’s constitution is unwritten; instead of a single, written document, England’s constitution is the sum of its laws, customs, and precedents. In a debate with the conservative Edmund Burke, Thomas Paine suggested that England’s constitution did not, in fact, exist. “Can, then, Mr. Burke produce the English Constitution?” Paine asked. “If he cannot, we may fairly conclude that though it has been so much talked about, no such thing as a constitution exists, or ever did exist.”⁷ In America’s book of genesis, the constitution would be written, printed, and preserved.

Centuries of speculation about a state of nature—a time before government—came to an end. It was no longer necessary to imagine how a people might erect a government: this could be witnessed. “We have no occasion to roam for information into the obscure field of antiquity, nor hazard ourselves upon conjecture,” Paine wrote. “We are brought at once to the point of seeing government begin, as if we had lived in the beginning of time.”⁸ It was with this in mind that Madison proved so careful a historian. It was as if he were living at the beginning of time.

I.

THE CONSTITUTION OF the United States was not the first written constitution in the history of the world. The world’s first written, popularly ratified constitutions were drafted by the American states, beginning in 1776. Having dismantled their own governments, they took seriously—literally—the idea that they needed to create them anew, as if they had been returned to a state of nature.

Three states had adopted written constitutions even before Congress declared independence from England, because they found themselves otherwise without a government. “We conceive ourselves reduced to the necessity of establishing A FORM OF GOVERNMENT,” a Constitutional Congress convened in New Hampshire declared in January 1776, after the Loyalist governor of New Hampshire fled the state, along with most members of his council.⁹ Eleven of the thirteen states devised constitutions in 1776 or 1777. The work of writing these constitutions, Jefferson noted in 1776, was “the whole object of the present controversy.”¹⁰

Most state constitutions were drafted by state legislatures; others were written by men elected as delegates to special conventions. In the spring of 1775, the irascible John Adams had urged Congress “to recommend to the People of every Colony to call such Conventions immediately

and set up Governments of their own, under their own Authority; for the People were the Source of all Authority and the Original of all Power.” New Hampshire had been the first to act. It was the first state to submit its constitution to the people for ratification, a process whose outcome was far from inevitable. In 1778, when the Massachusetts legislature drafted a constitution and presented it to the people for ratification, the people rejected it, and called for a special convention, which was held in Cambridge in 1779; Adams, one of its delegates, was the chief author of a new constitution that the people of Massachusetts ratified in 1780. That this act—the people voting on the very form of government—represented an extraordinary break with the past was not lost on Adams, who wrote, “How few of the human race have ever enjoyed an opportunity of making an election of government, more than of air, soil, or climate, for themselves or their children!”¹¹

Each of the states was a laboratory, each new constitution another political experiment. Many state constitutions, like those of Virginia and Pennsylvania, included a Declaration of Rights. Pennsylvania’s, written in September 1776, began by echoing the preamble to the Declaration of Independence, establishing “That all men are born equally free and independent, and have certain natural, inherent and inalienable rights, amongst which are, the enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining happiness and safety.” Massachusetts’s constitution insisted on a right to revolution, decreeing that when the government fails the people, “the people have a right to alter the government, and to take measures necessary for their safety, prosperity and happiness.”¹²

For all the veneration of the “people,” the word “democracy” retained an unequivocally negative connotation. Eighteenth-century Americans borrowed from Aristotle the idea that there are three forms of government: a monarchy, an aristocracy, and a polity; governments by the one, the few, and the many. Each becomes corrupt when the government seeks to advance its own interests rather than the common good. A corrupt monarchy is a tyranny, a corrupt aristocracy an oligarchy, and a corrupt polity a democracy. The way to avoid corruption is to properly mix the three forms so that corruption in any one would be restrained, or checked, by the others.

Between a government too monarchical and a government too democratic, Massachusetts lawyer and later member of Congress Fisher Ames would have rather had the former. “Monarchy is like a merchantman, which sails well, but will sometimes strike on a rock, and go to the bottom,” Ames wrote in 1783, “whilst a republic is a raft, which would never sink, but then your feet are always in the water.”¹³

Unlike the harrumphing Ames, many of the people who were drafting state constitutions apparently preferred to err on the side of democracy. In framing new governments, several states lowered property qualifications for voting. Under the terms of Pennsylvania’s new constitution, any man who had lived in the state for a year and paid taxes—*any* taxes—could vote: where earlier two-thirds of white men could vote, 90 percent now could. Yet many men of means found this development alarming, believing that poor men, like women, lacked the capacity to make good political decisions because, dependent on others, their will was not their own. Massachusetts’s constitution included property qualifications both for office seekers and for voters. As Adams explained, “Such is the Frailty of the human Heart, that very few Men, who have no Property, have any Judgment of their own.”¹⁴

Most states arranged a government of three branches, with a governor as executive, a

superior court as judicial, and a Senate and House of Representatives as legislative. But some states, attempting to correct for colonial arrangements, in which a royally appointed governor and his appointed council wielded the preponderance of power over a weak elected assembly, granted the greatest weight to lower houses of the legislature rather than to upper houses or to an executive. Pennsylvania's constitution, like its Quakers, was the most radical, and, in the eyes of many observers, alarmingly democratic. It called for annual elections, no governor, and a unicameral legislature whose members served limited terms. Any proposed law had to be printed and distributed to the people, who would have a year to consider it before the legislature voted.¹⁵

The states' constitutions were political experiments in more ways, too. The Declaration of Rights in Vermont's 1777 constitution specifically banned slavery: men might be indentured as servants till the age of twenty-one, or women till the age of eighteen, but no one past that age could be held in bondage. (This provision would have made Vermont the first state to abolish slavery, except that in 1777 Vermont was not a state but an independent republic; it would not join the United States until 1791.)

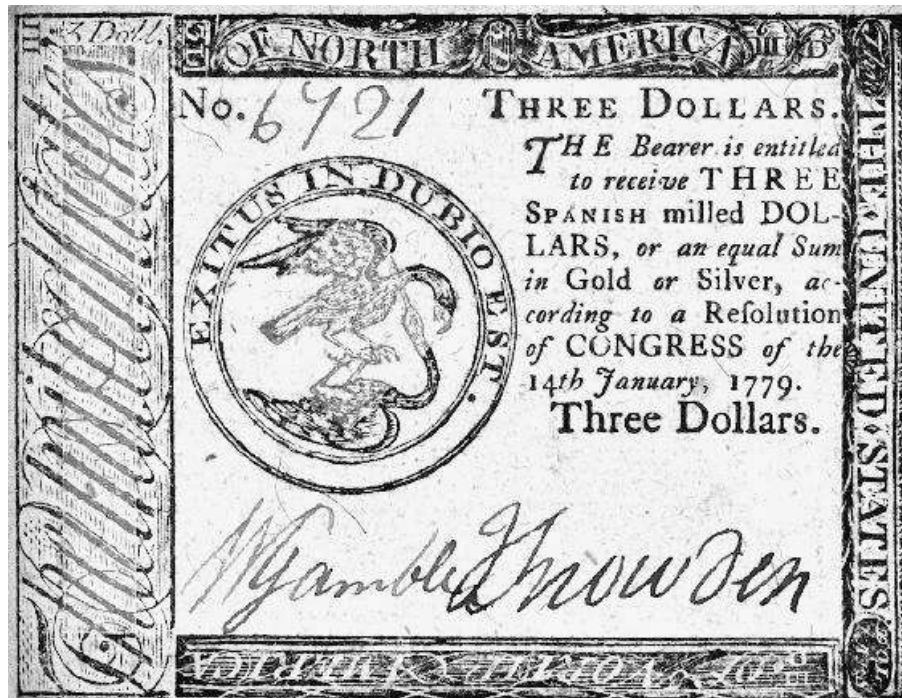
In 1781, Bett, a slave in Massachusetts whose husband had fought and died in the war, filed a suit in which she argued that the state's new constitution had abolished slavery. Bett's owner, John Ashley, was a local judge. She'd heard him talking about natural rights with twenty-six-year-old Theodore Sedgwick, one of his law clerks. When Ashley's wife tried to strike Bett's sister with a kitchen shovel, Bett blocked the blow and was badly burned. Fleeing, she went to Sedgwick and decided, with his help, to sue for her freedom. "All men are born free and equal, and have certain natural, essential, and unalienable rights; among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing, and protecting property; in fine, that of seeking and obtaining their safety and happiness," Adams had written, in Article I of the Massachusetts Constitution's Declaration of Rights. Citing Adams, Bett won her case and her liberty and gave herself a new name: Elizabeth Freeman.¹⁶

Two years later, the Massachusetts Supreme Judicial Court formally ruled that slavery was inconsistent with the state's constitution, adding, "Is not a law of nature that all men are equal and free? Is not the laws of nature the laws of God? Is not the law of God then against slavery?" The next year, Pennsylvania's 1775 Society for the Relief of Free Negroes Unlawfully Held in Bondage renamed itself the Pennsylvania Society for Promoting the Abolition of Slavery, and a judge in Vermont ruled in favor of a runaway slave whose master had produced a bill of sale proving his ownership: the judge said in order to retain his property in the form of another man he'd have to provide a bill of sale from "God Almighty."¹⁷

Inevitably, some state constitutions worked better than others. What clearly didn't work well were the Articles of Confederation, which had been hastily drawn up by the Continental Congress for the purpose of waging war against Britain, and even this they did not do well (regiments went unfed, soldiers unpaid, veterans unpensioned). Drafted in 1777, the Articles weren't ratified by the states until 1781—the delay was the result of the states' competing claims to western land—and even after the Articles were adopted, those claims remained largely unresolved. Efforts to revise the Articles proved fruitless, even though the Continental Congress had no standing to resolve disputes between states nor any authority to set standards or to regulate trade. The new nation was riddled, as a result, with thirteen different currencies and thirteen separate navies.

Most urgently, Congress lacked the authority to raise money, which it needed both to make

good on its debts and to pay for troops in the Northwest Territory, a swath west of the Alleghenies, north of the Ohio River, and east of the Mississippi that the federal government had acquired from the states. The 1783 Treaty of Paris had required that the states repay their debts, and when the states defaulted on those debts, Great Britain threatened to default on a commitment, also made under the terms of the peace, to surrender its northwestern forts—Oswego, Niagara, and Detroit—to the United States.



The value of paper currency fluctuated wildly, and by the end of the Revolutionary War, money printed on behalf of the Continental Congress had become nearly worthless.

Even if Congress had fully possessed the power to tax, how to calculate the tax burden of each state remained unsettled. Should each state pay in proportion to the size of its population or in proportion to its property? In much of the country, one kind of property took the form of people. For purposes of taxation, then, would slaves count as people or as property? In 1777, Pennsylvania's Samuel Chase had argued that only white inhabitants should count as people because, legally, blacks were no more people "than cattle." This point seemed so essential to South Carolina's Thomas Lynch that he had threatened that "if it is debated, whether their slaves are their property, there is an end of the confederation," whereupon Benjamin Franklin made the wry observation that there was one plain way to tell the difference between people and property: "sheep will never make any insurrections."¹⁸

In 1781 and again in 1783, Congress tried to revise the Articles so as to grant itself authority to collect taxes on imports. This led to a return to the original debate about how to calculate each state's tax burden: by the number of inhabitants or by the value of land. The value of land was difficult to calculate—acreage alone is a poor guide, since a field is worth more than a swamp—and, as Adam Smith had argued in *The Wealth of Nations*, "the most decisive mark of the prosperity of any country is the increase of the number of its inhabitants." Population seemed

both easier to calculate and a more sensible measure, for purposes not only of taxation but also of representation. This led to a compromise, involving a fraction. A committee on revenue proposed that “two blacks be rated as equal to one freeman.” Other proposals followed, until “Mr. Madison said that in order to give a proof of the sincerity of his professions of liberality, he would propose that Slaves should be rated as 5 to 3.”

It was very nearly arbitrary, this mathematical formula that would determine the course of American elections for seven decades. At the time, it was also moot: it was never implemented because the state legislatures refused to ratify any revenue-raising amendments.¹⁹ But the proposed ratio—three to five—was not forgotten.

The confederation limped along, weak and hobbled. France and Holland pressed for payment of debts—in real money, not the paper promises on which the Republic floated. “Not worth a continental,” a phrase used to describe the paper currency printed by Congress, entered the lexicon. Congress was unable to pay its creditors and, by 1786, the continental government was nearly bankrupt. The states, too, were in distress; they could levy taxes, but they couldn’t reliably collect them. Massachusetts had levied taxes to retire the state’s war debt; farmers who failed to pay could have their property seized and auctioned. Many of those farmers had fought in the war, and, beginning in August 1786, they decided to fight again: well over a thousand armed farmers in western Massachusetts, angry and alienated and led by a veteran named Daniel Shays, protested the government, blockading courthouses and seizing a federal armory.²⁰

It seemed as if the infant nation might descend into civil war, beginning an unending cycle of revolution. “I wish our Poor Distracted State would attend to the many good Lessons” of history, Jane Franklin wrote to her brother, and not “keep always in a Flame.”²¹ Madison feared the rebellion would spread all the way to Virginia. Washington began to wonder whether the nation needed a king after all, writing to Madison, “We are fast verging to anarchy and confusion!” As Madison reported to Jefferson, Shays’s Rebellion had “tainted the faith” of even the most committed republicans.²²

A last-ditch effort to restore order by revising the Articles of Confederation was scheduled to begin on September 11, 1786, in Annapolis, at a special convention of delegates that included Madison, who had probably been behind the resolution to convene the meeting. To prepare, he threw himself into his reading of political history. He’d been assembling a library. In 1785, Jefferson shipped him crates of books from Paris. “Since I have been at home I have had leisure to review the literary cargo for which I am so much indebted to your friendship,” he wrote to Jefferson in March 1786, reporting that Virginia had so much snow that winter that the tops of the Blue Ridge Mountains were still white. While the snow melted that spring, Madison composed a long essay called “Ancient & Modern Confederacies,” an assessment of all the confederated governments he could discover in his reading: their structure, their strengths, and, above all, their weaknesses.²³

It had been an unusually wet spring. Madison left Virginia in summer and wended through fields of sodden crops of wheat and rye. He rode all the way to New York on business before turning around to head back down to Maryland, still mulling over his reading, and giving Jefferson still more instructions for books he’d like to add to his library. “If you meet with ‘Graecorum Republicae ab Ubbone Emmio descriptae,’ Lugd. Batavorum, 1632, pray get it for me,” he pressed him.²⁴

A road-weary Madison arrived in Annapolis in September vastly discouraged. So frayed was

the spirit of union and so weak was the federal government that delegates from only five of the thirteen states turned up for the convention. They met at George Mann's tavern, a six-gabled brick hotel. Madison stabled his horse in Mann's barn. Without anything close to a quorum, twelve men from five states agreed to a resolution drafted by Alexander Hamilton of New York that delegates—ideally from all thirteen states—would gather in Philadelphia the next year “to devise such further provisions as shall appear to them necessary to render the constitution of the Federal Government adequate to the exigencies of the Union.”²⁵

If more delegates *had* turned up for the Annapolis Convention, they'd most likely have proposed a single amendment to the Articles, granting Congress the authority to raise revenue. The bad turnout, ironically, opened the possibility for more sweeping action. Still, when the resolution reached Congress, which met, then, in New York, Congress failed for weeks to consider it. Arguably, it was only the course of events in Massachusetts that spurred Congress to act. In January 1787, the governor of Massachusetts sent a three-thousand-man militia across the state in an attempt to suppress Shays's Rebellion and regain the federal armory (all of this without any authority from the federal government). The state instituted martial law. In New York, Congress finally acted, approving of the proposed Philadelphia convention “for the sole and express purpose of revising the Articles of Confederation.”²⁶ No one said anything about drafting a constitution.

II.

BENJAMIN FRANKLIN, who was not done with his usefulness, spent the early days of May 1787 waiting for the laggard delegates to arrive and attending to his correspondence. His sister Jane wrote from Boston that she'd been reading about him. "I wanted to tell you how much Pleasure I Injoy in the constant and lively mention made of you in the News papers," she wrote, full of pride. Franklin was eighty-one years old; Jane was seventy-four. The news of his flurry of activity, she told him, winking, "makes you Apear to me Like a young man of Twenty-five."²⁸

Franklin was the oldest of the seventy-five men who had been elected to represent twelve states at the convention. (Rhode Island, unwilling to grant the necessity of the meeting, refused to send a delegation.) Half of the delegates were lawyers. Nineteen delegates owned slaves. Only fifty-five showed up, and, since they came and went, there were usually only about thirty men on hand on any given day. When, on May 14, the day the convention was to begin, hardly any of the delegates had arrived, Madison blamed the weather.

Aside from Franklin and Madison, two more members of the Pennsylvania delegation, Gouverneur Morris and James Wilson, were already in town, and so were two more members of the Virginia delegation: George Washington and Edmund Randolph. These six men met on the night of May 16 at Franklin's newly enlarged house, its growth a measure of his own rise. As he explained to his sister, he'd built an addition and installed a door in his bedroom by which he could enter directly into his library, even in slippers and robe. "When I look at these Buildings, my dear Sister, and compare them with that in which our good Parents educated us, the Difference strikes me with Wonder," he wrote to her, remembering the tiny wooden house on the crooked street of Boston where they'd been born, in a smaller America.²⁹

That night, by the light of candles in Franklin's dining room, the six early-comers to the convention agreed that, instead of merely revising the Articles, which were little more than a treaty of alliance among sovereign states, the convention ought to devise a national government. The next day, Madison set to work drafting what became known as the Virginia Plan. Franklin returned to his correspondence. "We are all well, and join in Love to you and yours," he wrote to his sister.³⁰ He pondered the state of the Union. His sister had one piece of advice. "I hope with the Asistance of such a Nmber of wise men as you are connected with in the Convention you will Gloriously Accomplish, and put a Stop to the nesity of Dragooning, & Haltering, they are odious means," she wrote, urging her brother to support an end to the draft and capital punishment. "I had Rather hear of the Swords being beat into Plow-shares, & the Halters used for Cart Roops, if by that means we may be brought to live Peaceably with won a nother." Franklin's sister, like so many Americans, had suffered gravely during the war. She'd lost her home. One of her sons had died of wounds suffered during the Battle of Bunker Hill; another had gone mad. She'd had enough of guns and violence. Franklin tucked her letter away and governed his tongue.³¹

The convention began its work eleven days late, on May 25, when at last a quorum of twenty-nine delegates had arrived. Washington, almost as striking at fifty-five as he'd been as a young man, was unanimously elected president. (His beauty was marred only by his terrible teeth, which had rotted and been replaced by dentures made from ivory and from nine teeth pulled from the mouths of his slaves.)³² Deeply and nearly universally admired, Washington

represented to many Americans all that was noblest in a republic. Nothing better testified to his civic virtue than his resignation of his command at the end of the war: instead of seizing power, he had given it away.³³ His role as president of the constitutional convention was mostly ceremonial, but, as with so many ceremonial roles, it was an essential and even a stirring performance.

