UNIVERSAL
LIBRARY
OU_14868
UNIVERSAL
LIBRARY

OSMANIA UNIVERSITY LIBRARY

Call No. 320.978/W74A Accession No. 325 67

Author Wilson, F. G.

Title American Political Mind.

This book should be returned on or before the date last marked below.

McGRAW-HILL SERIES IN POLITICAL SCIENCE

Joseph P. Harris, CONSULTING EDITOR

THE AMERICAN POLITICAL MIND

A Textbook in Political Theory

McGRAW-HILL SERIES IN POLITICAL SCIENCE

Joseph P. Harris, CONSULTING EDITOR

* * *

BONE: *American Politics and the Party System*

FERGUSON AND McHENRY: *The American Federal Government*

FERGUSON AND McHENRY: *The American System of Government*

REED: *Municipal Management*

WILSON: *The American Political Mind*

THE AMERICAN POLITICAL MIND

A Textbook in Political Theory

Francis Graham Wilson

UNIVERSITY OF ILLINOIS

FIRST EDITION

SECOND IMPRESSION

New York *Toronto* *London*

McGRAW-HILL BOOK COMPANY, INC.

1949

THE AMERICAN POLITICAL MIND

COPYRIGHT, 1949, BY THE
McGRAW-HILL BOOK COMPANY, INC.

PRINTED IN THE UNITED STATES OF AMERICA

All rights reserved. This book, or parts thereof, may not be reproduced in any form without permission of the publishers.

To the late James Wilford Garner
American Scholar and Southern Gentleman
this volume is with respect inscribed

PREFACE

Every teacher of political theory in the United States is concerned with the interpretation of the American tradition. There is some controversy, however, over the interpretation of each period in the development of the American political mind. It is not, I think, the primary function of a textbook to attempt a resolution of these lasting but ever-changing interpretations of politics, though no author can succeed in keeping his own views completely hidden. A textbook should, however, do certain things. It should present an organization of the material that most instructors can accept, at least with limited modifications. It should survey the material that, in general, is agreed to be important, and at the same time each instructor should feel that the subject matter is a logical beginning point for the development of his own interpretations. Probably an adequate bibliography should be included to enable both students and instructors to pursue more particular lines of study. And while the views of the writers who are regarded as primary materials of American political theory must be presented, some suggestions of the diverse interpretations of their significance should be given. It is true, also, that a textbook in American political thought, as it selects from the mass of material on American life, should be animated by a warm appreciation of the American tradition and a belief in its significance in the modern world. Such, at any rate, are the objectives in the mind of the present author.

FRANCIS GRAHAM WILSON

URBANA, ILL.
January, 1949

CONTENTS

PREFACE vii

1. The Setting of American Political Ideas . . 1
2. Political Thought in the Colonial Era 27
3. The Philosophy of Revolution . 58
4. Political Liberalism in Early State Constitutions 87
5. Classical American Federalism . 115
6. The Shaping of National Tradition 144
7. The New Democracy . . . 174
8. The South as a Conscious Minority . . . 204
9. The Equality of Races: The Slavery Question . . 232
10. The Sovereign Nation . . 258
11. The Voice of Protest . . . 287
12. The Second Era of Democratic Reform . . . 317
13. The Emergence of Modern Conservatism . . 346
14. Manifest Destiny 375
15. Social Science Comes of Age . . . 404
16. The Republic and World Crisis . . . 436
17. Democracy and the Struggle for World Order . . 462

INDEX 497

Chapter 1

THE SETTING OF AMERICAN POLITICAL IDEAS

> The gradual development of the principle of equality is, therefore, a Providential fact. It has all the chief characteristics of such a fact: it is universal, it is durable, it constantly eludes all human interference, and all events as well as all men contribute to its progress.—ALEXIS DE TOCQUEVILLE.[1]

The American Background. From 1492 to the present is not long, as the West knows history. At that time North and South America were opened to the settlement of migrants from Western Europe; and the movement begun then has not ceased, nor have Europe and America shown any signs of reaching a condition of mutual isolation. From 1492 to the political independence of the territorial areas of the New World, this world was simply a political, economic, and cultural appendage of the older civilization of Europe. If political independence has come, it does not mean that economic and cultural separation has likewise been reached. On the economic side there is small possibility that this may take place; on the cultural side there is little desire for such a separation. Political institutions implanted during earlier days have continued to live under new conditions. Although economic interaction and conflict bring men face to face, cultural similarity and divergence may quietly force them apart. With the expansion of the West throughout the world, no cultural area can escape its force.

The connection between the New World and Europe is particularly close and permanent. This association advances on the political, the economic, and the cultural fronts with uneven but persistent force. If the Latin countries of Europe, Spain and Portugal especially, have left their indelible mark on American lands from the Rio Grande to the Straits of Magellan, it is the English and the French who planted the first roots of permanent empire in the lands north of that river. Louisiana and French Canada testify to the force of French colonization and dream of empire in the seventeenth and eighteenth centuries. In Texas, New Mexico, Arizona, and California the remaining impact of Latin culture languishes, and finally disappears in Colorado and other states to the north and west. Throughout the remainder of this vast conti-

[1] *Democracy in America*, trans. from the French (2 vols., 1862), Vol. I, p. 5.

nental area the ineradicable force of English, Scottish, and Irish culture is visible in the physiognomy, the language, the religion, the literature, and the political systems that now exist.