The deliberations began in earnest on May 29, when Edmund Randolph offered a polite expression of gratitude to the framers of the Articles of Confederation, who could hardly be faulted for that document's deficiencies, given that they had "done all that patriots could do, in the then infancy of the science, of constitutions, & of confederacies." Randolph was a formidable lawyer whose Loyalist father had fled Virginia in 1775 and whose uncle Peyton's slaves had joined Lord Dunmore's regiment. He knew mayhem. He said he considered "the prospect of anarchy from the laxity of government everywhere," and offered a series of resolutions about the means available to the convention for avoiding chaos.³⁴

The immediate problem the delegates were charged with addressing—that chaos—was Congress's debt, its lack of cash, and its inability to raise taxes or to suppress popular revolt or to resolve conflicts between the states. But, like many other delegates, Randolph believed that the work of the convention was to counter the tendencies of the state constitutions. "Our chief danger arises from the democratic parts of our constitutions," he said. Massachusetts firebrand Elbridge Gerry agreed that the states suffered from an "excess of democracy." Randolph believed that the point of the convention was "to provide a cure for the evils under which the United States labored; that in tracing these evils to their origin every man had found it in the turbulence and follies of democracy: that some check therefore was to be sought for against this tendency of our Governments."³⁵

Those delegates who opposed establishing a national government, and who thought they'd come to Philadelphia to revise the Articles of Confederation, could not appeal to the public, which might well have been severely alarmed by word of the goings-on in Independence Hall had they heard so much as a whisper. But the delegates had pledged to keep their deliberations secret—for a term of fifty years—a pledge that worked in favor of men like Madison. And, within the hall, it allowed for a full and frank airing of views.

The Constitution drafted in Philadelphia acted as a check on the Revolution, a halt to its radicalism; if the Revolution had tilted the balance between government and liberty toward liberty, the Constitution shifted it toward government. But in very many ways the Constitution also realized the promise of the Revolution, and particularly the promise of representation. In devising the new national government, the delegates adamantly rejected a proposal that the state legislators, rather than the people, elect members of Congress. "Under the existing Confederacy, Congress represent the *States* not the *people* of the States," George Mason said, "their acts operate on the *States* not on the individuals. The case will be changed in the new plan of Government. The people will be represented; they ought therefore to choose the Representatives."³⁶

However much delegates at the convention might have railed at the excess of democracy in the state constitutions and regretted the lowering of property qualifications for voting in the states, they did not institute those requirements in the federal constitution. Franklin argued that, since poor men of no estate whatsoever had fought in the war, there could be no sound reason why they should not vote in the new government. "Who are to be the electors of the federal

representatives?” Madison asked. “Not the rich, more than the poor; not the learned, more than the ignorant; not the haughty heirs of distinguished names, more than the humble sons of obscure and unpropitious fortune. The electors are to be the great body of the People of the United States.” This was a matter as much of politics as of principle. Connecticut delegate Oliver Ellsworth put it plainly: “The people will not readily subscribe to the Natl. Constitution, if it should subject them to be disfranchised.” Voting requirements were left to the states.

Nor did the Constitution institute property requirements for running for federal office. “Who are to be the objects of popular choice?” Madison asked. “Every citizen whose merit may recommend him to the esteem and confidence of his country.” What could be more revolutionary than these words? “No qualification of wealth, of birth, of religious faith, or of civil profession is permitted to fetter the judgment or disappoint the inclination of the people,” Madison insisted.³⁷

In this same revolutionary spirit, the Constitution required congressmen to be paid, so that the office would not be limited to wealthy men. It required only a short residency for immigrants before they, too, became eligible to run for office. Delegates who argued for greater restriction faced immigrants like Hamilton, born in the West Indies, and James Wilson, born in Scotland, who wondered at the prospect of “his being incapacitated from holding a place under the very Constitution which he had shared in the trust of making.”

But if these matters were resolved with relative ease, others proved far more difficult. The convention found itself facing a nearly unbreachable divide. How was fairly apportioned representation in Congress to be achieved in a national government composed of states of such different sizes? One proposal involved redrawing the map of the United States. “Lay the map of the confederation on the table,” a New Jersey delegate suggested, and redraw it so that “all the existing boundaries be erased, and that a new partition of the whole be made into 13 equal parts.”³⁸ But, as Madison pointed out, the problem wasn’t only the size of the states. It was the nature of their population. “The States were divided into different interests not by their difference of size,” he explained, “. . . but principally from the effects of their having or not having slaves.”³⁹

The problem of property in the form of people had become an even bigger problem than it had been before the Revolution. The years following the end of the war had witnessed the largest importation of African slaves to the Americas in history—a million people over a single decade. The slave population of the United States, 500,000 in 1776, had soared to 700,000 by 1787. After the Treaty of Paris, when Britain recognized the independence of the United States, it also regarded its former colonies as a foreign nation, which meant that American merchants were banned from British ports, including ports in the West Indies. As a result, a trade in slaves grew *within* the United States, as slave owners in the South sold their property to back country settlers in Kentucky, Louisiana, and Tennessee. Yet even as the number of slaves in the southern states was rising, it was falling in the North; by 1787, slavery had been effectively abolished in New England and much challenged in Pennsylvania and New York. Economically, it was significant in only five of the thirteen states, and in only two, South Carolina and Georgia, was it the crux of the economy.

At the convention, it proved impossible to set the matter of slavery aside, both because the question of representation turned on it and because any understanding of the nature of tyranny rested on it. When Madison argued about the inevitability of a majority oppressing a minority, he cited ancient history, and told of how the rich oppressed the poor in Greece and Rome. But he

cited, too, modern American history. “We have seen the mere distinction of color made in the most enlightened period of time, the ground of the most oppressive dominion ever exercised by man over man.”⁴⁰ In offering this illustration of oppression, Madison hadn’t intended to make a point about slavery (although he did, inadvertently, make such a point, since what he said that day revealed that he thought “the mere distinction of color” was no basis for bondage); he was trying to convince his fellow delegates that a republic needed to be large, and with an abundance of factions, so that a majority could not oppress a minority. But slavery was how he understood oppression.

Slavery became the crucial divide in Philadelphia because slaves factored in two calculations: in the wealth they represented as property and in the population they represented as people. The two could not be separated.

The most difficult question at the convention concerned representation. States with large populations of course wanted representation in the federal legislature to be proportionate to population. States with small populations wanted equal representation for each state. States with large numbers of slaves wanted slaves to count as people for purposes of representation but not for purposes of taxation; states without slaves wanted the opposite. “If . . . we depart from the principle of representation in proportion to numbers, we will lose the object of our meeting,” Pennsylvania’s James Wilson warned on June 9.⁴¹ That same day, or probably later that evening, Benjamin Franklin, catching up on his correspondence, distributed to notable antislavery leaders around the world copies of the new constitution of the Pennsylvania Society for Promoting the Abolition of Slavery, “for in this business the friends of humanity in every Country are of one Nation and Religion.”⁴² Franklin spoke at the convention on the question of representation, but it was Wilson, his fellow Pennsylvanian, who treated the matter squarely. Better than any other delegate, Wilson understood the nature of the political divide—a divide that would, in a matter of decades, sunder the Union.

On July 11, Wilson asked why, if slaves were admitted as people, they weren’t “admitted as Citizens.” And “then why are they not admitted on an equality with White Citizens?” And, if they weren’t admitted as people, “Are they admitted as property? Then why is not other property admitted into the computation?”

The convention was very nearly at an impasse, broken only by a deal involving the Northwest Territory—a Northwest Ordinance decreeing that any new states entering the Union formed north of the Ohio River would be without slavery, while those south of the Ohio would continue slavery. This measure passed on July 13. Four days later, the convention adopted what’s known as the Connecticut compromise, establishing equal representation in the Senate, with two senators for each state, and proportionate representation in the House of Representatives, with one representative for every 40,000 people (at the very last minute this number was changed to 30,000). And, for purposes of representation, each slave would count as three-fifths of a person—the ratio that Madison had devised in 1783. A federal census, conducted every ten years, was instituted to make the count.⁴³

The most remarkable consequence of this remarkable arrangement was to grant slave states far greater representation in Congress than free states. In 1790, the first Census of the United States counted 140,000 free citizens in New Hampshire, which meant that the Granite State got four seats in the House of Representatives. But South Carolina, with 140,000 free citizens and 100,000 slaves, got six seats. The population of Massachusetts was greater than the population of

Virginia, but Virginia had 300,000 slaves and so got five more seats. If not for the three-fifths rule, the representatives of free states would have outnumbered representatives of slave states by 57 to 33.⁴⁴

During a break in the proceedings in August, Madison attended to his own affairs. A slave named Anthony, seventeen, had run away from Montpelier; Madison asked his erstwhile human property, Billey, now William Gardener, if he knew where Anthony might have gone.⁴⁵ Anthony had gone looking to be five-fifths of a person.

Franklin spent the break resting, and pondering the problem of slavery. He'd planned to introduce a proposal calling for a statement of principle condemning both the trade and slavery itself, but northern delegates had convinced him to withdraw it because the compromise was so fragile. Massachusetts delegate Rufus King spent the adjournment rethinking his concession to the three-fifths clause. And when deliberations resumed, King proposed that Congress at least be granted the authority to abolish the slave trade, whereupon the South Carolina delegation made clear that any attempt to restrict the trade would force them to leave the convention.

This Luther Martin could not abide. Martin, the son of New Jersey farmers, had been a schoolmaster before he became a lawyer; in 1778, he'd been appointed Maryland's attorney general. Martin declared that the trade in slaves "was inconsistent with the principles of the Revolution and dishonorable to the American character." He was short and red-faced, as slovenly as he was brilliant. "His genius and vices were equally remarkable," it was said.⁴⁶ But he proved a man of principle. He withdrew from the convention, refused to sign the Constitution, and opposed its ratification, warning that "national crimes can only be, and frequently are, punished in this world by national punishments."⁴⁷ John Rutledge dismissed Martin's argument. Rutledge, forty-eight, had served in the South Carolina assembly, the Stamp Act Congress, and the Continental Congress, and as governor of his state; he proved to be the South's most determined defender. "The true question at present," he insisted, "is whether the Southern states shall or shall not be parties to the Union."

New Englanders ceded the point. "Let every state import what it pleases," said Connecticut's Oliver Ellsworth. Ellsworth, a devout Christian, had prepared for a career in the ministry before becoming a lawyer. "The morality or wisdom of slavery are considerations belonging to the states themselves," he said. He also believed that the institution was on the wane: "Slavery, in time, will not be a speck in our country."

A compromise between those opposed to the slave trade and those in favor of it was reached with a motion that Congress should be prohibited from interfering with the slave trade for a period of twenty years. Madison was aggrieved. He'd have preferred no mention of slavery in the Constitution at all. "So long a term will be more dishonorable to the national character than to say nothing about it in the Constitution," he warned. Gouverneur Morris, who'd lost a leg to a carriage wheel and the use of an arm to a boiling pot of water, was appalled at the entire bargain, and decided to deliver a lecture. "The inhabitant of Georgia and S.C. who goes to the Coast of Africa, and in defiance of the most sacred laws of humanity tears away his fellow creatures from their dearest connections & damns them to the most cruel bondages, shall have more votes in a Govt. instituted for protection of the rights of mankind, than the Citizen of Pa. or N. Jersey who views with a laudable horror, so nefarious a practice." He said he "would sooner submit to a tax for paying for all the Negroes in the United States than saddle posterity with such a Constitution." As Morris pointed out, the delegates were there to build a republic, but there was

nothing more aristocratic than slavery. He called it “the curse of heaven.”⁴⁸

The Constitution would not lift that curse. Instead, it tried to hide it. Nowhere do the words “slave” or “slavery” appear in the final document. “What will be said of this new principle of founding a right to govern Freemen on a power derived from slaves,” Pennsylvania’s John Dickinson wondered—correctly, as it would turn out. He predicted: “The omitting the *Word* will be regarded as an Endeavour to conceal a principle of which we are ashamed.”⁴⁹

Five days before the close of the convention, George Mason proposed adding a bill of rights. “A bill might be prepared in a few hours,” he urged. But Mason’s proposal was struck down; not a single state voted in favor of it, mainly because most states already had a bill of rights, but also because the delegates were exhausted and eager to go home.

By Monday, September 17, 1787, after four months of arduous debate, a polished draft was at last ready for signatures. After the document was read out loud for the very first time, Franklin, crippled by gout, struggled to rise from his chair but, as had happened many times during the convention, he found he was too weary to make a speech. Wilson, half Franklin’s age, read his remarks instead.

“Mr. President,” he began, addressing Washington, “I confess that there are several parts of this constitution which I do not at present approve, but I am not sure I shall never approve them.” He suggested that he might, one day, change his mind. “For having lived long, I have experienced many instances of being obliged by better information, or fuller consideration, to change opinions even on important subjects, which I once thought right, but found to be otherwise. It is therefore that the older I grow, the more apt I am to doubt my own judgment, and to pay more respect to the judgment of others.” Hoping to pry open the minds of delegates who were closed to the compromise before them, he reminded them of the cost of zealotry. “Most men indeed as well as most sects in Religion, think themselves in possession of all truth, and that wherever others differ from them it is so far error.” But wasn’t humility the best course, in such circumstances? “Thus I consent, Sir, to this Constitution,” he closed, “because I expect no better, and because I am not sure, that it is not the best.”⁵⁰

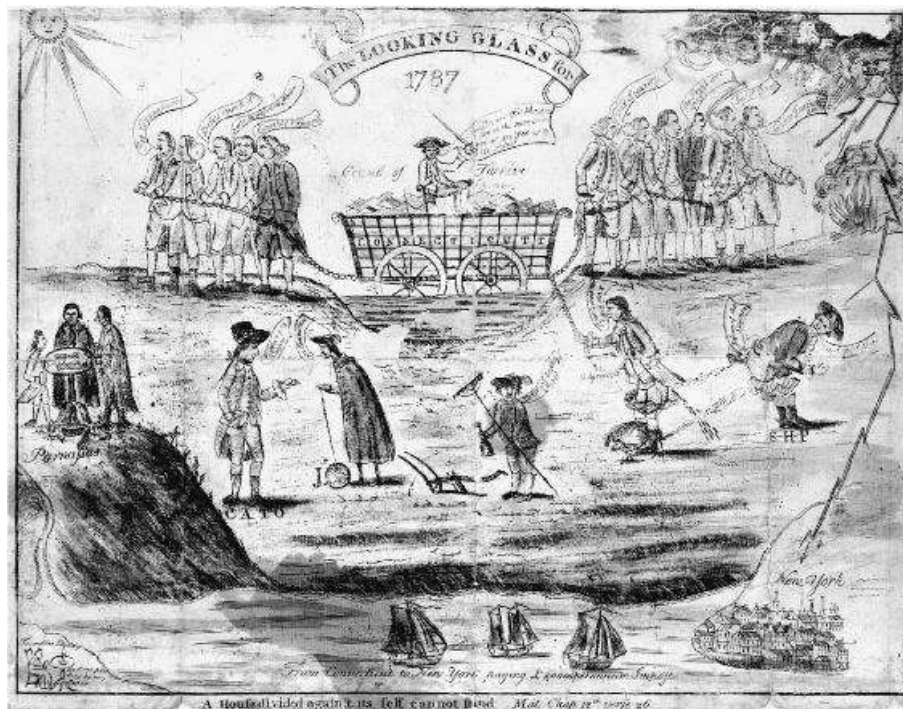
It was four o’clock in the afternoon when the delegates began signing the bottom of the last of the document’s four sheets of parchment. Mason was among the delegates who refused to sign. Washington sat in a chair in front of a window. Franklin understood the importance of political theater. He ventured that he had often wondered, during the many long days at the convention when he’d lost track of the time, whether the sun he could see outside the window, like the sun carved on the back of Washington’s chair, was rising or setting. “But now at length,” he said, “I have the happiness to know that it is a rising and not a setting sun.”⁵¹

The day after the convention adjourned, what had been kept for so long strictly secret and had only so lately been written on parchment was copied and made public, printed in newspapers and on broadsheets, often with “We the People” set off in extra-large type. Washington sent a copy to Lafayette in Paris: “It is now a Child of fortune.” As Madison explained, the Constitution is “of no more consequence than the paper on which it is written—a blank page—unless it be stamped with the approbation of those to whom it is addressed. . . . THE PEOPLE THEMSELVES.”⁵²

THE DECLARATION OF INDEPENDENCE had been signed by members of the Continental Congress;

it had never been put to a popular vote. The Articles of Confederation had been ratified in the states, not by the people, but by the state legislatures. Except for the Massachusetts Constitution, in 1780, and the second New Hampshire Constitution, in 1784, no constitution, no written system of government, had ever before been submitted to the people for their approval. “This is a new event in the history of mankind,” said the governor of Connecticut at his state’s ratification convention.⁵³

The debate over ratifying the Constitution produced some of the most heated political writing in American history, not only in American newspapers but in hundreds of broadsides and pamphlets. The argument in favor of ratification was made, eloquently and persuasively, in eighty-five essays, known as *The Federalist Papers*, published between October 1787 and May 1788 under the pen name Publius. Ambitious, young, red-haired Alexander Hamilton, who hadn’t played much of a role at the constitutional convention, and who thought the Constitution created a government too democratic, wrote fifty-one of the essays. Madison wrote another twenty or so, and John Jay wrote the rest.



A 1787 engraving pictures Federalists and Anti-Federalists pulling in two different directions a wagon labeled “Connecticut,” stuck in a ditch and loaded with debts and (worthless) paper money.

The debate, waged in ratifying conventions but, even more thrillingly, in the nation’s weekly newspapers, established the structure of the new nation’s two-party system. Against the Federalists stood the unfortunately named Anti-Federalists, who opposed ratification. If it hadn’t been for the all-or-nothing dualism of this choice, and a partisan press, the United States might well have a multiparty political culture.

The Anti-Federalists generally charged that the Constitution amounted to a conspiracy against their liberties, not least because it lacked a bill of rights. Jefferson, from Paris, made this complaint: “A bill of rights is what the people are entitled to against every government on

earth.”⁵⁴ Anti-Federalists also argued that Congress was too small; here they cited John Adams, who’d written that a legislature “should be in miniature, an exact portrait of the people at large.” Influenced by Montesquieu’s *The Spirit of the Laws* (1748), Anti-Federalists believed that a republic had to be small and homogeneous; the United States was too big for this form of government. They also charged that the Constitution was difficult to read, and that its difficulty was further evidence that it was part of a conspiracy against the understanding of a plain man, as if it were willfully incomprehensible. “The constitution of a wise and free people,” Anti-Federalists insisted, “ought to be as evident to simple reason, as the letters of our alphabet,” as easy to read as *Common Sense*. “A constitution ought to be, like a beacon, held up to the public eye, so as to be understood by every man,” Patrick Henry declared.”⁵⁵

Anti-Federalists, including former delegates to the convention, also contested the three-fifths clause. Luther Martin called it a “solemn mockery of and insult to God” and said that the clause “involved the absurdity of increasing the power of a state . . . in proportion as that state violated the rights of freedom.”⁵⁶ Madison defended this decision, insisting that there was no other way to count slaves except as both persons and property, since this “is the character bestowed on them by the laws under which they live.”⁵⁷

Ratification proved to be a nail-biter. By January 9, 1788, five states—Connecticut, Delaware, Georgia, New Jersey, and Pennsylvania—had ratified. The debate that began in mid-January at the convention in Massachusetts grew heated. “You Perceive we have some quarilsome spirits against the constitution,” Jane Franklin reported to her brother from Massachusetts. “But,” she reassured him, “it does not appear to be those of Superior Judgment.”⁵⁸ After Federalists promised they’d propose a bill of rights at the first session of the new Congress, Massachusetts, in a squeaker, voted in favor of ratification by a vote 187 to 168 in February. In March, Rhode Island, which had refused to send any delegates to the constitutional convention, refused to hold a ratifying convention. Maryland ratified in April, South Carolina in May, New Hampshire in June. That made nine states in favor, meeting the minimum required.