The sturdiest elements in the spread of Europe westward have been transplanted cultural forces. Economic interpenetration can be checked quickly by the erection of tariff barriers and by the growth of economic nationalism. Political systems evolve; they change and leave behind all but the vestigial elements that the student of political and legal history may observe. But the Spanish and Portuguese tongues resist the ravages of time and the force of environment in the New World; subtle mental attitudes continue because they are fed on the customs of everyday living. The sharp and almost unbelievable contrasts, for instance, between west Texas on the one hand and Creole Louisiana and Mexico on the other, continue with almost the force of 150 years ago. Indian culture in Oklahoma and the southwest generally stands persistently against the pressure of Europeo-American institutions. Just as Western political and economic influence has swept over India, China, and Japan, leaving intact the cultural system that made these countries distinct in the first place, the older peoples of North America have clung to their ways of life. The pueblo Indian of New Mexico and Arizona will not soon become an American like those who live upon and till the soil of the prairies of the Mississippi Valley, "the valley of democracy." Nor can the present-day American become an Indian simply because of the logic of time and the suggestion of environment. The stars of destiny move in the orbit of culture.

Indians today in the United States are an impotent and spiritually beaten minority. The Negroes are a minority who have not shared adequately in the democratic fruits of their freedom. The northward march of Mexicans into the southwest is the movement of hungry and downtrodden people who merely want to live and have no desire to rule. Americans themselves look, individually and collectively, back to the lands from which their forebears came. The westward migrations of the last few centuries have thrown them here; they control in a new continent; but cultural and racial memories run deep into the past. The Jew of Chicago or Seattle may have the transmitted memories of hard days in Poland or Russia, and beyond that the stream of cultural consciousness finally reaches back to the legendary pastoral life of Judea. An Irishman in the United States, wherever he is, knows the long and unhappy story of British rule in Ireland. Part of his culture has been dislike of the English. Those of English and Scottish descent have ancestors buried in old churchyards in England and Scotland; they do not remember the boats on which their ancestors came to the New World,

for most of them came on the next boat after the *Mayflower*. Sharp-tongued Englishmen today may mock the American who comes back to look at moldering gravestones and check genealogical records; but the American is not dismayed, for in his heart is the memory of the great migration westward. Germans, Swedes, and others look back toward a different homeland; and, like all of the others, they have carried into the New World the anguishes and the loves that were born in the long history of the old.

The Political Heritage. These cultural foundations remain, but the political institutions of the United States stem primarily from two European sources. There is first of all the common European experience with political forms and values. Our liberalism, for example, is deeply indebted to the ideas of the eighteenth century in France. There is, on the other hand, the immediate and continuous political experience that began with the colonies when they were part of the British system. As our political structures were built upon English experience, so finally were the legal principles that have come to govern the private and many of the public relations of the American people. But to say this does not mean that our politics is only a sprig or offshoot of what has taken place in Great Britain. Since 1776 we have been an independent nation, and as we have grown or changed since then, so have British institutions—the two have been continuous in modern history, in related but divergent paths.

It is easy to look only at British institutions in order to understand our own. Lord Bryce, in *The American Commonwealth*, saw everything commendably American as ultimately derived, modified, from British experience. A more just and incisive position was taken by Alexis de Tocqueville in his famous book *De la Démocratie en Amérique*, since he viewed American experience in the light of broad European trends. The comparison in this latter book between the political experience of America and of Europe—France included—comports well with the viewpoint of today, for we must look at Britain simply as a part of Europe. Bryce's attitude grows out of the earlier trend of American historians to forget that anything of importance existed outside of the thirteen colonies on the Atlantic seaboard and their relations with the British imperial government. We know or understand now that from the beginning of the sixteenth century great events were happening in Europe. There was the discovery of the wider west, the New World; there were the Protestant Revolution and the wars of religion; there was the growth of absolutism and the modern national state; there was resistance to irresponsible authority—that is, to authority disliked by religious or national forces of the time; and there was a growth in wealth and population. And there

developed the great colonising powers of the modern world. Spain and Portugal moved to the west across the Atlantic; England and France did likewise; and Germany moved to the east, forgetting the potential historical importance of the new lands held by the uncivilized men of North and South America. Cultural, technological, and physical maturity were to overcome the immaturities of the unconscious, historical continuity of the New World. Europe moved westward; and part, and only part, of this movement were the settlements that grew into the United States.

Our political history and our ideas are, therefore, bound up with Europe so long as the common cultural foundations remain. So long as this condition prevails, there will be interaction and similarity of political ideas between these two areas. Whatever happens in each will be of interest in differing degrees of intensity to the other. Many of our most fundamental ideas are derivations from European sources. Our political ideas, however, are associated with Europe in two ways. On the one hand, there have been attractions toward Europe, and on the other, there have been negative repulsions. We have consciously both accepted and rejected essential political principles of European states. Our inclination toward the British has made it possible to accept certain ideas of that country, while we have been at pains to reject certain principles of a continental character. We have never favored the adoption of British monarchy, nor have our common people been kindly in their disposition toward the British aristocracy. Our Federal structure grew perhaps necessarily from our traditional decentralization; and our practical, equalitarian attitude toward politics has prevented us from accepting the traditional formalism of British politics. It is all right to travel across the Atlantic Ocean to watch the solemn stuffiness of the Lord Mayor of London, but we want no Lord Mayor of San Francisco. Likewise, the social groups or classes in this country have been attracted and repelled by different traditions and political principles.

American conservatives have been attracted by British law and the tradition of British judicial life. Our judges may not wear wigs, but they have applied, nevertheless, that great legal system to our own problems—that is to say, we have accepted the principles of the English common law. Like British conservatives, our own have seen in the judiciary a protective arm for the rights of property. The American conservative has also been deeply influenced by the British principle of balance in the Constitution: the principle that different classes participate in politics and balance each other in political force through the mixture or balance of the constitution. Our conservatives have never been able to escape the charm of the life once led by the British conservative, but they have never been able to impose such a social system on Americans.

The radicals of the New World have sought in Europe the spiritual leadership so necessary in an ideological movement. First in time in this influence is the radicalism of seventeenth-century English republican thought. It is true that the republicans were swept aside by the force of the Restoration in England, but their ideas did not die. Milton, Sydney, Harrington, Locke, and others have been names with which to charm. The long spiritual arm of the Levellers has reached over water and time and inspired others with principles of protest against oligarchy, property, and conservatism. Our liberals have been able to see even in Coke and Blackstone ideas or principles of use in the battle for a liberal republicanism in the New World.

It must not be forgotten that the latter part of the eighteenth century is essential in understanding our political ideas. In this period we find Adam Smith writing his *Wealth of Nations*, Jeremy Bentham propounding the principles of a flexible utilitarian ethics, Malthus laying the foundations of conservative realism, and Godwin issuing his call for human reason and liberty. A new world of ideas was taking shape not only in England but in France, where protest and rebellion against the dying feudal system required a new view of human nature. French liberals by the score looked kindly upon man; they had confidence in his reason and in his ability, with the aid of education and science, to make definite steps toward the more perfect society. All in all it was a stirring time and one in which liberal ideas flourished.

As Europe expanded westward from the North Sea to the Mediterranean, her sons brought their ideas with them. America, both North and South, became a laboratory in which European philosophy could cope with a new environment. The ideas changed, of course, but not so much as to break the continuity of thought. Neither the continuity of attraction nor the continuity of repulsion was broken during the years that followed settlement in the New World. Nor is it broken today, though intellectual maturity on this side of the Atlantic is producing a more even interaction. It is an interaction in which Europe is now borrowing as much as she gives. It will be in a measure the function of this volume to trace the migrations of ideas in the United States, and to show how in the process of migration ideas have changed their character. It will be, on occasion, proper to indicate the ambulatory character of ideas, to show how they have served political enemies under the changing circumstances of national development. Indeed, we can never forget that the United States is a part of the West; it is an extension and modification of European culture. Perhaps in the end we cannot live alone; perhaps the cultural death of Europe might bring, in the end, the cultural death of the United States. Or perhaps if Europe is dying,

we may be able to apply such medicines from the cultural *materia medica* that Europe will be brought back to health.

Characteristics of American Political Thought. Every nation has its ideals, its pedagogical principles, in the formation of the character of men. We insist that our children think like us, even though we may admit that an exact duplication cannot be attained. Yet it is only the most systematic thinker who succeeds in rounding out his system of description or evaluation in politics. Our political principles, the principles we live by in politics, are not complete philosophical systems. The process of interaction by which political theory evolves is often chaotic and uncertain; and it is always easy to insist on the contradictory character of accepted ideas. Logic is a curious weapon in politics. It is always much easier to see the logical difficulties of our enemy's position than it is to apply logic to our own. Ideas in politics are functional: they explain behavior at a particular time, or they are of assistance in judging whether one is right or wrong. But experience itself is contradictory; we are always torn between conflicting purposes. If we judge the immediate situation, we forget the historical context in which ideas finally have meaning; and if we turn to history and see the long-run context, we become doctrinaire as to the immediate situation. Indeed, it may be argued that in politics the more logically consistent a position is, the more remote it is from the political experience of men. Those who lead in politics are never afraid of inconsistencies. As in international law, the principle of *rebus sic stantibus* governs our judgments or evaluations of situations. The great political systems that grow out of political experience are seldom more than sketches of what might be thought. Ideals live much by themselves in relation to limited areas of human experience.

The political principles and ideals of Americans, like those of any other people, are developed in a time context. They do not, like Minerva, spring full-grown from the brow of Jupiter. Such a development is necessarily uneven. Some ideas may remain stagnant for a generation while others are being rapidly changed to meet new situations; then with change another principle may become the focus of debate. But if political theory is developed unevenly through history, it is also true that vital principles in practice are fragmentary. It is unnecessary to discuss a whole political system at any one time in order to reach a decision. No political theory that is related to experience and conflict is in character complete. It is like a stream, some parts of which move rapidly, and others remain in circling eddies. Likewise, the active principles of political thinking are inconsistent and often contradictory—even the ideas that roughly remain within a given frame of reference,

such as conservatism or revolutionism. Always, however, it is convenient in arguing a point of view to forget the contradictory principles that might be urged. This is the function, often the hapless function, of the opposition. But most important of all, the content of American political philosophy is changing; it is never the same through two full generations. Change may be detected simply in shifting emphasis: at one time it may be federalism that is under discussion, and at another it may be the function of government in general, or the recurring problem of judicial review. At one time it may be the threatening protest of men or groups who have been excluded from the perquisites of rulership, and at another it may be the Olympian justification of those in dominant positions of their right to be there.