Practically, though, the approval of Virginia and New York was essential. At Virginia’s convention, Patrick Henry argued that the Constitution was an assault on the sovereignty of the states: “Have they made a proposal of a compact between states? If they had, this would be a confederation: It is otherwise most clearly a consolidated government. The question turns, sir, on that poor little thing—the expression, *We, the people*, instead of the *states*, of America.”⁵⁹ But Federalists eventually prevailed, by a vote of 89 to 79, on June 25, 1788.

On the Fourth of July, James Wilson, with full-throated passion, spoke at a parade in Philadelphia, while a ratifying convention met in New York. “You have heard of Sparta, of Athens, and of Rome; you have heard of their admired constitutions, and of their high-prized freedom,” he told his audience. Then he asked a series of rhetorical questions. But were their constitutions written? The crowd called back, “No!” Were they written by the people? No! Were they submitted to the people for ratification? No! “Were they to stand or fall by the people’s approving or rejecting vote?” No, again.

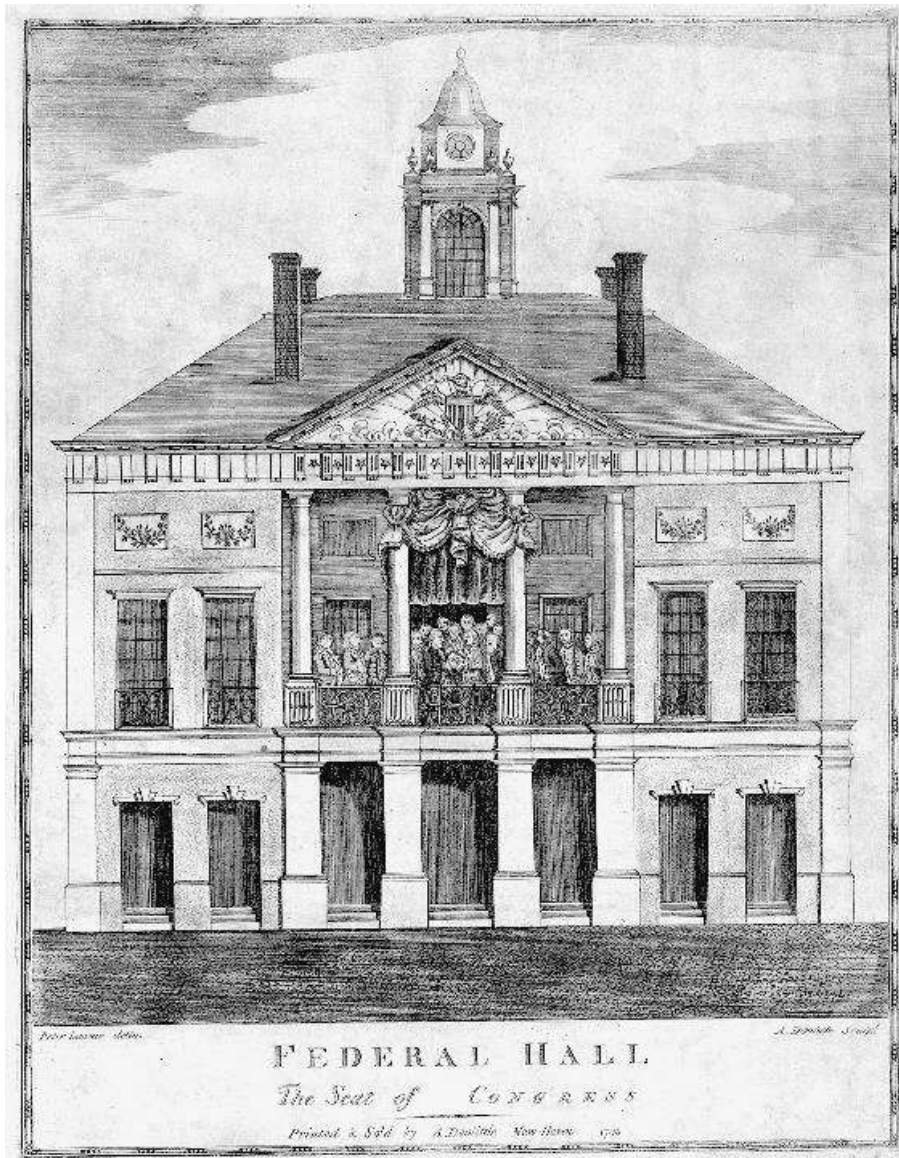
Three weeks later, New York ratified by the smallest of margins: 30 to 27.⁶⁰ By three votes, the Constitution became law. And yet the political battle raged on. The day after the vote, Thomas Greenleaf, the only Anti-Federalist printer in Federalist-dominated New York City, arrived home in the evening to find that a band of Federalists had fired musket balls into his house. He loaded two pistols, put them in a chest near his bed, and went to sleep, only to be

awakened in the middle of the night by men shouting outside his house. When a mob began breaking down his door, smashing windows, and throwing stones, Greenleaf shot into the crowd from a second-story window, tried to reload, then decided to run. After he and his wife and children made a narrow escape out the back door, the mob swarmed his house and office and destroyed his type and printing press, a bad omen for a nation founded on the freedom of speech.⁶¹

Ratification had been an agony. It might very easily have gone another way. An unruly new republic had begun.

III.

THE FIRST CONGRESS convened on March 4, 1789, in New York's city hall, where the German printer John Peter Zenger had been tried in 1735, where a black man named Caesar had met his fate in 1741, and where the Stamp Act Congress had deliberated in 1765, each another trial for freedom. Renamed Federal Hall, the building was refitted to its new purpose, enlarged, improved, and made majestic, with Tuscan columns and Doric pillars, according to a plan designed by the French architect Pierre Charles l'Enfant, who, when the federal government moved to the banks of the Potomac, would one day design the nation's capital. In L'Enfant's hands, city hall grew to three times its original size, its aesthetic founding a new architectural style: Federal. Above a grand new balcony, facing Wall Street, a giant eagle, carrying thirteen arrows, appeared to burst out of the clouds. A new cupola boasted half-circle windows, eyes to the sky.⁶²



George Washington was inaugurated on the balcony of Federal Hall, formerly New York's city hall.

For all its pomp, Federal Hall was a monument to republicanism: the building opened its doors to the people. The Constitution requires that “Each House shall keep a Journal of its Proceedings, and from time to time publish the same.” The *Congressional Record* was published, because it had to be, but Congress decided to make its proceedings public in an altogether different way. Pennsylvania’s 1776 Constitution had decreed that “the doors of the house . . . shall be and remain open for the admission of all persons who behave decently,” and the House of Representatives followed this precedent, opening its doors from its first session. The representatives’ hall, arched and octagonal, was two stories tall, with large galleries for spectators.⁶³

The new president wasn’t inaugurated until April 30; the delay was due to the time it took to conduct the first presidential election. Washington had run unopposed, but there remained the matter of counting the votes. Exactly how the new president was to assume his office was not

immediately clear. The Constitution calls only for a president to take an oath, swearing to “preserve, protect and defend the Constitution of the United States.”

Hours before Washington’s inauguration was scheduled to take place, a special congressional committee decided that it might be fitting for the president to rest his hand on a Bible while taking the oath of office. Unfortunately, no one in Federal Hall had a copy of the Bible on hand. There followed a mad dash to find one. At midday, above a crowd assembled on Wall Street, Washington took his oath standing on a balcony, below that eagle bursting from the clouds.

He pledged, and then he kissed his borrowed Bible. After Washington was sworn in, he entered Federal Hall and delivered a speech that had been written by Alexander Hamilton. The Constitution does not call for an inaugural address. But Washington had a sense of occasion. He began by addressing his remarks to “Fellow-Citizens of the Senate and the House of Representatives.” He was speaking to Congress, in that arched, octagonal room, but he invoked the people. “The preservation of the sacred fire of liberty, and the destiny of the Republican model of Government,” Washington said, are “staked on the experiment entrusted to the hands of the American people.”⁶⁴

Nearly everything Washington did set a precedent. What would have happened if he had decided, before taking that oath of office, to emancipate his slaves? He’d grown disillusioned with slavery; his own slaves, and the greater number of slaves owned by his wife, were, to him, a moral burden, and he understood very well that for all the wealth generated by forced, unpaid labor, the institution of slavery was a moral burden to the nation. There is some evidence—slight though it is—that Washington drafted a statement announcing that he intended to emancipate his slaves before assuming the presidency. (Or maybe that statement, like Washington’s inaugural address, had been written by Hamilton, a member of New York’s Manumission Society.) This, too, Washington understood, would have established a precedent: every president after him would have had to emancipate his slaves. And yet he would not, could not, do it.⁶⁵ Few of Washington’s decisions would have such lasting and terrible consequences as this one failure to act.

THE CONSTITUTION DOESN’T say much about the duties of the president. “The President shall be Commander in Chief of the Army and Navy of the United States,” according to Article II, Section 2, and “he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices.” But the Constitution doesn’t call for a cabinet. Nevertheless, the first Congress established several departments, to which Washington appointed secretaries: the Department of State, headed by Jefferson; the Department of the Treasury, headed by Hamilton, and the Department of War, headed by Henry Knox.

Congress’s most pressing order of business was drafting a bill of rights. Madison, having prepared a bill “to make the Constitution better in the opinion of those who are opposed to it,” presented a list of twelve amendments to the House on June 8. He had wanted the amendments written into the constitution, each in its proper place, but instead they were added at the end.⁶⁶

While Madison’s proposed amendments were debated and revised, Congress tackled the question of the national judiciary. Article III, Section 1, decrees that “The judicial Power of the United States, shall be vested in one supreme Court,” but the details were left to Congress. On September 24, 1789, Washington signed the Judiciary Act, which established the number of

justices, six; defined the authority of the court, which was narrow; and created the office of attorney general, to which Washington appointed Edmund Randolph.

Under the Constitution, the power of the Supreme Court is quite limited. The executive branch holds the sword, Hamilton had written in Federalist 78, and the legislative branch the purse. “The judiciary, on the contrary, has no influence over either the sword or the purse; no direction either of the strength or of the wealth of the society; and can take no active resolution whatever.” All judges can do is judge. “The judiciary is beyond comparison the weakest of the three departments of powers,” Hamilton concluded, citing, in a footnote, Montesquieu: “Of the three powers above mentioned, the judiciary is next to nothing.”⁶⁷

The Supreme Court had no rooms in Federal Hall. Instead, it met—when it met—in a drafty room on the second floor of an old stone building called the Merchants’ Exchange, at the corner of Broad and Water Streets. The ground floor, an arcade, served as a stock exchange. Lectures and concerts were held upstairs. On the first day the court was called to session, only three justices showed up, and so, lacking a quorum, court was adjourned.⁶⁸

The day after Washington signed the Judiciary Act, Congress sent Madison’s twelve constitutional amendments to the states for ratification. Meanwhile, Congress took up other business, and was immediately confronted with the question of slavery. On February 11, 1790, a group of Quakers presented two petitions, one from Philadelphia and one from New York, urging Congress to end the importation of slaves and to gradually emancipate those already held. In the octagonal room in Federal Hall, after representatives from Georgia and South Carolina rose to condemn the petitions, Madison moved to put the petitions to a committee. The next day, Congress received a petition from the Pennsylvania Abolition Society urging Congress to “take such measures in their wisdom, as the powers with which they are invested will authorize, for promoting the abolition of slavery, and discouraging every species of traffic in slaves”; its signatories included Benjamin Franklin.

After several hours of debate—before spectators in the galleries—Congress voted 43 to 11 to refer all three petitions to a committee (seven of the eleven “no” votes came from Georgia and South Carolina). On March 8, the day scheduled for the committee report, southern delegates succeeded in delaying it. James Jackson of Georgia gave a two-hour speech, in which he said that the Constitution was a “sacred compact,” and William Loughton Smith of South Carolina spoke for another two hours, opposing emancipation by insisting that if blacks were free they would marry whites, “the white race would be extinct, and the American people would be all of the mulatto breed.”⁶⁹

Not so many miles away from New York, men, women, and children who had once been owned by some of the people who were engaged in this debate were engaged in a debate of their own. Harry Washington, who had left New York for Halifax in 1783, wondered whether he ought to move his family to a new colony, in West Africa. The first expedition to Sierra Leone had sailed from London in May of 1787, just as the delegates to the constitutional convention were straggling into Philadelphia. As some four hundred emigrants prepared to sail, the African-born writer and former slave Quobna Ottobah Cugoano had warned them that “they had better swim to shore, if they can, to preserve their lives and liberties in Britain, than to hazard themselves at sea . . . and the peril of settling at Sierra Leone.” They sailed all the same. Across the Atlantic, they’d founded a capital and elected as their governor a runaway slave and Revolutionary War veteran from Philadelphia named Richard Weaver. Five months later,

plagued by disease and famine, 122 of the settlers had died. Even worse, and exactly as Cugoano had predicted, some were kidnapped and sold into slavery all over again. But for some, Sierra Leone was home. Frank Peters, kidnapped as a child, had spent most of his life as a field slave in South Carolina until he joined the British army in 1779. Two weeks after he arrived in Sierra Leone, at the age of twenty-nine, an old woman found him, held him, and pressed him close: she was his mother.⁷⁰

Harry Washington decided, in the end, to join nearly twelve hundred black refugees from the United States who boarded fifteen ships in Halifax Harbor, bound for the west coast of Africa, along with black preachers Moses Wilkinson and David George. Before the convoy left the harbor, each family was handed a certificate “indicating the plot of land ‘free of expence’ they were to be given ‘upon arrival in Africa.’” But when Washington reached Sierra Leone, he found that the colony’s new capital, Free-town, was plagued by disease and weighed down by a poverty enforced by exorbitant rents. “We wance did call it Free Town,” Wilkinson complained bitterly, but “we have a reason to call it a town of slavery.”⁷¹

In New York, a slave town, the congressional committee charged with responding to the antislavery petitions finally presented its report. The Constitution forbade Congress from outlawing the slave trade until the year 1808 but provided for taxing imported goods, the committee reported, and that authority included the power to tax the slave trade heavily enough to discourage and even to end it. Madison, quiet of voice, stood to speak. He urged the committee to eliminate this allowance on revising the report. It had been a tiny window, the smallest of openings. Madison slammed it shut. The final report concluded, “Congress have no authority to interfere in the emancipation of slaves, or in the treatment of them within any of the States; it remaining with the several States alone to provide any regulations therein, which humanity and true policy may require.” A resolution to accept the report passed 29 to 25, along sectional lines. It effectively tabled the question of slavery until 1808.⁷²

Franklin, from his deathbed, attempted to protest. Earlier, he’d tried to reassure his sister, “As to the Pain I suffer, about which you make yourself so unhappy, it is, when compar’d with the long life I have enjoy’d of Health and Ease, but a Trifle.”⁷³ But this was the merest dissembling. He was in agony. Writing in the *Pennsylvania Gazette*, he offered an attack on slavery, signing his essay “Historicus”—the voice of history.⁷⁴

He died two weeks later. He was the only man to have signed the Declaration of Independence, the Treaty of Paris, and the Constitution. His last public act was to urge abolition. Congress would not hear of it.

THE DIVIDE OVER slavery, which had nearly prevented the forming of the Union, would eventually split the nation in two. There were other fractures, too, deep and lasting. The divide between Federalists and Anti-Federalists didn’t end with the ratification of the Constitution. Nor did it end with the ratification of the Bill of Rights. On December 15, 1791, ten of the twelve amendments drafted by Madison were approved by the necessary three-quarters of the states; these became the Bill of Rights. They would become the subject of ceaseless contention.

The Bill of Rights is a list of the powers Congress does not have. The First Amendment reads, “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the

people peaceably to assemble, and to petition the Government for a redress of grievances.” Its tenets derive from earlier texts, including Madison’s 1785 “Memorial Remonstrance against Religious Assessments” (“The Religion then of every man must be left to the conviction and conscience of every man”), Jefferson’s 1786 Statute for Religious Freedom (“our civil rights have no dependence on our religious opinions any more than our opinions in physics or geometry”), and Article VI of the Constitution (“no religious test shall ever be required as a qualification to any office or public trust under the United States”).⁷⁵

Yet the rights established in the Bill of Rights were also extraordinary. Nearly every English colony in North America had been settled with an established religion; Connecticut’s 1639 charter explained that the whole purpose of government was “to mayntayne and presearve the liberty and purity of the gospel of our Lord Jesus.” In the century and a half between the Connecticut charter and the 1787 meeting of the constitutional convention lies an entire revolution—not just a political revolution but also a religious revolution. So far from establishing a religion, the Constitution doesn’t even mention “God,” except in naming the date (“the year of our Lord . . .”). At a time when all but two states required religious tests for office, the Constitution prohibited them. At a time when all but three states still had an official religion, the Bill of Rights forbade the federal government from establishing one. Most Americans believed, with Madison, that religion can only thrive if it is no part of government, and that a free government can only thrive if it is no part of religion.⁷⁶

With the ratification of the Bill of Rights, new disputes emerged. Much of American political history is a disagreement between those who favor a strong federal government and those who favor the states. During Washington’s first term, this dispute took the form of a debate over the economic plan put forward by Hamilton. Much of this debate concerned debt. First stood private debt. The depression that followed the war had left many Americans insolvent. There were so many men confined to debtors’ prison in Philadelphia that they printed their own newspaper: *Forlorn Hope*.⁷⁷ Second stood the debts incurred by the states during the war. And third stood the debts incurred by the Continental Congress. Until these government debts were paid, the United States would have no lenders and no foreign investors and would be effectively unable to participate in world trade.

Hamilton proposed that the federal government not only pay off the debts incurred by the Continental Congress but also assume responsibility for the debts incurred by the states. To this end, he urged the establishment of a national bank, like the Bank of England, whose benefits would include stabilizing a national paper currency. Congress passed a bill establishing the Bank of the United States, for a term of twenty years, in February 1790. Before signing the bill into law, Washington consulted with Jefferson, who advised the president that Hamilton’s plan was unconstitutional because it violated the all-purpose Tenth Amendment, which reads: “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.” The Constitution does not specifically grant to Congress the power to establish a national bank, and, since the Tenth Amendment says that all powers not granted to Congress are held by either the states or by the people, Congress cannot establish a national bank. Washington signed anyway, establishing a precedent for interpreting the Constitution broadly, rather than narrowly, by agreeing with Hamilton’s argument that establishing a national bank fell under the Constitution’s Article I, Section 8, granting to Congress the power “To make all Laws which shall be necessary and proper,” the

very opposite of how Congress had interpreted its power to tax the slave trade.