But in this evolving, fragmentary, conflicting, and changing body of political philosophy that makes up the American political mind, have any fundamentals remained the same throughout the period of national existence? Can we even see continuity from the days of solitary settlements along the Atlantic seaboard? Obviously, the answer is yes. But agreement on what fundamentals have remained, and what fundamental propositions have been lost by the wayside of national history, is not easily to be reached. The awakening consciousness of nationhood that came before, during, and after the Confederate War provoked many writers to state the fundamentals of our political attitude. Political maturity made it necessary to try to state the fundamentals of our metaphysics of the common life. All such efforts (as even this) are doomed to failure in the long run. No mere verbalizing can grasp the fluid, powerful, dynamic flow of political existence. But historical continuity as it can be observed is made of such fundamentals. That which is like froth on the surface of political conflict is not the lasting, the essential, aspect of politics. As our study develops, it will be seen what are regarded as fundamentals in this volume; but it can hardly be hoped that men with divergent philosophies of historical movement will agree. We are searching, in these pages, for the lasting pattern of behavior. Such a purpose assumes that there are fundamentals in our history, in the historical process of our political thinking. If some of these lasting elements are explained to the satisfaction of a few, it will be no mean achievement.

Process in History: Freedom. We thus come to a basic question in the study of political theory. What has governed the emergence of events and ideas, so that some ideas have prevailed while others have been repressed into the subconscious of history, waiting only the probings of the scholar to bring them back to a momentary life in the books that men write? What is the dynamic element, the causative element,

in historical change as it combines in time with continuity? The most important aspect of anyone's philosophy is his philosophy of history—or perhaps we should say, his conception of destiny. For by this he explains why events have been, and he forecasts, perhaps gingerly, the future and predicts what will or may happen. Only by explaining the past can we explain the present, for always we assume that the destiny at work in the past is at work in the present. We are always in search of a predominance in history. When James Hutton, the Scottish geologist, assumed that throughout time the same natural processes of erosion and the building of rocks had been at work, he had reached his philosophy of geological history. Likewise, when Charles Darwin found in natural selection the clue to biological evolution or transformation, a philosophy of biological history had taken shape. A predominant cause or explanation was available.

If we turn to political or social history, the same problem faces us. Several of the explanations of history, particularly our own history, must be given. Yet a warning is necessary. If the most important element in our thinking about society is our philosophy of historical movement, it is seldom that an individual either is conscious of all these implications or is able to bring them into the clear light of the mind. The Christian believes in the Providence of God in the order of nature; some might even say with the elder Calvinists that the order or law of nature is the Providence that God has imposed upon us. At the same moment most Christians enforce against the individual a responsibility for his acts. In the Calvinistic thought of New England, these two trends are plainly to be observed. If Providence governs, how are we yet free and therefore responsible for our sins? The mechanics of history are sometimes vague in Christian thought; for the individual's responsibility for himself and society struggles against the might and the will of God. It is easiest to say that Providence governs, but that a part of Providence is the freedom of men to choose between alternatives that God by revelation and reason has shown us. Specifically, are the American people and their political institutions blessed by God, and are they the result through time of a Providential Will?

Christianity, like Greek thought, has leaned heavily toward the principle that men are free; they are either free spirit or they are free reason. Spirit or reason is the architect of history and the formative influence on social institutions. Instead of the body, mind becomes the architectonic force in human relations. For the Christian there is a moral order in the universe of which man is a part. This moral order may be called natural law, as in the view of St. Thomas Aquinas or Suarez, or it may be

simply a moral order in Protestant theology. Man is a free and responsible agent under that order. Man in cooperation with God is the maker of history, and his responsibility for the condition of society at any given moment is complete. From the day of the colonies, American Christian thought in one form or another has recognized its responsibility for the life of men on this earth. Sometimes it has been thought that this life is only a preparation for the life to come, and at other times the social conditions bearing upon the morality of men have been pushed to the foreground. Today both American Protestant and Catholic thought is more than ever concerned with the way men live. But these conditions are the creation of our will under the Providence of God's order for the world.

If the Greeks were not religious in the same way as the Westerner, they agreed with Christianity in making the will of man responsible for the conditions and the institutions of the living. Life was to be subordinated to reason, in the high philosophy of Socrates, Plato, and Aristotle. But there are sometimes a vitality and a spontaneity that mock the efforts of reason to govern. Yet reason purified and fortified by training could, in the Greek scheme of things, make the world what it ought to be. It is hardly necessary to say that the gospel of reason in Greek thought was usually a protest against the conditions that actually were; if reason did not govern at any one time, it was no cause to believe that it could not be the balance wheel of life. The predominance in history recognized by the Greek philosophers was the force of the will, guided by reason toward the absolute realities of truth, or ideas which were in the mind of God, as Plato argued in his Socratic dialogues.

Process in History. As the Christian and the Greek interpretations of history rest upon the freedom of the human mind, so there are in contrast other points of view that find the predominant forces in history outside of the individual. A human being becomes, for all his autonomous spirit and his reason, an item in a larger and forceful context. Such factors outside the will of man may be regarded as "objective"; for they control us, even our thinking, in the long march of institutional development. Different social philosophies emphasize different objective factors, and it may be added that all these social theories may be illustrated from the course of American political theory.

When Professor F. J. Turner presented to the American Historical Association in the early eighteen-nineties his paper on the frontier in American history, a new school of American historians was born. While E. L. Godkin had also suggested the importance of the frontier in shaping American character, it was the work of Turner that actually turned our

thinking toward the west[2] for an explanation of much that has been characteristic of life in the United States.

American democracy and individualism were seen as the outgrowth of the conditions of life on the frontier, which ever advanced to the west and was finally extinguished by the absorption of the best land about 1890. Under this theory the American character was shaped by a force outside the will or the reason of individuals; it was shaped by the tireless agency of the physical environment that bore in upon each one from birth until death. It should not be forgotten, however, that the democratic movement was general in the West during the nineteenth century. Both in Europe and America it was a time of the rise of democratic spirit; it was the first of the democratic centuries, as De Tocqueville suggests in his study of *Democracy in America*. It may be that just as in Europe democracy was different in France and England, so in the United States it was different from either. Broader and deeper leverages than the frontier must be sought to explain the democratic century. Likewise, unless all of the United States be considered as frontier, it would be difficult to explain the democratic stirrings of the eastern seaboard on the hypothesis of the frontier. That the frontier has been a factor in our national life none will deny.

If we turn from the geographic influence in American history to the cultural we have, perhaps, a more pervasive interpretation of how things come to be in history. We must, of course, assume that culturally the United States is part of the West—that cultural area which includes both Europe and the New World of North and South America. The settlement of the New World came as a result of movement in a revived culture; the settlement of the lands across the Atlantic was a phase, an early phase, of the expansion of the West. Politically and economically this expansion has taken in the entire world; but culturally it is limited to the nations of the two Americas. Watching the West in the long shadow of dead cultures, modern students have been asking whether it is the culture that is the most important power of all in explaining how things come to be in history.

In his *The Decline of the West*, Oswald Spengler found the secret of historical dynamics in the rise, growth, and death of cultures. A culture is an organism that grows around a pattern to be found in all cultures; it is an objective pattern that constitutes the law of social existence. A comparison between the known cultures of history enabled Spengler to argue

[2] We must use the word "west" in two distinct senses. The West, meaning Europe and the Americas, is capitalized. The "west," meaning the western part of the United States, is not.

that the West is now in its early "winter" or decline.[3] Pitirim A. Sorokin argued that the fluctuating factor in history is the change of culture mentality rather than the rise and decline of cultures themselves.[4] And Arnold J. Toynbee, in his monumental *A Study of History*, undertakes to compare in heroic dimensions the known cultures of history. His explanations of cultural movement are less mystical than Spengler's, but they fall into patterns of behavior that apparently are largely objective as to the choice of the individual member of society.[5] These three works are among the most provocative that have appeared in the twentieth century, and Americans should recognize that what bears on the history of other cultures must bear upon the future and the development of the United States. In such a point of view both economics and geography become subdivisions in the confines of a larger pattern of historical evolution.

But what of the economic factor? What is the relation of economics and politics? Can we find in the study of "economic history" the clue that tells us where to look for the secret of our history or the history of any other people? Are there stages in the economic structures of peoples which govern all that they do and think in a collective manner? We have before us now the socialistic interpretation of history. Socialism is nothing without a philosophy of history; it is an attitude of mind toward historical change, and not merely the advocacy of the expansion of the ownership and control by the people of productive forces. From the time of Marx and Engels to the present, and through whatever variety of sectarian socialism, it has been agreed that the mode of producing those things that are materially necessary for life has been the governing force in society. Socialists may differ as to the manner in which change in society may take place—whether by revolution or by democratic change—and they may differ as to the stages through which economic evolution must go in reaching the kind of society they want. But socialists do not differ on the proposition that modern capitalism is an oppressive regime; that the workers suffer under this system by having their productive power taken from them and included in the profits of the owners and financiers; that the end of the rule of the bourgeoisie must sometime come; and that with this termination of bourgeois rule the opportunity of the proletariat will come to construct an honest, fair, and democratic society.

It is not men's spirit that governs, in this hypothesis; it is the economic structure of society, and that structure enables men to produce those

[3] *The Decline of the West*, trans. from the German (one-volume edition, 1932).
[4] *Social and Cultural Dynamics* (4 vols., 1937–1941).
[5] *A Study of History* (6 vols., 1934–1939).

things that are necessary to life. Of the material factors, the most important is the mode of production. The mode of production results in the elaboration of social situations that are supremely important. Each individual, regardless of his momentary will, is engulfed in the social relations that spring from the control of the forces of production. The socialist view asserts that the forces of production have been under capitalism in contradiction with the social relations of production. The oppressed class that does the producing gets little benefit from the forces of production, and the bourgeoisie itself is unable under modern capitalism to use to the full the productive energies of society.[4]

To the socialist, Marxian or otherwise, the history of the United States is the history of the American bourgeoisie. Ours has been the era of the bourgeoisie; our political history and predominant ideologies are those of the dominant class. Our society has been determined politically by the ruling class, which is capitalist, and our political theory is in the end the reflection of the current needs of that ruling class. This position does not assert that the ruling class has been harmonious within itself; for the ruling class is always a complex of subclasses, of high and little bourgeois forces, of agrarian capitalists and commercial capitalists, of financial overlords and manufacturing despots. The conflicts within the ruling group in a country are as important at times as the conflicts between those who rule and those who do not; and likewise the conflicts between the ruling class of the United States and the ruling classes of other countries may result in wars and conquests that benefit the workers but little. Since the critical times of American capitalism have emerged, more and more students have been attempting to balance the Marxian interpretation of American history against the facts of that history. It is no easy task.