Other elements of Hamilton's plan raised other objections. States that had already paid off their war debts, like Virginia and Maryland, objected to the federal government's assumption of state debt, since federal taxes levied in Virginia and Maryland would now be used to pay a burden incurred by states that had not yet paid their debts, like South Carolina and Massachusetts. The idea that this plan was unconstitutional, Hamilton believed, was "the first symptom of a spirit which must either be killed or will kill the constitution of the United States." Hamilton brokered a deal. Southerners were also averse to Hamilton's economic plan because it emphasized manufacturing over agriculture and therefore seemed disadvantageous to the southern states. Also on the congressional agenda was where to locate the nation's capital. The First Congress met for its first two sessions in New York and for its second two sessions in Philadelphia. The Continental Congress had also met in Baltimore and Princeton, and in half a dozen other places. Where it and the other branches of the federal government should permanently meet was a vexing question, given the sectional tensions that had plagued the Union from the start. In a deal worked out with Madison over dinner at Jefferson's rooms on Maiden Lane, in New York—and known as the "dinner table bargain"—Hamilton threw his support behind a plan to locate the nation's capital in the South, in exchange for Madison's support and the support of his fellow southerners for Hamilton's plan for the federal government to assume the states' debts. In July 1790, Congress passed Hamilton's assumption plan, and voted to establish the nation's capital on a ten-mile square stretch of riverland along the Potomac River, in what was then Virginia and Maryland, and to found, as mandated in the Constitution, a federal district. It would be called Washington.⁷⁸

Hamilton believed that the future of the United States lay in manufacturing, freeing Americans of their dependence on imported goods, and spurring economic growth. To that end, his plan included raising the tariff—taxes on imported goods—and providing federal government support to domestic manufacturers and merchants. Congress experimented, briefly, with domestic duties (including taxes on carriages, whiskey, and stamps). Before the Civil War, however, the federal government raised revenue and regulated commerce almost exclusively through tariffs, which, unlike direct taxes, skirted the question of slavery and were therefore significantly less controversial. Also, tariffs appeared to place the burden of taxation on merchants, which appealed to Jefferson. "We are all the more reconciled to the tax on importations," Jefferson explained, "because it falls exclusively on the rich." The promise of America, Jefferson thought, was that "the farmer will see his government supported, his children educated, and the face of his country made a paradise by the contributions of the rich alone."⁷⁹

But Hamilton's critics, Jefferson chief among them, charged that Hamilton's economic plan would promote speculation, which, indeed, it did. To Hamilton, speculation was necessary for economic growth; to Jefferson, it was corrupting of republican virtue. This matter came to a head in 1792, when speculation led to the first financial panic in the new nation's history.

As with so many financial crises, the story began with ambition and ended with corruption. Hamilton had been befriended by John Pintard, an importer with offices at 12 Wall Street. Pintard had been elected to the state legislature in 1790; the next year, he'd become a partner of Leonard Bleeker, who happened to be the secretary of New York's Society for the Relief of Distressed Debtors: together, they auctioned stock. After Bleeker dissolved their partnership, Pintard began dealing with Hamilton's assistant secretary of the Treasury, William Duer, a rogue

who had the idea of cornering stock in the Bank of the United States. With Pintard acting as his agent, Duer borrowed the life savings of “shopkeepers, widows, orphans, Butchers, Carmen, Gardners, market women.” In 1792, when it became clear that over a million dollars’ worth of bank notes, signed by Pintard, weren’t worth the paper on which they were printed, Duer and Pintard’s insolvency triggered the nation’s first stock market crash. A mob attempted to stone Duer to death and then chased him to debtors’ prison. Pintard hid in his Manhattan town house. “Would it not be prudent for him to remove to a State where there is a Bankrupt Act?” one friend wondered.⁸⁰ Pintard fled across the river to New Jersey, where he was eventually found, and sent to debtors’ prison.

Even the most eminent of men could not escape confinement for debt. James Wilson, the most democratic delegate to the constitutional convention, and now a Supreme Court justice, fell so badly into debt that he was afraid to ride circuit, for fear of being captured by his creditors and clapped in chains. (He owed nearly \$200,000 to Pierce Butler, who’d been a South Carolina delegate to the constitutional convention.) In 1797, Wilson joined Pintard in debtors’ prison in New Jersey, and, although he managed to get out by borrowing \$300 from one of his sons, he was thrown into another debtors’ prison, in North Carolina, the next year, where his wife found him in ragged, stained clothes. He soon contracted malaria. Only fifty-six years old, he died of a stroke, raving, deliriously, about his debts.⁸¹

Hamilton determined that the United States should have unshakable credit. The nation’s debts would be honored: private debt could be forgiven. In the new republic, individual debts—the debts of people who took risks—could be discharged. Pintard got out of debtors’ prison by availing himself of a 1798 New Jersey insolvency law; later, he filed for bankruptcy under the terms of the first U.S. bankruptcy law, passed in 1800.⁸² He was legally relieved of the obligation ever to repay his debts, his ledger erased. The replacement of debtors’ prison with bankruptcy protection would change the nature of the American economy, spurring investment, speculation, and the taking of risks.

The Panic of 1792 had this effect, too: it led New York brokers to sign an agreement banning private bidding on stocks, so that no one, ever again, could do what Duer had done; that agreement marks the founding of what would become the New York Stock Exchange.

IV.

“**IT IS AN AGE** of revolutions, in which everything may be looked for,” Thomas Paine wrote from England in 1791, in the first part of *Rights of Man*. He soon fled England for France, where he wrote the second part. “Where liberty is, there is my country,” Franklin once said, to which Paine is supposed to have replied, “Wherever liberty is not, there is *my* country.”⁸³ The one country where Paine didn’t try to rile up revolution was Haiti. It was an age of revolutions, but Paine wasn’t looking for a slave rebellion.

Haiti, then known as Saint-Domingue, was the largest colony in the Caribbean, and the richest. France’s most vital colony, its population consisted of 40,000 whites, 28,000 free people of color, and 452,000 slaves—half the slave population of the entire Caribbean. The world’s leading producer of sugar and coffee, the island exported nearly as much sugar as Jamaica, Cuba,

and Brazil combined.⁸⁴ Its revolution began in 1791.

The events that unfolded in Haiti followed France's own, tortured revolution, begun in the spring of 1789. Members of a special legislature called in response to France's own difficulties with war debt defied the king, formed themselves into a National Assembly, abolished the privileges of the aristocracy, and set about drafting a constitution. In August, Lafayette introduced into the assembly a Declaration of the Rights of Man and of the Citizen. Article I read, "Men are born and remain free and equal in rights."⁸⁵

Paine was in Paris during the Reign of Terror, when Louis XVI was beheaded. Paine himself was arrested. He wrote most of the second part of *The Age of Reason* from a cell while the prison's inmates went daily to their deaths. In six weeks in the summer of 1794, more than thirteen hundred people were executed.⁸⁶

The French Revolution had gone too far, a revolution that never stopped. But, though it terrified Americans, it held for most Americans not half the fear that was inspired by the revolution in Haiti in 1791, where hundreds of thousands of slaves cast off their chains. They were led at first by a man named Boukman and, after Boukman's death, by an ex-slave named Toussaint Louverture. Their slave rebellion was a war for independence, the second in the Western world.



Federalists and Anti-Federalists had different reactions to the Haitian revolution.

American owners of slaves were terrified by the events unfolding in Haiti—their darkest fears realized. But to some radicals in New England, the Haitian revolution was the inevitable next step in the progress of the freedom of man. Abraham Bishop, a Connecticut Jeffersonian, was one of a handful of Americans to welcome the revolution. "If Freedom depends upon colour, and if the Blacks were born for slaves, those in the West-India islands may be called Insurgents and Murderers," Bishop observed, in a series of essays called "The Rights of Black Men," published in Boston. "But the enlightened mind of Americans will not receive such ideas," Bishop went on. "We believe that Freedom is the natural right of all rational beings, and we know that the Blacks have never voluntarily resigned that freedom. Then is not their cause as just as ours?"

The answer his fellow Americans gave was a resounding no. Instead, American newspapers reported on the Haitian revolution as a kind of madness, a killing frenzy. "Nothing can be more

distressing than the situation of the inhabitants, as their slaves have been called into action, and are a terrible engine, absolutely ungovernable,” Jefferson wrote. So far from extending statements about the equality of “all men” to all men, white or black, the revolution on Saint-Domingue convinced many white Americans of the reverse. Between 1791 and 1793, the United States sold arms and ammunition and gave hundreds of thousands of dollars in aid to the French planters on the island.⁸⁷ Federalists tended to be more worried about France than about Haiti. Republicans, especially southerners, were worried about a spreading revolution. Jefferson, calling the Haitians “cannibals,” warned Madison, “If this combustion can be introduced among us under any veil whatever, we have to fear it.”⁸⁸

With the frightening specters of France and Haiti in mind, Americans worried about their own republic, a land of liberty and slavery. Madison had promised that the Constitution would insure its stability. A democracy, in which the people “assemble and administer the government in person,” will always be subject to endless “turbulence and contention,” he argued, but a republic, in which the people elect representatives to do the work of governing, can steer clear of that fate by electing men who will always put the public good before narrow or partisan interests, the good of all above the good of any part or party. Earlier political thinkers had suggested that this system could only work if a republic were small. Madison argued that it could only work if a republic were large, for two reasons. First, in a large republic, there would be more men to choose from, and so a better chance, purely as a matter of numbers, for the people to elect men who will guard the public interest. Second, in a large republic, candidates for office, in order to be known and to appeal to so large a number of voters, would need to be both notable and worthy.⁸⁹

Yet the Constitution did not hold factions in check, and as early as 1791, Madison had begun to revise his thinking. In an essay called “Public Opinion,” he considered a source of instability particular to a large republic: the people might be deceived. “The larger a country, the less easy for its real opinion to be ascertained,” he explained. That is, factions might not, in the end, consist of wise, knowledgeable, and reasonable men. They might consist of passionate, ignorant, and irrational men, who had been led to hold “counterfeit” opinions by persuasive men. (Madison was thinking of Hamilton and his ability to gain public support for his financial plan.) The way out of this political maze was the newspaper. “A circulation of newspapers through the entire body of the people,” he explained, “is equivalent to a contraction of territorial limits.” Newspapers would make the country, effectively, smaller.⁹⁰

It was an ingenious idea. It would be revisited by each passing generation of exasperated advocates of republicanism. The newspaper would hold the Republic together; the telegraph would hold the Republic together; the radio would hold the Republic together; the Internet would hold the Republic together. Each time, this assertion would be both right and terribly wrong.

But Madison was shrewd to sense the importance of the relationship between technologies of communication and the forming of public opinion. The American two-party system, the nation’s enduring source of political stability, was forged in—and, fair to say, created by—the nation’s newspapers. Newspapers had shaped the ratification debate between Federalists and Anti-Federalists, and by 1791 newspapers were already beginning to shape the first party system, a contest between Federalists and those who aligned themselves with a newly emerging opposition: the Democratic-Republican Party, more usually known as Jeffersonians or Republicans. Jefferson and Madison, who founded the Democratic-Republican Party, believed

that the fate of the Republic rested in the hands of farmers; Hamilton and the Federalist Party believed that the fate of the Republic rested in the development of industry. Each party boasted its own newspapers. In the 1790s, while Federalists battled Jeffersonian Republicans, newspapers grew four times as fast as the population.⁹¹

Newspapers in the early republic weren't incidentally or inadvertently partisan; they were entirely and enthusiastically partisan. They weren't especially interested in establishing facts; they were interested in staging a battle of opinions. "Professions of impartiality I shall make none," wrote a Federalist printer. "They are always useless, and are besides perfect nonsense."⁹² The printer of the *Connecticut Bee* promised to publish news

*Of turns of fortune, changes in the state,
The fall of fav'rites, projects of the great,
Of old mismanagements, taxations new,
All neither wholly false, nor wholly true.*⁹³

Once much maligned as destructive of public life, parties, driven by newspapers, became its machinery. "The engine," said Jefferson, "is the press."⁹⁴

In September of 1796, readers of newspapers found out that George Washington, sixty-four, would not run for a third term. It was an astonishing act, an abdication of power not unlike his retirement from the military after the war, and possibly the most important act of his presidency. He knew it would set a precedent, that no president should rule forever, or even for very long. By way of farewell, he addressed a letter to the American people, a speech never delivered, but instead published in newspapers across the country.

Madison had first drafted the letter of abdication in 1792, the first time that Washington had wanted to step down. But he'd been convinced to serve a second term in hopes of uniting the Federalist and Republican factions. Revised by Hamilton, the letter became known as Washington's Farewell Address. It appeared, first, on page two of a Philadelphia newspaper. Addressed "To the PEOPLE of the United States"; signed "G. Washington."

Washington's Farewell Address consists of a series of warnings about the danger of disunion. The North and the South, the East and the West, ought not to consider their interests separate or competing, Washington urged: "your union ought to be considered as a main prop of your liberty." Parties, he warned, were the "worst enemy" of every government, agitating "the community with ill-founded jealousies and false alarms," kindling "the animosity of one part against another," and even fomenting "riot and insurrection." As to the size of the Republic, "Is there a doubt whether a common government can embrace so large a sphere? Let experience solve it." The American experiment must go on. But it could only thrive if the citizens were supported by religion and morality, and if they were well educated. "Promote, then, as an object of primary importance, institutions for the general diffusion of knowledge," he urged. "In proportion as the structure of a government gives force to public opinion, it is essential that public opinion should be enlightened."⁹⁵

There is something heartbreaking in Washington's Farewell Address, with its faith in reason, experience, and truth. Washington delivered his letter to the People of the United States in much the same spirit as Madison had urged and helped draft the Constitution itself. Washington hoped, he said, that Americans might "control the usual current of the passions." "Passion" or variants

of the word appear seven times in the Farewell; it is the source of every problem; reason is its only remedy. Passion is a river. There would be no changing its course. Nor was George Washington free from its force.

As George and Martha Washington prepared to leave the capital for Virginia, their slaves made different arrangements. Their enslaved cook, Hercules, escaped to New York, and Martha Washington's twenty-two-year-old slave seamstress, Ona Judge, escaped by ship to New Hampshire. Judge had learned that Martha Washington intended to give her as a wedding gift to her granddaughter. George Washington sent a slave catcher after her, but when the agent found the seamstress he reported that "popular opinion here is in favor of universal freedom," and it would create a spectacle if he were to seize her. Judge sent word to Washington that she would return to Mount Vernon only if granted her freedom, since she would "rather suffer death than return to slavery." Washington refused, on the ground that it would set a "dangerous precedent."⁹⁶ What to do about slavery, and precedent, weighed heavily on his mind, and on his conscience.

On December 12, 1799, after riding his horse through snow that turned to rain, Washington fell ill. Two days later, at four o'clock in the afternoon, in his bedchamber on the second floor of his mansion at Mount Vernon, as he lay dying, he asked his wife, Martha, to bring him two different wills that he had left on his desk. He read them over slowly and carefully and then asked her to burn one of them. Later that day, he breathed his last, surrounded by his wife, his doctor, his secretary, and four of his slaves: Caroline and Molly, housemaids; Christopher, a manservant; and Charlotte; a seamstress. When Washington died, the black people in that room outnumbered the white people.

During his second term, Washington had written to his secretary that he wished "to liberate a species of property which I possess, very repugnantly to my own feelings." He had arranged for this to be done, but only after his death. In the will that he did not have his wife burn—a second will that he had prepared only that summer—he had written: "Upon the decease of my wife . . . all the Slaves which I hold in my own right shall receive their freedom."

There were more than three hundred people enslaved at Mount Vernon; Washington owned 123; the rest were his wife's. Washington's will was published in newspapers from Maine to Georgia, as he knew it would be. Everyone at Mount Vernon knew the terms of his will. His 123 slaves would be freed only upon Martha Washington's death. His wife, understandably, feared she might be murdered.⁹⁷

Harry Washington, who had once been Washington's property, might have heard the news of his death, an ocean away, in another unruly republic. About half of Sierra Leone's black settlers rebelled against the colony's tyrannical government, said to be "as thorough Jacobins as if they had been trained and educated in Paris." In 1799, a group of revolutionaries led by Harry Washington tried to declare independence. The rebellion was swiftly put down, its instigators banished. Months after George Washington died at Mount Vernon, the exiled rebels of Sierra Leone elected, as their leader, Harry Washington.⁹⁸



An 1800 print commemorating the life of Washington pictures him holding "The American Constitution," a tablet etched in stone.

At George Washington's death, the nation fell into mourning, in a torrent of passion. People preached and prayed; they dressed in black and wept. Shops were closed. Funeral orations were delivered. "Mourn, O, Columbia!" declared a newspaper in Baltimore. The Farewell Address was printed and reprinted, read and reread, stitched, even, into pillows.

"Let it be written in characters of gold and hung up in every house," one edition of the Address urged. "Let it be engraven on tables of brass and marble and, like the sacred Law of Moses, be placed in every Church and Hall and Senate Chamber."

Let it be written. Americans read their Washington. And they looked at him, in prints and portraits. One popular print, *Washington Giving the Laws to America*, showed the archangel Gabriel in the heavens carrying an American emblem while Washington, dressed in a Roman

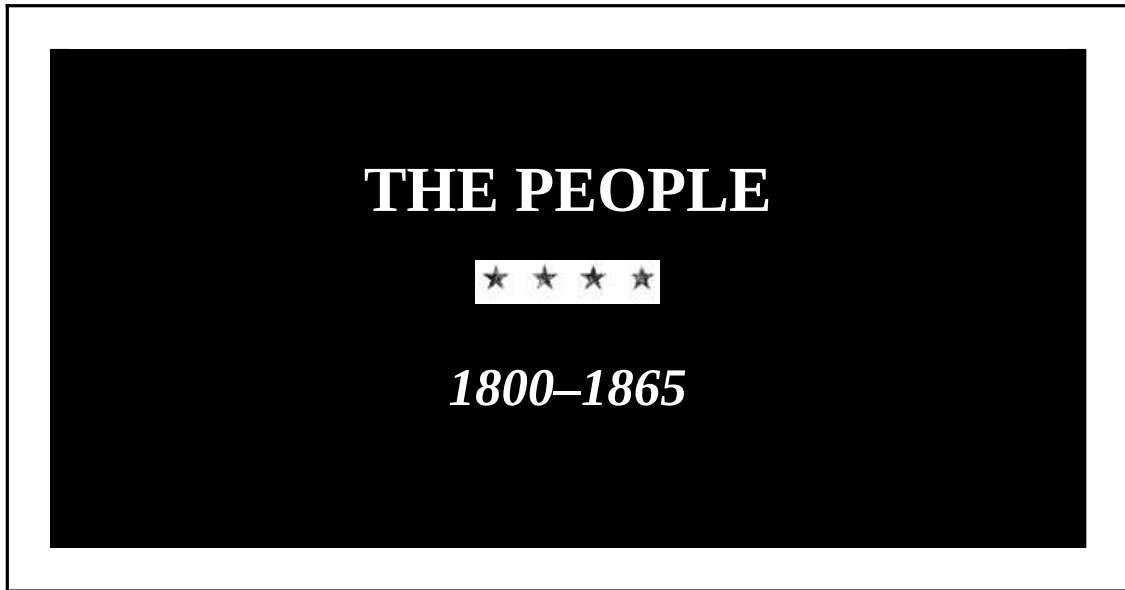
toga and seated among the gods, holds a stylus in one hand and, in his other hand, a stone tablet engraved with the words, "The American Constitution."⁹⁹ It was as if the Constitution had been handed down from the heavens, tablets etched out of stone, sacred and infallible, from God to the first American president. Where were the centuries of ideas and decades of struggle? What of the hardscrabble American people and their fiercely fought debates? What of the near fisticuffs over ratification? What of the feuds and the failures and the compromises, the trials of facts, the battles between reason and passion?