The materialism of which we have been speaking controls in the end the soul of the citizen. He is not the free agent that some have seen in him; he is making history, to be sure, but only within the framework of the objective laws of history that are concerned with the economic organization of society. These material forces are outside of man's psyche; but if we turn to the implications of psychology, we find students talking of objective factors that rest deeply and unconsciously within the mind, agencies that control our conscious thought and action in an even more direct manner than the external geographic, cultural, or economic forces. This type of interpretation of human behavior began primarily with Sigmund Freud—though the less spectacular study of political behavior has

[4] Marxism makes a distinction between the bourgeoisie (the high-financial class) and the petty bourgeoisie, or middle class as we say in the United States.

been, since the beginning of the twentieth century, associated with the name of Graham Wallas, who wrote *Human Nature in Politics*.

With the development of the modern scientific attitude toward nature and society, it was inevitable that there should be a closer observation of human behavior. It became fairly obvious to such men as Wallas that in politics the citizen does not decide on political issues through a purely intellectual process. Instincts, habits, emotions—or whatever names may be used—all play their part in determining the vote and the support given by men to their governors. The liberals and democrats of the eighteenth and nineteenth centuries intellectualized the process of politics far too much, and the balance was redressed by the simple observation of actual political behavior. Politics, it appeared, was not so rational as some had supposed. But how irrational is it? This question is yet unanswered; and if some confess that not all men are reasonable, they will yet assert that some men are. There is such a thing, it is said, as the reasonable mind. In the end, some reasonable solutions of questions are reached in spite of the emotional content of behavior. Even Wallas decided that his deintellectualizing of politics had been taken too seriously. He himself undertook, in later works, to swing the tide back the other way.

Far more significant, however, is the Freudian approach to the psyche, or soul, of man. From the early months of life on to the grave there are profound conflicts between individuals; and in each psyche there result certain frustrations or traumatic incidents which are driven into the subconscious mind. Here they live on and do not die, but reappear symbolically or indirectly through dreams, through emotional reactions, through what we do clumsily, or through what we forget when we should remember. It is the task of the psychoanalyst to discover the remote and hidden causes of our mental twists, of our complexes, and to show us why we think certain things and why we do others. It is obvious, however, that in such circumstances the reasons we assign for our thought or conduct are not the real reasons; the real reasons lie buried in the mind and appear in such a symbolic and incomprehensible form that only the trained psychiatrist may understand. If we are passionate reformers, if we want the security of the bureaucracy, or if we try to drink ourselves away from reality, there are psychological causes that must be probed in the realm of the abnormal mind.

These powers are objective to the waking mind; the waking mind may be unaware of the existence of such potentials, just as it may be unaware of the objective and external forces that shape our lives, and the history of the society of which we are a part. Reason becomes an uncertain flame, partially suffocated from objective and external forces on the one hand, and on the other, from the objective and internal forces of the hidden

psyche. Will is ground thin between the millstones that represent these conditions of existence. When men fight savagely for and against programs in politics, it may be that the irrational element of their souls is driving them on. They may be in reality seeking to escape from a world that bears heavily upon them. They may preach brotherhood and hate their brothers.

It is possible in theory to write a history of ideas in terms of the psychological characteristics of the men who held them. Society provides the conditions under which most abnormalities may find some degree of expression. But it is clear that ideology, that the philosophy of politics, is not the guiding directive in behavior, in the making of history, if this approach is accepted in all of its implications. Men make history, it is true; but they make it not for the reasons they assign, but because of the troubles in their souls that find symbolic expression in causes and in ideas. Like all monistic theories of history, the psychological concept has a tendency to prove either too much or too little. If ideas are only the reflection of forces, such as those of the soul, is there further need to be concerned with right or wrong? Is an evaluation that something is better or worse more significant than the emotional drives that may bring it into being? Is there no reality that controls human beings beyond the inner and largely unconscious motivations of conduct?

We pass on, therefore, to those who explain history more narrowly by an examination of social process. Marxians do this, though they are also preachers of the new day; and Marxism, indeed socialism generally, ends finally in a vision of what may be in the future, when injustice has been rooted out of the good social earth. It is the conservatives who look at the social process, without the dream of the better day, and say: Here is the reality of historical continuity for which we have been seeking. Let us study men as they behave, and let us build institutions on the assumption that they will act the same way, to a degree, in the future. It is only the study of men as they are that produces social science worthy of the name. Profound differences as to what men are and what they do, and the significance of these things, give rise to the most variable interpretations of society. A name or a category is not the reality itself; it is a descriptive phrase, a fragment of logic, that may be useful in conveying to our minds the nature of political behavior in the aggregate. Those who study process try to be realistic, yet the debate always concerns just what is the real. The first step, of course, toward realism is to leave out of consideration what ought to be. Men can see in general a proposition that argues for something that is not, but they cannot agree on a statement of what is. Beyond this, however, the realist must consider what can be, and the circumstances under which it may be attained.