In the quiet of a room in a house not too far away, James Madison pulled out of a cabinet the notes he had taken down, day after day, at the constitutional convention, that sweltering summer in Philadelphia. He read over them and wondered at them, and then he settled to the work of revision, word by word. He pattered away, in secret, page after page. In his desk, he kept safe, for another day, the story of how the Constitution had been written, and of its fateful compromises.



Arthur Fitzwilliam Tate's 1854 canvas Arguing the Point depicts a hunter and a farmer debating an election while reading a paper brought by a townsman, while the farmer's daughter tries to break in on the conversation.

Part Two

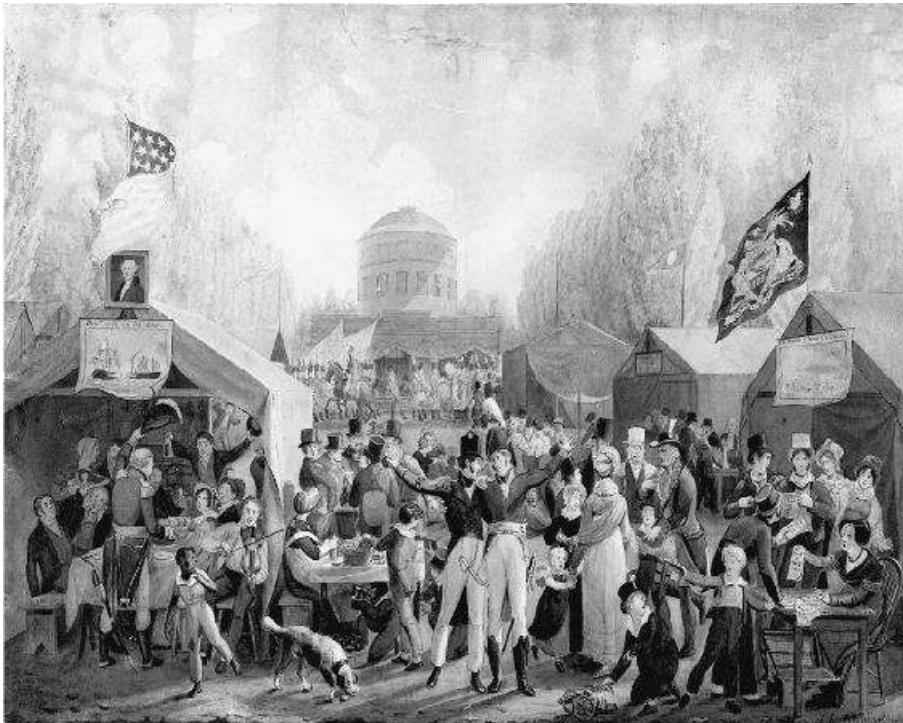


They said, some men are too ignorant, and vicious, to share in government. Possibly so, said we; and, by your system, you would always keep them ignorant, and vicious. We proposed to give all a chance; and we expected the weak to grow stronger, the ignorant, wiser; and all better, and happier together. We made the experiment; and the fruit is before us.

—Abraham Lincoln,
“Fragments on Government,”
1854

Five

A DEMOCRACY OF NUMBERS



Philadelphians of all ranks celebrate the Fourth of July in 1812 in this watercolor by John Lewis Krimmel, a German immigrant.

IN 1787, WHILE FEDERALISTS AND ANTI-FEDERALISTS were fighting over the proposed Constitution in the mottled pages of American newspapers and on the creaky floors of convention halls, John Adams, minister to Britain, grumbled at his desk in Grosvenor Square, London, while Thomas Jefferson, minister to France, leaned over a desk of his own, undoubtedly fancier, at the Hôtel de Langeac on Paris's Champs-Élysées. Far from home, the two men who had together crafted the Declaration of Independence staged an epistolary debate about the Constitution, exchanging letters across the English Channel, as if they were holding a two-man ratifying convention, Adams worrying that the Constitution gave the legislature too much power, Jefferson fearing the same about the presidency. "You are afraid of the one—I, of the few," Adams wrote Jefferson. "You are Apprehensive of Monarchy; I, of Aristocracy." Both men

agonized about elections, Jefferson fearing there would be too few, Adams that there would be too many. “Elections, my dear sir,” Adams wrote, “I look at with terror.”¹

The debate between Adams and Jefferson hadn’t ended after the Constitution was ratified. It hadn’t ended after Washington was elected in 1788, or during his administration, when Adams served as his vice president, and Jefferson as his secretary of state, and it hadn’t ended after Washington was elected again in 1792. Instead, in 1796, their debate helped establish the nation’s first stable political parties.

Jefferson had been worried that the Constitution allowed for a president to serve again and again, till his death, like a king. Adams liked that idea. “So much the better,” he’d written in 1787.² In 1796, when Washington announced that he wouldn’t run for a third term, Adams and Jefferson each sought to replace him. Adams narrowly won. The two men next faced off in an election Jefferson called “the revolution of 1800.” Whether or not it was a revolution, the election of 1800, the climax of a decades-long debate between Adams and Jefferson, led to a constitutional crisis. The Constitution hadn’t provided for parties, and the method of electing the president could not accommodate them. Nevertheless, Adams ran as a Federalist and Jefferson as a Republican, which meant that, whatever the results of the voting, no one was quite sure of the outcome, especially after the two men received an equal number of votes in the Electoral College, a tie that, under the terms of the Constitution, was to be broken by a vote in the House of Representatives.

Jefferson heard rumors that if he won, Federalists would “break the Union”; he believed they hoped to change the law to allow for Adams to serve for life. “The enemies of our Constitution are preparing a fearful operation,” he warned. Meanwhile, Alexander Hamilton sounded an alarm that if Adams were to be reelected, Virginians would “resort to the employment of physical force” to keep Federalists out of office. It was even said that some Federalists in Congress had decided they’d “go without a Constitution and take the risk of a civil war” rather than elect Jefferson. “Who is to be president?” asked one troubled congressman, and “what is to become of our government?”³

The ongoing argument between Adams and Jefferson was at once a rivalry between two ambitious men, bitter and petty, and a dispute about the nature of the American experiment, philosophical and weighty. In 1800, Adams was sixty-four and even more disputatious, vain, and learned than he’d been as a younger man. A founder of the American Academy of Arts and Sciences, he’d written a ponderous, three-volume *Defense of the Constitutions of Government of the United States*, explaining the fragile balance between an aristocracy of the rich and a democracy of the poor, a balance that could only be struck by a well-engineered constitution. “In every society where property exists, there will ever be a struggle between rich and poor,” he wrote. “Mixed in one assembly, equal laws can never be expected. They will either be made by numbers, to plunder the few who are rich, or by influence, to fleece the many who are poor.”⁴

Jefferson, fifty-seven, president of the American Philosophical Society, by turns moody and frantic, a searing writer, was no less learned, if far more inconsistent, than Adams. He placed his faith in the rule of the majority. The point of the American experiment, he believed, was “to shew by example the sufficiency of human reason for the care of human affairs and that the will of the majority, the Natural law of every society, is the only sure guardian of the rights of man.”⁵ Adams believed in restraining the will of the majority, Jefferson in submitting to it.

Both men subscribed to the Aristotelian notion that there exist three forms of government,

that each could become corrupt, and that the perfect government was the one that best balanced them. Adams believed that the form of government most “susceptible of improvement” was a polity, and that such an improvement could be achieved—and the terrors of democracy avoided—if legislatures were to do a better job of representing the interests of the people by more exactly mirroring them. “The end to be aimed at, in the formation of a representative assembly, seems to be the sense of the people, the public voice,” he wrote. “The perfection of the portrait consists in its likeness.”⁶

Yet, for all Adams’s talk of portraits and likenesses, the dispute between the two men turned not on art but on mathematics. Government by the people is, in the end, a math problem: Who votes? How much does each vote count?

Adams and Jefferson lived in an age of quantification. It began with the measurement of time. Time used to be a wheel that turned, and turned again; during the scientific revolution, time became a line. Time, the easiest quantity to measure, became the engine of every empirical inquiry: an axis, an arrow. This new use and understanding of time contributed to the idea of progress—if time is a line instead of a circle, things can get better and even better, instead of forever rising and falling in endless cycles, like the seasons. The idea of progress animated American independence and animated, too, the advance of capitalism. The quantification of time led to the quantification of everything else: the counting of people, the measurement of their labor, and the calculation of profit as a function of time. Keeping time and accumulating wealth earned a certain equivalency. “Time is money,” Benjamin Franklin used to say.⁷

Quantification also altered the workings of politics. No matter their differences, Adams and Jefferson agreed that governments rest on mathematical relationships: equations and ratios. “Numbers, or property, or both, should be the rule,” Adams insisted, “and the proportions of electors and members an affair of calculation.”⁸ Determining what that rule would be had been the work of the constitutional convention; fixing that rule would be the work of the election of 1800, and of the political reforms to follow, each another affair of calculation.

I.

KINGS ARE BORN; presidents are elected. But how? In Philadelphia in 1787, James Wilson explained, the delegates had been “perplexed with no part of this plan so much as with the mode of choosing the President.” At the convention, Wilson had proposed that the people elect the president directly. But James Madison had pointed out that since “the right of suffrage was much more diffusive in the Northern than the Southern States . . . the latter could have no influence in the election on the score of the Negroes.” That is, in a direct election, the North, which had more voters, would have more votes. Wilson’s proposal was defeated, 12 states to 1.⁹ Some delegates to the convention had believed Congress should elect the president. This method, known as indirect election, allowed for popular participation in elections while steering clear of the “excesses of democracy”; it filtered the will of the many through the judgment of the few. The Senate, for instance, was elected indirectly: U.S. senators were chosen not by the people but by state legislatures (direct election of senators was not instituted until the ratification of the Seventeenth Amendment, in 1913). But, for the office of the presidency, indirect election

presented a problem: having Congress choose the president violated the principle of the separation of powers.

Wilson had come up with another idea. If the people couldn't elect the president, and Congress couldn't elect the president, maybe some other body could elect the president. Wilson suggested that the people elect delegates to an Electoral College, a body of worthy men of means and reputation who would do the actual electing. This measure passed. But Wilson's compromise stood on the back of yet another compromise: the slave ratio. The number of delegates to the Electoral College would be determined not by a state's population but by the number of its representatives in the House. That is, the size of a state's representation in the Electoral College was determined by the rule of representation—one member of Congress for every forty thousand people, with people who were enslaved counting as three-fifths of other people.¹⁰ The Electoral College was a concession to slave owners, an affair of both mathematical and political calculation.

These calculations required a census, which depended on the very new science of demography (a founding work, the first edition of Thomas Malthus's *Essay on the Principle of Population*, appeared in 1798). Article I, Section 2, of the Constitution calls for the population of the United States to be counted every ten years. Census takers were to count "the whole number of free Persons" and "all other Persons" but to exclude "Indians not taxed," meaning Indians who lived as independent peoples, even if they lived within territory claimed by the United States. This first federal census, conducted in 1790, counted 3.9 million people, including 700,000 slaves. The three-fifths clause not only granted slave-owning states a disproportionate representation in Congress but amplified their votes in the Electoral College. Virginia and Pennsylvania, for instance, had roughly equivalent free populations but, because of its slave population, Virginia had three more seats in the house and therefore six more electors in the Electoral College, with the result that, for thirty-two of the first thirty-six years of the Republic, the office of the president of the United States was occupied by a slave-owning Virginian, with John Adams the only exception.¹¹

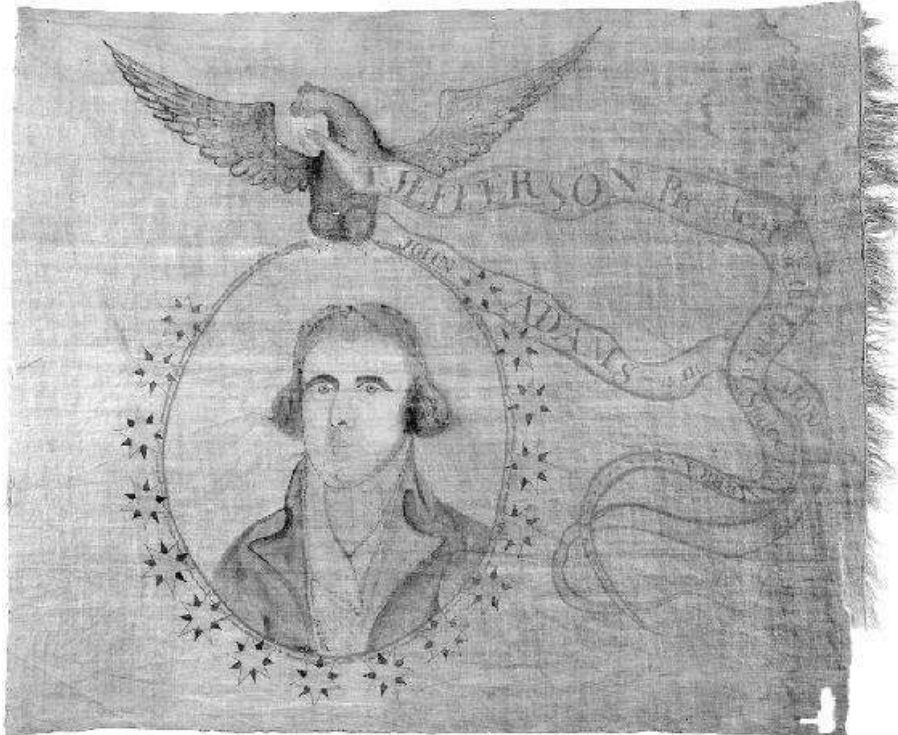
There remained still more contentious calculations. How delegates to the Electoral College would be chosen had been left to the states. In 1796, in seven out of sixteen states the people elected delegates; in the rest, state legislatures elected delegates. The original idea had been for delegates to use their own judgment in deciding how to cast their votes in the Electoral College, although they hadn't had to make much of a decision in 1788 and 1792, since Washington ran unopposed. But by 1796, two political parties having emerged and a decision needing to be made, party leaders had come to believe that delegates ought to do the bidding of the men who elected them. One Federalist complained that he hadn't chosen his elector "to determine for me whether John Adams or Thomas Jefferson is the fittest man for President of these United States . . . No, I chose him to act, not to think."¹²

This ambiguity had resulted in a botched election. Under the Constitution, the candidate with the most Electoral College votes becomes president; the candidate who comes in second becomes vice president. In 1796, Federalists wanted Adams as president and Thomas Pinckney as vice president. But in the Electoral College, Adams got seventy-one votes, Jefferson sixty-eight, and Pinckney only fifty-nine. Federalist electors had been instructed to cast the second of their two votes for Pinckney; instead, many had cast it for Jefferson. Jefferson therefore became Adams's vice president, to the disappointment of everyone.

During Adams's stormy administration, the distance between the two parties widened. Weakened by the weight of his own pride and not content with issuing warnings about the danger of parties, Adams attempted to outlaw the opposition. In 1798, while the United States was engaged in an undeclared war with France, Congress passed the Alien and Sedition Acts, granting to the president the power to imprison noncitizens he deemed dangerous and to punish printers who opposed his administration: twenty-five people were arrested for sedition, fifteen indicted, and ten convicted; that ten included seven Republican printers who supported Jefferson.¹³ Jefferson and Madison believed that the Alien and Sedition laws violated the Constitution. If a president overreaches his authority, if Congress passes unconstitutional laws, what can states do? The Constitution does not grant the Supreme Court the authority to decide on the constitutionality of laws passed by Congress; that's a power that the court decided to exercise on its own, but, in 1798, it hadn't tried yet. Meanwhile, Jefferson and Madison and other Republicans came up with another form of judicial review: they argued that the states could decide on the constitutionality of federal laws. They wrote resolutions objecting to the Alien and Sedition Acts. Madison wrote a resolution for Virginia; Jefferson wrote one for Kentucky. "Unless arrested on the threshold," Jefferson warned, the Alien and Sedition laws would drive the states "into revolution and blood, and will furnish new calumnies against republican government, and new pretexts for those who wish it to be believed that man cannot be governed but by a rod of iron."¹⁴

The widening divide between the parties also marked a hardening of views on slavery. During the Haitian revolution, Jefferson, favoring France, wanted, at most, a remote relationship with an island of freed slaves. But the Adams administration, favoring England, wanted to renew trade with the Caribbean island and even to recognize its independence. "Nothing is more clear than, if left to themselves, that the Blacks of St Domingo will be incomparably less dangerous than if they remain the subjects of France," Timothy Pickering, Adams's secretary of state, wrote in 1799. Meanwhile, Africans in America found inspiration in news of events in Haiti. In the summer of 1800, a blacksmith named Gabriel, who became known as "the American Toussaint," led a slave rebellion in Virginia, marching under the slogan "Death or Liberty." The rebellion failed. Gabriel and twenty-six of his followers were tried and executed. Opponents of slavery predicted that Gabriel's rebellion would not be the last. "Tho Gabriel dies, a host remains," warned Timothy Dwight, the president of Yale. "Oppresse'd with slavery's galling chain."¹⁵

Jefferson believed that the election of 1800 would "fix our national character" and "determine whether republicanism or aristocracy would prevail." It did, in any event, establish a number of conventions of American politics, including the party caucus and a no-holds-barred style of political campaigning. Early in the year, Federalists and Republicans in Congress, keen to avoid a repetition of the confusion of 1796, held a meeting to decide on their party's presidential nominee. They called this meeting a "caucus." (The word is an Americanism; it comes from an Algonquian word for "adviser.") The Republicans settled on Jefferson, the Federalists on Adams, although Alexander Hamilton tried to convince Federalists to abandon Adams and instead throw their support behind his running mate, Charles Cotesworth Pinckney of South Carolina. "Great and intrinsic defects in his character unfit him for the office of chief magistrate," Hamilton wrote of Adams, citing "the unfortunate foibles of a vanity without bounds, and a jealousy capable of discoloring every object."¹⁶ Adams held on to the nomination only by the grip of his talons.



An election of 1800 campaign banner for Thomas Jefferson promised “John Adams No More.”

The candidates themselves did not campaign; Americans deemed a candidate’s addressing the people directly a form of demagoguery. When Adams made a detour while traveling from Massachusetts to Washington, a Republican newspaper editor demanded, “Why must the President go fifty miles out of his way to make a trip to Washington?” But the lack of participation of the candidates themselves by no means quieted the campaigning, which chiefly took place in the nation’s newspapers. Voters argued in taverns and fields, and even by the side of the road, having the kind of conversations that the *Carolina Gazette* attempted to capture by printing “A DIALOGUE Between a *FEDERALIST* and a *REPUBLICAN*”:

REPUBLICAN. Good morrow, Mr. Federalist; ’tis pleasant weather; what is the news of the day? How are elections going, and who is likely to be our president?

FEDERALIST. For my part I would rather vote for any other man in the country, than Mr. Jefferson.

REPUBLICAN. And why this prejudice against Mr. Jefferson, I pray you?

FEDERALIST. I do not like the man, nor his principles, from what I have heard of him. First, because he holds not implicit faith in the Christian Religion; 2dly, because I fear he is too great an advocate for French principles and politics; and lastly, because I understand he is violently prejudiced against every thing that is of British connection.

They argue on. “What have you or anyone to do with Mr. J.’s religious principles?” the Republican asks, after which their debate nearly ends in fisticuffs.¹⁷

Republicans attacked Adams for abuses of office. Federalists attacked Jefferson for his slaveholding—Americans will not “learn the principles of liberty from the slave-holders of Virginia,” cried one—and especially for his views on religion. In *Notes on the State of Virginia*,

Jefferson had stated his commitment to religious toleration. “It does me no injury for my neighbor to say there are twenty gods or no god,” he’d written. “It neither picks my pocket nor breaks my leg.” From their pulpits, Federalist clergymen preached that such an opinion could lead to nothing but unchecked vice, crime, and depravity. One New York minister answered Jefferson: “Let my neighbor once perceive himself that there is no God, and he will soon pick my pocket and break not only my *leg* but my *neck*.” And a Federalist newspaper, *Gazette of the United States*, insisted that the election offered Americans a choice between “GOD—AND A RELIGIOUS PRESIDENT” and “JEFFERSON—AND NO GOD!!!!”¹⁸

Republicans answered Federalist hyperbole with still more hyperbole. In 1799, Federalists had unsuccessfully pursued the Philadelphia printer William Duane for sedition. In 1800, Duane printed in his newspaper, the *Aurora*, a pair of lists, contrasting the two candidates. With a second term under Adams, the nation would endure more of “Things As They Are”:

The principles and patriots of the Revolution condemned.
The Nation in arms without a foe, and divided without a cause.
The reign of terror created by false alarms, to promote domestic feud and foreign war.
A Sedition Law.
An established church, a religious test, and an order of Priesthood.

But if Jefferson were elected, the nation could look forward to “Things As They Will Be”:

The Principles of the Revolution restored.
The Nation at peace with the world and united in itself.
Republicanism allaying the fever of domestic feuds, and subduing the opposition by the force of reason and rectitude.
The Liberty of the Press.
*Religious liberty, the rights of conscience, no priesthood, truth, and Jefferson.*¹⁹

“Take your choice,” James Callender, a Scottish satirist, wrote in a pamphlet called *The Prospect before Us*, “between Adams, war and beggary, and Jefferson, peace and competency.” Aristocracy or republicanism, order or disorder, virtue or vice, terror or reason, Adams or Jefferson. “Such papers cannot fail to have the best effect,” Jefferson wrote privately of Callender’s pamphlet. For *The Prospect before Us*, Callender was convicted of sedition. Sentenced to six months’ confinement, he wrote a second volume from jail. Thumbing his nose at his prosecutors, he titled one chapter “More Sedition.”²⁰

The campaigning went on for rather a long time, partly because there was no single national election day in 1800. Instead, voting stretched from March to November. Voting was done in public, not in secret. It also hardly ever involved paper and pen, and counting the votes—another affair of calculation—usually meant counting heads or, rather, counting polls. A “poll” meant the top of a person’s head. (In *Hamlet*, Ophelia says, of Polonius, “His beard as white as snow: All flaxen was his poll.” Not until well into the nineteenth century did a “poll” come to mean the counting of votes.) Counting polls required assembling—all in favor of the Federalist stand here, all in favor of the Republican over there—and in places where voting was done by ballot, casting a ballot generally meant tossing a ball into a box. The word “ballot” comes from the Italian *ballota*, meaning a little ball—and early Americans who used ballots cast pea or pebbles, or, not

uncommonly, bullets. In 1799, Maryland passed a law requiring voting on paper, but most states were quite slow to adopt this reform, which, in any event, was not meant to make voting secret, voting publicly being understood as an act of republican citizenship.²¹

The revolution of 1800, as Jefferson saw it, was accomplished “by the rational and peaceable instrument of reform, the suffrage of the people”—a revolution in voting.²² Nevertheless, out of a total U.S. population of 5.23 million, only about 600,000 people were eligible to vote. Only in Maryland could black men born free vote (until 1802, when the state’s constitution was amended to exclude them); only in New Jersey could white women vote (until 1807, when the state legislature closed this loophole). Of the sixteen states in the Union, all but three—Kentucky, Vermont, and Delaware—limited suffrage to property holders or taxpayers, who made up 60–70 percent of the adult white male population. Only in Kentucky, Maryland, North Carolina, Rhode Island, and Virginia did voters choose their state’s delegates to the Electoral College. In no state did voters cast ballots for presidential candidates: instead, they voted for legislators, or they voted for delegates. Which of these methods each state followed was part of what the election was about in the first place, since one method was more aristocratic, and the other more republican—that’s what Jefferson meant by calling the election a revolution.²³

Before the election was over, seven out of the sixteen states in the Union changed or modified their procedures for electing delegates to the Electoral College. This began in the spring of 1800, after Republicans made a strong showing in local elections in New England, and the Federalist-dominated legislatures of Massachusetts and New Hampshire repealed the popular vote and put the selection of Electoral College delegates into their own hands. Some efforts to manipulate the voting were thwarted. When, in an election engineered by Jefferson’s running mate, Aaron Burr, New Yorkers elected a Republican legislature, Hamilton tried to convince the state’s governor, John Jay, to convene the lame-duck Federalist legislature to change the rules, throwing the election of delegates to the people so that the new legislature would not be able to choose Jeffersonian electoral delegates. Hamilton couldn’t stand Adams, but he considered Jefferson a “contemptible hypocrite.”²⁴ What he proposed was patently unethical. But if the result would be “to prevent an *atheist* in Religion, and a *fanatic* in politics from getting possession of the helm of State,” Hamilton told Jay, “it will not do to be overscrupulous.” Jay refused.²⁵

When the Electoral College met in December 1800, one error of its design became immediately clear: Adams lost, but the winner remained uncertain. Republican electors were supposed to vote for Jefferson and Burr. For Jefferson to become president, at least one Republican elector had to remember to *not* vote for Burr, so that Jefferson would win and Burr place second. That someone forgot. Instead, Jefferson and Burr both received seventy-three votes in the Electoral College to Adams’s sixty-five and Pinckney’s sixty-four, the Federalists having remembered to give their presidential candidate one more vote than his running mate. (This problem was fixed in 1804, with the Twelfth Amendment, which separated the election of the president and the vice president.) The Jefferson-Burr tie was thrown to the House, dominated by lame-duck Federalists. Jefferson’s party had just won sixty-seven House seats, compared to the Federalists’ thirty-nine, but these new congressmen had not yet taken office.²⁶ Between Jefferson and Burr, Congress eventually decided in favor of the Virginian. Meanwhile, from New England, Federalist Timothy Pickering dubbed Jefferson a “Negro President” because twelve of his electoral votes were a product of the three-fifths clause. Without these “Negro electors,” as

northerners called them, he would have lost to Adams, sixty-five to sixty-one. “The election of Mr. Jefferson to the presidency,” John Quincy Adams remarked, represented “the triumph of the South over the North—of the slave representation over the purely free.”²⁷

ON FEBRUARY 17, 1801, Jefferson was at last elected president. “I shall leave in the stables of the United States seven Horses and two Carriages with Harness,” Adams wrote him. “These may not be suitable for you: but they will certainly save you a considerable Expense.”²⁸ Jefferson was inaugurated on March 4, 1801, one day after the Sedition Act expired. He was the first president to be inaugurated in the new capital city of Washington. Spurning pomp, and refusing to ride on any of John Adams’s seven horses or in either of his two carriages, he walked through the city’s muddy streets, a man of the people. Bostonians insisted that he did not, in fact, walk but instead rode “into the temple of Liberty on the shoulders of slaves.”²⁹

Jefferson’s inauguration marked the first peaceful transfer of power between political opponents in the new nation, a remarkable turning point. The two-party system turned out to be essential to the strength of the Republic. A stable party system organizes dissent. It turns discontent into a public good. And it insures the peaceful transfer of power, in which the losing party willingly, and without hesitation, surrenders its power to the winning party.

Jefferson delivered his inaugural address to Congress, assembled in the unfinished Capitol, but he addressed it to the American people: “Friends and Fellow Citizens.” It is one of the best inaugurals ever written. He spoke about “the contest of opinion,” a contest waged in the pages of the nation’s unruly newspapers. He tried to wave aside the bitter partisanship of the election and to defeat the spirit of intolerance manifest in the Sedition Act. “Every difference of opinion is not a difference of principle,” he said. “We have called by different names brethren of the same principle. We are all Republicans, we are all Federalists. If there be any among us who would wish to dissolve this Union or to change its republican form, let them stand undisturbed as monuments of the safety with which error of opinion may be tolerated where reason is left free to combat it.” Three weeks later, Jefferson wrote to Sam Adams: “The storm is over, and we are in port.”³⁰

The storm was not over. One of the last and most important decisions John Adams made before leaving the presidency was to appoint to the office of chief justice the Virginian John Marshall, who was Jefferson’s cousin and also one of his fiercest political rivals. Federalists had lost power in the other two branches of government, but they seized it in the judicial branch and held it, a check against the suffrage of the people, a form of power more easily subject to abuse than any other.

A corrupt or too powerful judiciary had been one of the abuses that led to the Revolution. In 1768, Benjamin Franklin had listed judicial appointment as one of the “causes of American discontents,” and, in the Declaration of Independence, Jefferson included the king’s having “made Judges dependent on his Will alone” on his list of grievances.³¹ “The judicial power ought to be distinct from both the legislative and executive, and independent,” John Adams had argued in 1776, “so that it may be a check upon both.”³² But a tension exists between judicial independence and the separation of powers. Appointing judges to serve for life would seem to establish judicial independence, but what power would then check the judiciary? Another solution was to have judges elected by the people—the people would then check the judiciary—

but the popular election of judges would seem to make the courts subject to all manner of political caprice. At the constitutional convention, no one had argued that the Supreme Court justices ought to be popularly elected, not because the delegates were unconcerned about judicial independence but because there wasn't a great deal of support for the popular election of anyone, including the president. And, although there was, for a time, some disagreement over whether the president or the Senate ought actually to do the appointing, the proposal that the president ought to appoint justices, and the Senate confirm them, and that these justices ought to hold their appointments "during good behavior," was established swiftly, and without much dissent.³³

Nevertheless, this arrangement had proved controversial during the debate over ratification. In an essay called "The Supreme Court: They Will Mould the Government into Almost Any Shape They Please," one Anti-Federalist had pointed out that the power granted to the court was "unprecedented in a free country," because its justices are, finally, answerable to no one: "No errors they may commit can be corrected by any power above them, if any such power there be, nor can they be removed from office for making ever so many erroneous adjudications."³⁴

This is among the reasons Hamilton had found it expedient, in Federalist 78, to emphasize the weakness of the judicial branch.³⁵ When it began, the Supreme Court, without even a building to call its own, really was nearly as weak as Hamilton pretended it would be. It served, at first, as an appellate court and a trial court and, under the terms of the 1789 Judiciary Act, a circuit court. People thought it was a good idea for the justices to ride circuit, so that they'd know the citizenry better. The justices quite disliked riding circuit and, in 1792, petitioned the president to relieve them of the duty, writing, "we cannot reconcile ourselves to the idea of existing in exile from our families." Washington, who had no children of his own, was unmoved.³⁶ At one point, the chief justice, John Jay, wrote to Washington to let him know that he was going to skip the next session because his wife was having a baby ("I cannot prevail upon myself to be then at a Distance from her," Jay wrote), and because there wasn't much on the docket, anyway. In 1795, Jay resigned his appointment as chief justice to become governor of New York, closer to home. Washington then asked Hamilton to take his place; Hamilton said no, as did Patrick Henry. When the Senate rejected Washington's next nominee for Jay's replacement, the South Carolinian John Rutledge, Rutledge tried to drown himself near Charleston, crying out to his rescuers, "He had long been a Judge & he knew no Law that forbid a man to take away his own life."³⁷ The court, in short, was troubled.

Before leaving office, Adams had tried to reappoint Jay as chief justice, but Jay had refused, writing to the president, "I left the Bench perfectly convinced that under a system so defective, it would not obtain the energy, weight, and dignity which are essential to its affording due support to the national government, nor acquire the public confidence and respect which, as the last resort of the justice of the nation, it should possess."³⁸ All of this changed with John Marshall.

In 1801, when Marshall was appointed chief justice, the president lived in the President's House, Congress met at the Capitol, and the court still lacked a home, having no building of its own. Marshall took his oath of office in a dank, dark, cold, "meanly furnished, very inconvenient" room in the basement of the Capitol, where the justices, who had no clerks, had no room to put on their robes or to deliberate. "The deaths of some of our most talented jurists," one architect remarked, "have been attributed to the location of this Courtroom." Cleverly, Marshall made sure all the justices rented rooms at the same boardinghouse, so that they could have someplace to talk together, unobserved.³⁹

Nearly the very last thing Adams had done before leaving office was to persuade the lame-duck Federalist Congress to pass the 1801 Judiciary Act, reducing the number of Supreme Court Justices to five, a change slated to go into effect once the next vacancy came up. The only point of this chicanery was to make it so Jefferson wouldn't have the chance to name a justice to the bench until two justices left. The next year, the newly elected Republican Congress repealed the 1801 act and, furthermore, suspended the next two sessions of the Supreme Court.

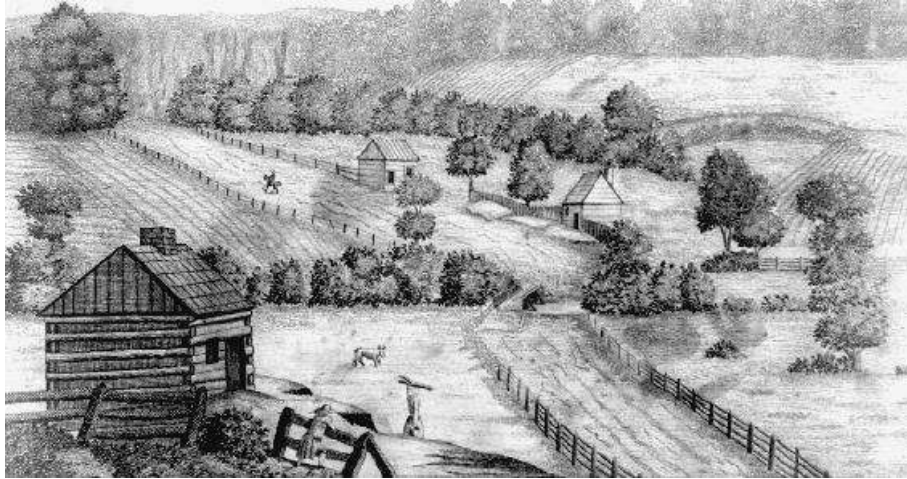
Sessions of Congress were open to the public and their deliberations were published, in accordance with what James Wilson had called, at the constitutional convention, the people's "right to know." But Marshall decided that the deliberations of the Supreme Court ought to be cloaked in secrecy. He also urged the justices to issue unanimous decisions—a single opinion, ideally written by the chief justice—and to destroy all evidence of disagreement.

Marshall's critics considered these practices to be incompatible with a government accountable to the people. "The very idea of cooking up opinions in conclave begets suspicions," Jefferson complained.⁴⁰ But Marshall went ahead anyway. And, in 1803, in *Marbury v. Madison*, a suit against Jefferson's secretary of state, James Madison, Marshall granted to the Supreme Court a power it had not been granted in the Constitution: the right to decide whether laws passed by Congress are constitutional.

Marshall declared: "It is emphatically the province and duty of the judicial department to say what the law is."⁴¹ One day, those words would be carved in marble; in 1803, they were very difficult to believe.

II.

THE REPUBLIC WAS SPREADING like ferns on the floor of a forest. Between the first federal census and the second, the population of the United States increased from 3.9 to 5.3 million; by 1810, it was 7.2 million, having grown at the extraordinary rate of 35 percent every decade. By 1800, 500,000 people had moved from the eastern states to land along the Tennessee, Cumberland, and Ohio Rivers, portending a political shift to the West. Jefferson believed that the fate of the Republic lay in expansion: more land and more farmers. He believed that yeoman farmers, secure in their possessions and independent of the influence of other men, constituted the best citizens. "Dependence begets subservience and venality," he wrote. There was something romantic, too, in Jefferson's attachment to farming: "Those who labor in the earth are the chosen people of God." Influenced by Malthus, Jefferson believed that the new nation had to acquire more territory both to supply its growing population with food and to retain its republican character. Malthus postulated as a law of nature "the perpetual tendency in the race of man to increase beyond the means of subsistence." In a growing population, poverty in man was as inevitable as old age.⁴² To this law, Thomas Jefferson expected the United States to prove an exception.



Jefferson imagined an “empire of liberty,” a republic of yeoman farmers, equal and independent.

Convinced that the fate of the Republic turned on farming, Jefferson feared manufacturing and the rise of the factory. Workers in steam-powered factories in England, he thought, were the very opposite of the virtuous, independent citizens needed in a republic; they were dependent laborers, subservient and venal. Jefferson had a nail factory on his slave plantation, at Monticello, though it was small-scale, and what he hoped to avoid was the next stage of manufacturing, industrial production. But what he did not see, could not see, was that his fields were a factory, too, run not by machines but by the forced labor of more than a hundred enslaved human beings.

The first factories in the Western world weren't in buildings housing machines powered by steam: they were out of doors, in the sugarcane fields of the West Indies, in the rice fields of the Carolinas, and in the tobacco fields of Virginia. Slavery was one kind of experiment, designed to save the cost of labor by turning human beings into machines. Another kind of experiment was the invention of machines powered by steam. These two experiments had a great deal in common. Both required a capital investment, and both depended on the regimentation of time.⁴³ What separated them divided the American economy into two: an industrial North, and an agricultural South.

Jefferson's presidency was a long battle over which of these systems ought to prevail, which meant looking to the West. The Louisiana Territory, nearly a million square miles west of the Mississippi, had been under Spanish rule since 1763, inhabited by Spaniards, Creoles, Africans, and Indians generally loyal to Great Britain. Spain allowed Americans to freely navigate the Mississippi and to ship goods from the vital port city of New Orleans, an arrangement that was essential for western settlement. But in 1800 Napoleon Bonaparte, who had seized control of France in 1799, secretly purchased the territory. He then attempted to reinstitute slavery on Saint-Domingue, which he hoped would serve as the economic heart of his New World empire. Napoleon's troops captured and imprisoned Toussaint Louverture in 1802, but after war broke out between France and Britain the next year, Napoleon withdrew his forces from Saint-Domingue. The island's former slaves declared their independence in 1803, establishing the Republic of Haiti. The United States refused to recognize Haiti but profited from its independence; without it, Napoleon no longer had much use for the Louisiana Territory and, at war with Britain, was keenly in need of funds. Jefferson and Madison arranged for their fellow

Virginian, James Monroe, to travel to Paris to offer Napoleon \$2 million for New Orleans and Florida (he was authorized to pay as much as \$10 million). Unexpectedly, Napoleon offered to sell the entire Louisiana Territory for \$15 million. Monroe, seizing the opportunity, made the purchase. Its geographical and economic consequences were enormous: the size of the United States doubled.