Among the great realists of political theory we must remember Aristotle, Machiavelli, Calvin, Hobbes, and such Americans as John Adams and John C. Calhoun. These thinkers attempted to describe the process of politics as it is; and while seeking for the best, they undertook to show how the forces of politics, as they saw them, might be managed in the light of the purposes they accepted. Politics for these thinkers was not a milk-and-water affair. They did not consider human nature particularly good, nor were they excited about the perfectibility of the race. Government is an instrument to be used in the light of men's behavior as it is, for men by nature need control and it is the function of those in power to control them. History tends to move because of the form and effectiveness of institutions, and one of the most important of the controls in making history is the ruling structure in the state. Conservatives accept the fact of inequality; they recognize that there are forces external to the will of men, but they also recognize that man's will is effective in shaping history. Machiavelli discussed the force and fortune of the prince; Calvin considered the historical role of the aristocracy; Hobbes wanted absolute power vested in the man or assembly of men who governed; John Adams wanted balance in political power, so that neither the masses nor a small group might monopolize all political power; Calhoun wanted to protect the minority in the total government of the state. By negative emphasis, the Marxians agree that, however organized, the bourgeoisie is a ruling class which must be destroyed if a just society is to be established.[7]

These views of the dynamic element in social and political history may be illustrated from the course of the development of the United States. Our political history might be written in a measure from any one of them, though hardly from all of them at the same time. We can see that situations have changed, and we can observe the shifting platforms of doctrine that have been devised to meet each problem as it has arisen. The primary issues of today are related to, but different from, those of yesterday. Yet out of the issues of yesterday there is an intellectual continuity with the present, just as there is a continuity of issues under the shifting economic and social conditions of the country that is ours.

[7] The term "ruling class" is generally used in two senses. It refers to the "few" who actually make the decisions of government, and it refers also to the kind of people who give support to the smaller group. The mass support of governors determines in the long run the kind of officials who direct the state. In America the first ruling order was theocratic or religious, as in Massachusetts. Probably in all the colonies the religious element was very strong. By the introduction of property qualifications for suffrage the shipping, commercial, and planting interests were able to control government. Following this in the Jacksonian period, manhood suffrage brought the broad middle classes into power.

The context of an issue is larger in its implications than the immediate purpose of the argument.

Theories may or may not be true, but Americans have shown little interest in ideas which limit the freedom of man in the making of history. Part of the common faith in the destiny of America has been grounded on belief in the creativeness of Christian society. But all men participate in the work of society, they help direct it, and they establish the ideals toward which the governors labor. To deny the freedom of men, to deny their responsibility for themselves, is to deny the confidence we have had in the future of our democracy. In a general way any citizen might admit that man cannot do anything he pleases; but limitations would seem to arise less from economic or psychological factors than from the ignorance and disorderly inclinations sown in human nature. Again, to believe in progress is to believe in the capacity of society to shape its ends and means in accordance with both morality and science. History for Americans has been made by free men in a free society.

Periods in American Thought: The Colonial Era. The history of American political thinking fits into the broader periods of American social history. From 1607 to 1776 is 169 years; it is the period of colonial life from the settlement in Virginia to the final winning of American independence from Great Britain. This movement of founding colonies in the New World was part, we have insisted, of the more general movement of European civilization toward the West. The drive to the West was governed by the most profound of human motives. There was the desire for gain, exemplified in the trading companies that sought gold and profits, with incidental attention to the souls of the natives. The commercial expansion of Europe that may be ending only now was expressed in the colonial movements of the late sixteenth and early seventeenth centuries. Religious motives, likewise, played their part, for there were groups that wanted more room for the advocacy of their doctrines. From New England to the South these colonies spread themselves, outposts of the British Empire, outposts of European commercial expansion, conductors of the religious thought of the European world, and transplanters of the political, legal, and economic institutions familiar to the Old World. Like the Greek colonies of old, under whose hands Ionia took shape, they carried their cultural system with them. But also like those earlier colonists they transformed in the new environment the institutions of the mother country. As in Ionia the aristocratic element in society was shorter lived than on the mainland, so in America the aristocratic forces were starved in the strange mobility of the western wilderness.

Out of the period of colonial foundation, there emerged, therefore, the

sense of conflict between the colonies and the old country. They could not know then that independence and separation from the British Empire were in store for them. They asserted that they were fighting for the rights that loyal subjects of the mother government should have; but the implications of their claims were revolutionary; they could not be satisfied under the social and political system that governed the colonists. Political conflict is personal and specific; and the colonists may be pardoned if they did not see the implications of trying to curb the power of a royal government or attempting the overthrow of an established political oligarchy. In the fire of conflict the heritage of political ideas takes shape. But conflict also breeds the necessity of further ideas, and, therefore, the writers and thinkers began to explore the intellectual armory of social conflict in Europe. Internally, therefore, there were new movements of thought; there was an accelerated infiltration of European ideas. At one time it might be the materials of the law, at another it might be the theory of the British Constitution, or again it might be the consciousness of new ideas that were fermenting in the restless and rebellious soul of many a European. There was an American "reception," the reception of the general mental and moral apparatus by which men in Europe fought their social battles. In these creative days of European culture it could not be otherwise.