But there were other consequences, too, both constitutional and political. The restoration of navigation rights along the Mississippi, and the use of the Port of New Orleans, were together a triumph. But under the Constitution, expenses have to be approved by the House and treaties by the Senate. Congress has the power to admit to the Union new states “established within the limits of the United States,” but it does not specifically have the power to acquire new territory that would be incorporated into the Union. Views on the matter fell along party lines. New England–dominated Federalists argued that Jefferson’s envoys had overstepped their authority and, further, that the purchase would make the Republic “too widely dispersed,” resulting, ultimately, in the “dissolution of the government.” Republicans argued that the purchase fell within the power to make treaties. Jefferson had no regrets about the purchase, but he did have qualms about its constitutionality. Since 1787, he’d argued for limiting the powers of the federal government; he believed that the Constitution would have to be amended before the treaty could be ratified. “I had rather ask an enlargement of power from the nation, where it is found necessary, than to assume it by a construction which would make our powers boundless.” If the Constitution were so broadly constructed that the power to make treaties could be read as a power to purchase land from another country, the Constitution, Jefferson thought, would have been made “a blank paper.” Yet, in the end, Jefferson deferred to his advisers, who argued against pursuing an amendment. Then, too, he thought this vast swath of territory might be “the means of tempting all our Indians on the East side of the Mississippi to remove to the West.”⁴⁴

In 1804, after reading a revised edition of Malthus’s *Essay on the Principle of Population*, Jefferson concluded that “the greater part of his book is inapplicable to us” because of “the singular circumstance of the immense extent of rich and uncultivated lands in this country, furnishing an increase of food in the same ratio with that of population.” Malthus might have derived a law of nature, Jefferson conceded, but America provided an exception. “By enlarging the empire of liberty,” he wrote in 1805, “we . . . provide new sources of renovation, should its principles, in any time, degenerate, in those portions of our country, which gave them birth.”⁴⁵

This scarcely settled the question. In 1806, Jefferson secured the passage of a Non-Importation Act, banning certain British imports and, in 1807, an Embargo Act, banning all American exports. During the ongoing war between Britain and France, the British had been seizing American ships and impressing American seamen. Jefferson believed that banning all trade was the only way to remain neutral. No American ships were to sail to foreign ports. He insisted that all the goods Americans needed they could produce in their own homes. “Every family in the country is a manufactory within itself, and is very generally able to make within itself all the stouter and middling stuffs for its own clothing and household use,” he wrote to Adams. “We consider a sheep for every person in the family as sufficient to clothe it, in addition to the cotton, hemp and flax which we raise ourselves.” Jefferson—blind to slavery—believed in an agrarian independence that required precise limits on economic activity: “Manufactures, sufficient for our own consumption, of what we raise the raw material (and no more). Commerce sufficient to carry the surplus produce of agriculture, beyond our own consumption, to a market

for exchanging it for articles we cannot raise (and no more). These are the true limits of manufactures and commerce. To go beyond them is to increase our dependence on foreign nations, and our liability to war.”⁴⁶

The embargo devastated the American economy. Jeffersonian agrarianism was not only backward-looking but also largely a fantasy. In 1793, when Jefferson first heard about the cotton gin, a machine that separates cotton fibers from the cotton bolls (“gin” is short for “engine”), he thought it would be excellent “for family use.” As late as 1815 he was boasting that, as a result of the embargo, “carding machines in every neighborhood, spinning machines in large families and wheels in the small, are too radically established ever to be relinquished.” That year, cotton and slave plantations in the American South were shipping seventeen million bales of cotton to England, to be carded and woven and spun in the coal- and-steam-powered mills in Lancaster and Manchester.⁴⁷

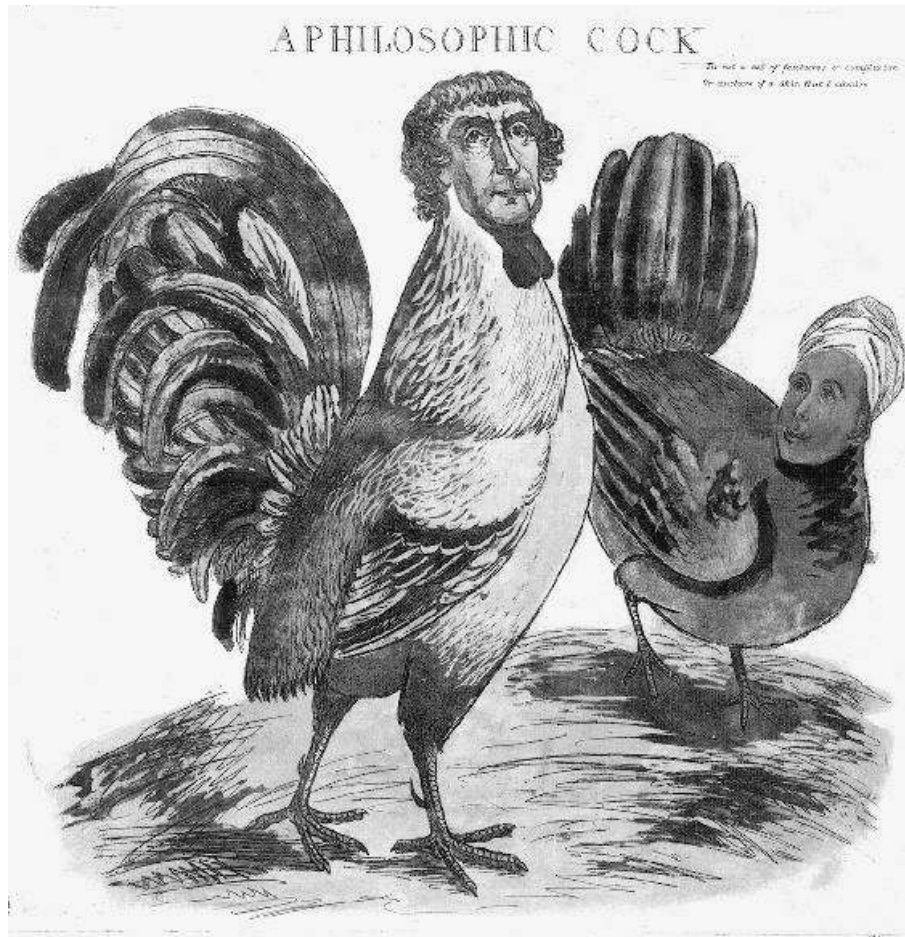
Parliament abolished the slave trade in 1807; Congress followed in 1808, the first year that the trade could be ended, under the terms of the Constitution. But the cotton gin had by then made American slavery more profitable than ever. Congress repealed Jefferson’s embargo when he left office in 1809 (following the precedent established by Washington in not running for a third term), but New Englanders continued to press for the development of manufacturing. Congress therefore authorized a new kind of counting to be part of the next federal census, in 1810: an inventory of American manufacturing, overseen by Tench Coxe, former assistant secretary of the Treasury. In 1812, no longer able to stay neutral in the Napoleonic Wars, Congress narrowly approved the request by Jefferson’s successor, Madison, to declare war on Britain, the South supporting the declaration, and New England and the mid-Atlantic states mostly opposing it. It adversely affected northern manufacturing. It threatened an invasion from Canada. And it symbolized, to many Federalists, the daunting political dominance of the Republican Party. Not without cause, Federalists saw little distinction between the administrations of Jefferson and Madison, and would feel the same way about Madison’s successor, James Monroe, Virginians elected under the three-fifths clause.

Much of the fighting in what came to be called the War of 1812 took place at sea and in Canada. Britain successfully defended its possessions to the north. In 1813, the British captured the nation’s capital, Madison and his cabinet fled to Virginia, and, between the battle and a storm, the President’s House was all but destroyed. Three clerks at the War Office stuffed the original parchment Constitution of the United States into a linen sack and carried it to a gristmill in Virginia, which was a good idea, because the British burned the city down. Later, when someone asked James Madison where the Constitution had gone, he had not the least idea.⁴⁸ After the war, the rebuilt President’s House was freshly painted—and became known as the White House.

The War of 1812 reminded northerners of the price the Republic had paid for the political calculation made in 1787. New Englanders hadn’t wanted to wage the war in the first place, and yet they found themselves powerless against the slave-owning states, grown mightier through the extension of slavery into newly acquired territories. By 1804, after the acquisition of the Louisiana Territory, Massachusetts and Connecticut had called for the abolition of the three-fifths clause. Their calls grew more shrill in 1812, after the New England author of a polemic titled *Slave Representation* damned the three-fifths clause as “the rotten part of the Constitution” and urged that it be “amputated.”⁴⁹ Eyeing the inevitable ushering into the Union of new states,

one writer from Massachusetts calculated that “one slave in Mississippi has nearly as much power in Congress, as five free men in the State of New-York.” Federalist fury reached a climax in 1814 at the Hartford Convention, where delegates from five New England states assembled in Connecticut to debate possible actions, including secession. Towns that had petitioned for the convention called for the end of slave representation. But three days after the convention sent its recommendation to the states, the last battle of the war began in New Orleans, where Andrew Jackson, a young general from Tennessee, led American troops to a stunning victory. The protest of New England was forgotten, the call to eradicate the three-fifths ratio ignored. On March 3, 1815, the last day Congress was in session, the resolutions of the Hartford Convention were read into the record and promptly tabled.⁵⁰

The next day, at Monticello, Jefferson, seventy-two, pondered the future of the children he’d had with one of his slaves, a woman named Sally Hemings. Jefferson’s wife, Martha Wayles, had died in 1782, when Jefferson was thirty-eight. While she lay on her deathbed, he had promised her he would never remarry. Sally Hemings was the much younger half-sister of Jefferson’s wife; they had different mothers but the same father, John Wayles, who had six children with one of his slaves, a woman named Elizabeth Hemings, herself the child of an African woman and an English man. “The whole commerce between master and slave is a perpetual exercise of the most boisterous passions, the most unremitting despotism on the one part, and degrading submission on the other,” Jefferson wrote in 1782, the year of his wife’s death. “The man must be a prodigy who can retain his manners and morals undepraved by such circumstances.” In 1789, when sixteen-year-old Sally Hemings was working for and living in the residence of forty-six-year-old Jefferson in Paris, she became pregnant. She might have left him and gained her freedom; slavery was illegal in France. Instead, she extracted from him a promise, that if she stayed with him, he would set all of their children free.⁵¹



This political caricature, engraved and inked in Massachusetts about 1804 and sold in New Hampshire by 1807, depicts Jefferson as a rooster and Sally Hemings as his hen, testament to how widespread were rumors about the president's relationship with one of his slaves.

But he'd not quite managed to keep his children with Sally Hemings a secret. In 1800, printers had helped get Jefferson elected, but his view of them had grown dim over their scrutiny of his family life. (During his second term, an embittered Jefferson would suggest that newspapers ought to be divided into four sections: Truths, Probabilities, Possibilities, and Lies.)⁵² Only days after his inauguration, he'd complained that printers "live by the zeal they can kindle, and the schisms they can create."⁵³ James Callender, who'd gone to prison for sedition for campaigning for Jefferson, had wanted a political appointment. Jefferson having failed to reward him with a position, Callender in 1802 published an essay in the *Richmond Recorder* in which he reported on longstanding rumors that Jefferson had fathered children with one of his slaves. "Her name," he wrote, "is SALLY." And, had Callender been willing to publish the story of this scandal earlier, he said, "the establishment of this single fact would have rendered his election impossible."⁵⁴ Sally Hemings had had seven children by Jefferson, bearing her last in 1808. Jefferson, whose election had been made possible by the three-fifths clause, lived in a world that made the political calculation that his seven children with Sally were worth no more than four and two-tenths.

On March 4, 1815, the day after Congress tabled a resolution to abolish the three-fifths

clause, haunted by the tragedy of his own and the nation's malign political math, Jefferson attempted to calculate just how many generations would have to pass before a child with a full-blooded African ancestor could be called "white." Under Virginia law—absurdity heaped upon absurdity—to be seven-eighths white was to be, legally, magically, white.

"Let us express the pure blood of the white in the capital letters of the printed alphabet," Jefferson began, writing out his mathematical proof. "Let the first crossing be of a , a pure negro, with A , a pure white," he went on. "The unit of blood of the issue being composed of the half of that of each parent, will be $a/2 + A/2$. Call it, for abbreviation, h (half blood)." This h was Elizabeth Hemings, Sally's mother, the daughter of an Englishman, A , and an African woman, a . He labeled the second "pure white" B , a so-called quadroon, q , and the third "pure white" C . B was John Wayles, Sally's father, and q , Sally herself. C was the third president of the United States. He concluded his proof:

Let the third crossing be of q and C , their offspring will be $q/2 + C/2 = A/8 + B/4 + C/2$, call this e (eighth), who having less than $1/4$ of a , or of pure negro blood, to wit $1/8$ only, is no longer a mulatto, so that a third cross clears the blood.⁵⁵

To Jefferson, his children by Hemings were e , the third crossing, not black, because seven-eighths white: not three-fifths a person, but a whole.

Only four of Sally Hemings's children lived to adulthood. She knew and they knew what Jefferson knew: if they left Monticello, they could pass for white, if they chose, reinventing themselves as citizens, making their own calculations, in a republic of blood.

OTHER MEN'S CONSCIENCES troubled them differently. In December 1816, a group of northern reformers and southern slave owners met in Washington at Davis's Hotel for a meeting chaired by Henry Clay, the fast-talking Kentucky congressman and Speaker of the House. They'd gathered to discuss what to do about the nation's growing number of free blacks. In 1790, there had been 59,467; by 1800, there were 108,398; in 1810, 186,446, to some a threatening multitude. The census made clear that the American population was growing at a rate never seen anywhere before, in the history of the world. Yet it made this much clear, too: the original thirteen eastern states were losing power, relative to the newer, western states. The institution of slavery, so far from dying the natural death predicted by the framers of the Constitution, was growing in the West, even as it was declining in the East. Two new states had lately entered the Union as free states: Ohio in 1803 and Indiana in 1816. Two more had entered as slave states: Louisiana in 1812 and Mississippi in 1816. But population growth in free states was outpacing that in slave states. And the population of free blacks was growing at a rate more than double that of the population of whites.

In Washington, the men who met in Davis's Hotel decided upon a plan: they would found a colony in Africa, as Clay said, "to rid our country of a useless and pernicious, if not dangerous portion of its population." They elected a president, Bushrod Washington, George Washington's nephew and a Supreme Court justice. Andrew Jackson served as a vice president. They chose a name for their organization; they called it the American Colonization Society.⁵⁶

By 1816, the divide between Republicans and Federalists had begun to align rather closely with the divide over the question of slavery. In his diary, John Quincy Adams, the son of the

former president, who served as secretary of state for the new president, James Monroe, began calling the two parties the “slavery party” and the “free party.”⁵⁷ Any extension of the Union threatened the balance between these two political forces. In 1819, Missouri, which had been settled by southerners, became the first part of the Louisiana Territory west of the Mississippi and north of the Ohio River to seek to enter the Union as a state. To the bill granting Missouri admission, James Tallmadge, a congressman from New York, introduced an amendment that would have banned slavery in the state. When one critic of the amendment said it would destroy the Union, Tallmadge replied, “Sir, if a dissolution of the Union must take place, let it be so!”⁵⁸

The Tallmadge Amendment passed narrowly in the House but failed in the Senate. The debate that followed lasted more than two years. In wrestling with this question, members of Congress had the advantage of an extraordinary wealth of information about the population but suffered from a lack of historical perspective on the Constitution itself. The fifty-year vow of silence pledged by delegates to the constitutional convention—which prevented James Madison from publishing his *Notes*—meant that whatever logic there was to the three-fifths compromise was essentially unknowable. In November 1819, Madison, living in retirement in Virginia, answered a query about Missouri, explaining his view that the Constitution probably did not grant Congress the power to make the prohibition of slavery a condition of entering the Union and that, in any case, once Missouri became a state, it would have the right to institute slavery. For Madison, a member of the Colonization Society, the matter could be divided into a moral question, a matter of political arithmetic, and a constitutional one, a matter of law.

“Will it or will it not better the condition of the slaves, by lessening the number belonging to individual masters, and intermixing both with greater masses of free people?” Madison asked. “Will the aggregate strength, security, tranquility and harmony of the whole nation be advanced or impaired by lessening the proportion of slaves to the free people in particular sections of it?”⁵⁹

Tallmadge and his supporters condemned the politics of slavery, assailing the injustice of slave representation, and insisted that whatever bargain had been made at the constitutional convention need not extend into states that had not existed in 1787. Their opponents, instead of defending slavery, insisted on the impracticability of emancipation by arguing that black people would never be able to live among white people as equals. “There is no place for the free blacks in the United States—no place where they are not degraded,” one argued. “If there was such a place, the society for colonizing them would not have been formed.”⁶⁰ Behind Madison’s remarks about “lessening the proportion of slaves to the free people,” behind Jefferson’s tortured calculations about how many generations would have to pass before his own children could pass for “white,” lay this hard truth: none of these men could imagine living with descendants of Africans as political equals.

And yet Jefferson made good on his promise to Sally Hemings. His two oldest children with Sally, Beverly and Harriet, left Monticello, apparently with his approval. “Harriet. Sally’s run,” Jefferson wrote in 1822 in his “Farm Book,” where he kept track of his human property. Harriet Hemings hadn’t run. She was twenty-one, and Jefferson had set her free. “She was nearly as white as anybody, and very beautiful,” recalled one of Jefferson’s overseers, who also said that Jefferson ordered him to give fifty dollars to Harriet, and had paid for her ride, by stage, to Philadelphia. From there she traveled on to Washington, where her brother Beverly had already settled. “She thought it to her interest, on going to Washington, to assume the role of a white woman,” said Harriet’s brother Madison, the only one of Sally Hemings’s children to live his life

as a black man. He seems never to have forgiven his sister. But he kept her secret. “I am not aware that her identity as Harriet Hemings of Monticello has ever been discovered,” he said. “Harriet married a white man in good standing in Washington City, whose name I could give,” he said, “but will not.”⁶¹

On the floor of Congress, men pounded on their desks, and they rose to make speeches, and they listened, intently or indifferently. Into the stale air of the room wafted another proposal. Southerners like Henry Clay and John Tyler began to make a mathematical argument about “diffusion”: if slavery were allowed in states like Missouri, people who wanted to own slaves would have to buy them from states like Virginia, and then slavery as an institution would grow in the West, but the number of slaves would be small. Meanwhile, the number of slaves in the East would continue to decline, and in both places the ratio of slaves to white people would be low, which, it was expected, would make the condition of slaves better, and would lessen the likelihood that they would have children with whites. Might the blood of the nation be cleared?

“Diffusion is about as effectual a remedy for slavery as it would be for smallpox,” scoffed a Baltimore attorney named Daniel Raymond, in a thirty-nine-page pamphlet called *The Missouri Question*. Raymond was a member of the American Colonization Society, but, he argued, the idea “that the Colonization Society can under any circumstances, have any perceptible effect in eradicating slaves from our soil, is utterly chimerical.” It was a matter of Malthusianism: “as population increases in a geometrical ratio, it is utterly impossible by that means, to make any perceptible diminution of the number of blacks in our country. On the contrary, the curse of slavery will continue to increase and that in a geometrical ratio too, in spite of the utmost efforts of the Society.” Slavery would not simply disappear, Raymond insisted: “It is an axiom as true as the first problem in Euclid, that if left to itself it will every year become more inveterate and more formidable.”⁶²

Southerners attacked Raymond on the floor of the Senate. Among other things, they pointed out that a moral objection that was geographically bounded—those who opposed slavery in the West promised they would leave it alone in the South—was hardly a deeply held conviction. Virginia senator James Barbour asked, “What kind of ethics is that which is bounded by latitude and longitude, which is inoperative on the left, but is omnipotent on the right bank of a river?” But Raymond’s math, at any rate, turned out to be right. Calculating the growth of the slave population based on its known rate of increase, Raymond predicted that the number of slaves in the United States, less than 900,000 in 1800, would be 1.9 million by 1830. He was very close; it would be 2 million.⁶³

Month after month of pencil to paper, adding and subtracting, multiplying and dividing, did not settle the matter of the ratio of white people to black people in the United States. Nor did the colonization scheme. (Only about three thousand African Americans ever left for Liberia.) The Missouri question was settled, more or less, by accident. In 1820, Maine, which had been part of Massachusetts, petitioned to be admitted to the Union as a free state. Alabama had been admitted to the Union the summer before, as a slave state, making the number of free and slave states equal, at twelve each. Congress, eager to end the impasse over Missouri, devised a compromise that would retain the balance between slave and free states. Under the Missouri Compromise, a deal deftly brokered by Clay, ever after known as “the Great Compromiser,” Missouri was admitted as a slave state and Maine as a free state, and a line was set at 36°30' latitude, the southern border of Missouri: any states formed out of territories above that line would enter the

Union as free states, and any states below that line would enter as slave states. The three-fifths clause survived. But John Quincy Adams did not believe it would survive for long. “Take it for granted that the present is a mere preamble—a title page to a great, tragic volume,” he wrote in his diary. “The President thinks this question will be winked away by a compromise. But so do not I. Much am I mistaken if it is not destined to survive his political and individual life and mine.”⁶⁴ He was not mistaken.

III.

THE FIRST FIVE PRESIDENTS of the United States, Washington, Adams, Jefferson, Madison, and Monroe, were diplomats, soldiers, philosophers, and statesmen, founders of the nation. Even Monroe, the youngest of the five men, and the least distinguished of them, had fought in the Revolutionary War and served in the Continental Congress. But by 1824, that generation had passed. John Quincy Adams had been intended—at least by his father—as their successor, groomed, from childhood, for the presidency. “You come into life with advantages which will disgrace you if your successes are mediocre,” John Adams told him. “And if you do not rise . . . to the head of your country, it will be owing to your own Laziness, Slovenliness, and Obstinacy.”⁶⁵

John Quincy Adams was hardly a shirker. He’d begun keeping a diary in 1779, when he was twelve and on a diplomatic mission to Europe with his father. After finishing his studies and passing the bar, he’d served as Washington’s minister to the Netherlands and Portugal, as his father’s minister to Prussia, and as Madison’s minister to Russia. He spoke fourteen languages. As secretary of state, he’d drafted the Monroe Doctrine, establishing the principle that the United States would keep out of wars in Europe but would consider any European colonial ventures in the Americas as acts of aggression. By the time he decided to seek the presidency, he’d also served as a U.S. senator and as a professor of logic at Brown and professor of rhetoric and oratory at Harvard.

In 1824, it was said that American voters faced a choice between “John Quincy Adams, / Who can write / And Andrew Jackson, / Who can fight.”⁶⁶ If the battle between John Adams and Thomas Jefferson had determined whether aristocracy or republicanism would prevail (and, with Jefferson, republicanism won), the battle between Andrew Jackson and John Quincy Adams would determine whether republicanism or democracy would prevail (and, with Jackson, democracy would, eventually, win). Jackson’s rise to power marked the birth of American populism. The argument of populism is that the best government is that most closely directed by a popular majority. Populism is an argument about the people, but, at heart, it is an argument about numbers.⁶⁷

A national hero after the Battle of New Orleans, Jackson had gone on to lead campaigns against the Seminoles, the Chickasaws, and the Choctaws, pursuing a mixed strategy of treaty-making and war-making, with far more of the latter than the former, as part of a plan to remove all Indians living in the southeastern United States to lands to the west. He was provincial, and poorly educated. (Later, when Harvard gave Jackson an honorary doctorate, John Quincy Adams refused to attend the ceremony, calling him “a barbarian who could not write a sentence of

grammar and hardly could spell his own name.”)⁶⁸ He had a well-earned reputation for being ferocious, ill-humored, and murderous, on the battlefield and off. When he ran for president, he had served less than a year in the Senate. Of his bid for the White House Jefferson declared, “He is one of the most unfit men I know of for such a place.”⁶⁹

Jackson made a devilishly shrewd decision. He would make his lack of certain qualities—judiciousness, education, political experience—into strengths. He would run as a hot-tempered military man who’d pulled himself up by his own bootstraps. To do this, he needed to tell the story of his life. Within weeks of his victory at the Battle of New Orleans, in preparation for a political career, he hired a biographer, sixty-five-year-old David Ramsay, a South Carolina legislator and physician and gifted historian whose books included a two-volume *History of the American Revolution* (1789) and a heroic *Life of George Washington* (1807). But before Ramsay could begin work on the biography, he was shot in the back on the streets of Charleston. Jackson hired his aide-de-camp John Reid, who drafted four chapters before he, too, died an unfortunate and unexpected death. “The book must be finished,” Jackson insisted. He turned, next, to a twenty-six-year-old lawyer named John Eaton who had served under Jackson during the Creek War and the War of 1812; Eaton was Jackson’s “bosom friend and adopted son,” according to Margaret Bayard Smith, a novelist and remarkably astute observer of Washington society and politics. (Her husband, Samuel Harrison Smith, was a president of the Bank of the United States.) Eaton’s *Life of Andrew Jackson* appeared in 1817. The next year, Eaton was elected to the Senate, and in 1823, when Jackson joined him in Washington, the two senators from Tennessee shared lodgings.⁷⁰

Andrew Jackson, man of the people, was the first presidential candidate to campaign for the office, the first to appear on campaign buttons, and nearly the first to publish a campaign biography. In 1824, when Jackson announced his bid for the presidency, Eaton, who ran Jackson’s campaign, shrewdly revised his *Life of Andrew Jackson*, deleting or dismissing everything in Jackson’s past that looked bad and lavishing attention on anything that looked good and turning into strengths what earlier had been considered weaknesses: Eaton’s Jackson wasn’t uneducated; he was self-taught. He wasn’t ill-bred; he was “self-made.”⁷¹

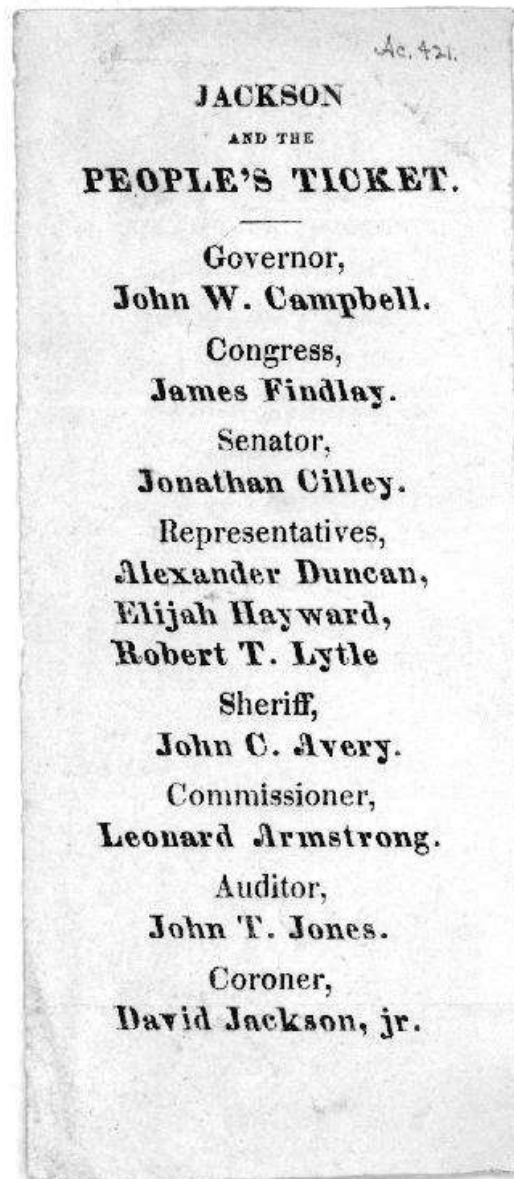
The election of 1824 also altered the very method of electing a president. Why should a party’s nominee be selected by a caucus in Congress? The legislative caucus worked only so long as voters didn’t mind that they had virtually no role in electing the president.⁷² Calls for the beheading of “King Caucus” had begun in 1822, when the *New York American* asked: “Why should not a general convention of Republican delegates from the different states assemble at Washington a few months prior to the period for electing a President and decide, by a majority, the choice of an individual for that elevated office”? Two years later, popular opposition to the caucus had grown. After word got out to the press about a caucus meeting to be held in the House, only 6 out of 240 legislators were willing to appear before a disgruntled public, which flooded the galleries shouting, “Adjourn! Adjourn!” And so it did.⁷³

With the caucus dead, John Quincy Adams, John C. Calhoun, and Henry Clay simply declared their candidacies. Jackson looked for a popular mandate: he was nominated by the Tennessee legislature. The momentum behind Jackson’s candidacy drew, as well, on the power of newly enfranchised voters. When new states entered the Union, they held conventions to draft and ratify their own state constitutions: they almost always adopted more democratic arrangements than those that prevailed in the thirteen original states. They abolished property

requirements for voting, replaced judicial appointment with judicial elections, and provided for the popular election of delegates to the Electoral College. The new and more democratic state constitutions put pressure on older states to revise their own constitutions. By 1821, property qualifications for voting no longer existed in twenty-one out of twenty-four states. Three years later, eighteen out of twenty-four states held popular elections for delegates to the Electoral College. More and poorer white men came to the polls and were elected to office, much to the dismay of conservatives like Chancellor James Kent of New York who, at New York's 1821 constitutional convention, complained, "The notion that every man that works a day on the road, or serves an idle hour in the militia, is entitled as of right to an equal participation in the whole power of government, is most unreasonable and has no foundation in justice." He believed in proportionate representation—representation proportionate to wealth: "Society is an association for the protection of property as well as of life, and the individual who contributes only one cent to the common stock, ought not to have the same power and influence in directing the property concerns of the partnership, as he who contributes his thousands."⁷⁴



Andrew Jackson's 1824 bid for the presidency introduced all manner of paraphernalia, including this campaign sewing box.



Paper ballots were in general use by the 1820s, usually in the form of “party tickets” for an entire slate of candidates, like this Democratic Party ticket from Ohio in 1828.

As the kind of people who could vote changed, so did the method of voting. Early paper voting had been unwieldy and inconvenient; voters were expected to bring to the polls a scrap of paper on which they could write the names of their chosen candidates. With the electorate expanding, this system became even more impractical. Party leaders began to print ballots, usually in partisan newspapers, usually in long strips, listing an entire slate as a “party ticket.” The ticket system consolidated the power of the parties and contributed to the expansion of the electorate: party tickets meant that voters didn’t need to know how to write or even how to read; each party ticket was printed on a different color paper, and each was stamped with a party symbol.

In 1824, Jackson won both the popular vote and a plurality, though not a majority, of the

electoral vote. The election was thrown to the House, which chose John Quincy Adams after Henry Clay threw his support behind him. Adams then appointed Clay his secretary of state. Jefferson wrote to John Adams to congratulate him on his son's election. Having retired from politics, the two men had renewed the friendship of their youth. "Every line from you exhilarates my spirits," Adams replied.⁷⁵

Jackson, furious at what he deemed a "corrupt bargain," resigned from the Senate in 1825, returned to the Hermitage, and bided his time while the electorate swelled. Between 1824 and 1828, it more than doubled, growing from 400,000 to 1.1 million. Men who had attended the constitutional convention in 1787 shook their gray-haired heads and warned that Americans had crowned a new monarch, King Numbers.⁷⁶

ON JULY 4, 1826, the United States celebrated its jubilee, the fiftieth anniversary of the Declaration of Independence. In cities and towns, Americans paraded and sang and raised glasses and listened to speeches. Many of those speeches celebrated the new spirit of democracy, the defeat of the contempt for the people that had been part of the nation's founding. "There may be those who scoff at the suggestion that the decision of the whole is to be preferred to the judgment of the enlightened few," said the historian George Bancroft, speaking in Boston. "They say in their hearts that the masses are ignorant; that farmers know nothing of legislation; that mechanics should not quit their workshops to join in forming public opinion. But true political science does indeed venerate the masses." The voice of the people, Bancroft insisted, "is the voice of God."⁷⁷

Nothing more clearly marked the end of the founding era than the coincidence of the deaths of two men, on that very day: Thomas Jefferson, the pen of the Declaration, and John Adams, the voice of independence. Adams, ninety, died at his home in Massachusetts. "He breathed his last about 6 o'clock in the afternoon," reported one newspaper, "while millions of his fellow-countrymen were engaged in festive rejoicings at the nation's jubilee, and in chanting praises to the immortal patriots whose valour and virtue accomplished their country's freedom and independence."⁷⁸ He had been declining for years. He'd lost his teeth and his eyesight. He slept in an overstuffed armchair in his library, in a dressing coat and a cotton cap, surrounded by his books; he left them, in his will, to his son John Quincy. Cannons fired on the Fourth were nearly drowned out by the sound of thunder, an afternoon storm. Having been carried to his bed, Adams stirred and whispered, "Thomas Jefferson survives." At twenty past six, he died. But in Virginia, Jefferson, eighty-three, had died at ten minutes before one.

In a will that Jefferson had made months before, he'd freed the last two of his children with Sally Hemings, Madison and Eston; he did not mention Sally. Invited to celebrate the Fourth of July in Washington, Jefferson had instead sent a letter of regret, and words upon the day, celebrating this self-evident truth: "the mass of mankind has not been born with saddles on their backs, nor a favored few, booted and spurred, ready to ride them." He was dying. Suffering and in pain, he'd been dosed with laudanum. He'd slept through most of July 2 and July 3 and then refused the medicine. He died on the Fourth, while the bells in nearby Charlottesville tolled the anniversary of American independence.

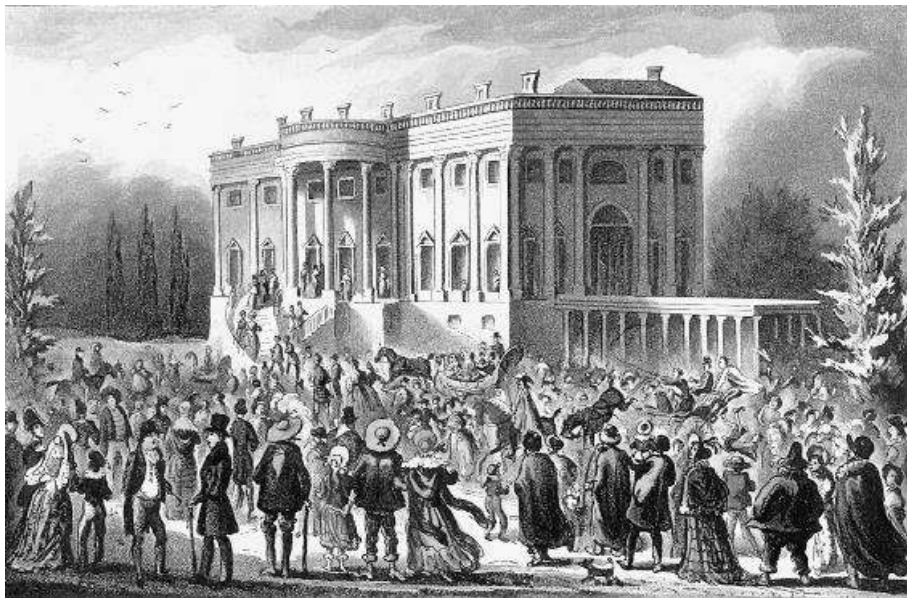
Sally Hemings's brother John built Jefferson's coffin. Six months later, to pay his debts, Jefferson's entire estate, including 130 slaves, was sold at an auction. The Fossett children, cousins of Sally Hemings's, were among the "130 VALUABLE NEGROES" sold to the highest

bidder.⁷⁹ Hemings, fifty-three years old, was appraised at fifty dollars, but she was not sold at auction; she had, by then, quietly left Monticello for Charlottesville, where she lived until her death. From Monticello, she brought with her a pair of Jefferson's eyeglasses to remember him by—a man of sight, and of blindness.⁸⁰

Their daughter Harriet Hemings was twenty-seven and still living in Washington in 1828 when Andrew Jackson finally defeated John Quincy Adams, in an election that marked the founding of the Democratic Party, Jackson's party, the party of the common man, the farmer, the artisan: the people's party.

Jackson won a whopping 56 percent of the popular vote. Four times as many white men cast a ballot in 1828 as in 1824. They voted in throngs. They voted by casting ballots, not balls but slips of paper: Jackson tickets, with which they cast their votes for Jackson delegates to the Electoral College, and for an entire slate of Democratic Party candidates. The majority ruled. Watching the rise of American democracy, an aging political elite despaired, and feared that the Republic could not survive the rule of the people. Wrote John Randolph of Virginia, "The country is ruined past redemption."⁸¹

On a mild winter's day, March 4, 1829, twenty thousand Americans turned up in Washington for Andrew Jackson's unruly inauguration. Steamboats from Alexandria offered discounted passage across the Potomac.⁸² "Thousands and thousands of people, without distinction of rank, collected in an immense mass round the Capitol," wrote Margaret Bayard Smith. Jackson was the first president to deliver his inaugural address to the American people. Following the practice established by Jefferson, he walked to the Capitol instead of riding. Harriet Hemings might have watched, from a sidewalk.



Jackson's inauguration in 1829 brought an unprecedented crowd to the Capitol—a crowd that followed him to the White House.

John Marshall administered the oath of office. Margaret Bayard Smith said that when Jackson began to speak, "an almost breathless silence, succeeded and the multitude was still, listening to catch the sound of his voice."

His voice rising, he celebrated the triumph of numbers. “The first principle of our system,” Jackson said, “is that the majority is to govern.” He bowed to the people. Then, all at once, the people nearly crushed him with their affection. “It was with difficulty he made his way through the Capitol and down the hill to the gateway that opens on the avenue,” Smith reported. Supreme Court Justice Joseph Story attended the swearing-in and then left, bemoaning “the reign of KING MOB.”⁸³

Even after the president mounted a horse, the people followed him. “Country men, farmers, gentlemen, mounted and dismounted, boys, women and children, black and white,” Smith wrote. “Carriages, wagons and carts all pursuing him to the President’s house.” They followed Jackson from the steps of the Capitol all the way to the White House, where, for the first time, the doors were opened to the public. A “rabble, a mob, of boys, negros, women, children, scrambling fighting, romping,” wrote Smith. “Ladies fainted, men were seen with bloody noses and such a scene of confusion took place as is impossible to describe,—those who got in could not get out by the door again, but had to scramble out of windows.” There was a real worry that the people might press the president to death before the day came to an end. “But it was the People’s day,” she wrote, “and the People’s President and the People would rule.”⁸⁴ The rule of numbers had begun.