The Period of the Revolution. Externally, the sense of conflict was quite specific; it was based on antagonism toward the policies of the British government. That government looked upon the colonies as an economic storehouse that was to be tapped as the necessities of England dictated. Political control of the colonies was axiomatic with the British government. However, the social consciousness of the colonists was restive under membership in an Empire that really intended to control the economic life of the colonies. The colonists were striving for a partnership, for an equality of status in the Empire that could not then be recognized by the prevailing British oligarchy under the theories of mercantilism. On the economic side there was naturally resistance to the restrictions of the home government. On the political side it was necessary, first, to inquire into the nature of the British Empire and the colonies in it; but beyond that, the implications of the conflict with the mother country led straight to the idea of separation and to the formation of a new state. A philosophy of revolution, based on the philosophies of other revolutions—now hardening into conservatism—was necessarily a part of the political theory of the times.

The leading ideas of the American Revolution came directly from England: the ideas of seventeenth-century and revolutionary England. In the era of our Revolution we can see as clearly as at any other time the

connection between our political thought and that of Europe. In the immature social development of the colonies it would be unusual, in any case, that an original theory of the right of revolution should emerge. The England of the eighteenth century was politically quiet, however, until the stirring intellectual temper of the last quarter of that period. Although the American colonials knew of the changes in mental tone, or in the climate of opinion, that were taking place in England, they did not use these ideas extensively. Rather they turned to the literary products of the nearly fifty years of political and social disturbance that had shaken England in the seventeenth century. It can be argued, indeed, that practically every idea of American political thought had found some expression in this time; for the gamut runs from the extreme democracy of the Levellers and the Diggers to the stern authoritarianism and glorification of order to be found in the theory of the divine right of kings and the principles of Thomas Hobbes. It was, however, the "middle" ideas of the English Revolution that were accepted in America. It was the idea of natural rights and the constitutionalism of the common lawyers; the republicanism of Milton, Harrington, and others; and the principles of the Whig monarchy, as expressed by John Locke, that the colonists borrowed in order to maintain their right to political independence.

As the ideas of the English Revolution became the conservative foundation for the new order after the final expulsion of the Stuart kings, so the principles of our rebellion came in a measure to be the principles upon which later American conservatives built their case. Such is the customary history of revolutionary ideas; for they harden in later years and lose their flexibility. The revolutionary principles of France finally became the groundwork of the conservatism of the Third Republic after the Franco-Prussian War; the rebellious ideas of Sun Yat-sen have become the breastwork of Chinese opposition to the challenge of Chinese communists. It is an old story; ideas are more flexible and ambulatory than the advocates of one generation like to admit to the next. Natural rights became the primary defense of property after the American Revolution, though during the Revolution itself they constituted the front line of assault upon the established order. The "social compact" during the Revolution expressed the right of each citizen to give consent to the government under which he lived, although the same idea could be used later to insist that a man must submit to a government once he has come under it. The idea of balance in a constitution, so common in the eighteenth century, could be used in the Declaration of Independence to resist the overweening or pretended authority of George III; whereas later it might become the basis for restricting the rights of the masses to direct affairs of state. During the Revolution liberty might mean no taxation

without representation, but later the conservative fathers might in effect subscribe to the principle of no representation without taxation. Again, liberty as a principle could be used to resist commercial restrictions imposed on the colonies by the British government; and later the United States might in the name of national liberty impose tariffs that taxed large sections of the country for the benefit of merchants and manufacturers.

Classical Federalism. As the web of historical continuity moves on, we can observe what now may be called the period of classical federalism. It was the period of the construction of new governments. The movement began with the new state constitutions during the Revolution; it merged into the period of the Articles of Confederation, the first constitution of the United States; and from there it moved toward the establishment of the Constitution of the United States after the Convention of 1787. It cannot be argued that in intent the framers of these governments were original. They had a fund of political truths that they wished to see incorporated into the new instruments and practices of government. For more than 150 years these axioms of politics have survived without profound modification. That is to say, the ideas of the founders of our government have remained in essential measure the political principles of the United States. The application and interpretation of such ideas has changed with the evolution of the modern world; but the principles themselves have not been strained beyond the confines of practical logic. By this experience we have joined those nations enjoying political continuity through modern history.

Our classical federalism was conservative in cast. When the time of revolution was over, the leaders put away the manners and habits of revolution. They turned to the construction of a stable order, and they stated with success the principles upon which the ruling structure should be organized. First of all, a great experiment in federal government was launched. There had been federal governments in the past; there were the examples of the Greeks, of the German Empire, and of Switzerland particularly, but these examples were profoundly different in scope and structure. With the establishment of our federal system the path was cleared for other modern experiments in the same field. Although that system has changed with the times, and in recent years there has been a marked tendency toward national centralization, in its essential outlines the system remains.

In the second place, the framers of our governments established what has now come to be called "presidential government," as contrasted with a system of cabinet or parliamentary responsibility. Our executive has for four years many of the characteristics of the monarchial systems of

other times, but at the end of that period the executive returns to the people for election or repudiation under the banner of the party system. Our executive system is one of the most democratic in the world, and it has stood the strains of national crisis with greater ease than most of the modern systems. The movement to introduce the parliamentary system of Great Britain in a pure form into the United States is all but dead.

In the third place, our political forebears constructed the principle and practice of judicial review, a feature of our government that has been copied least of all by other statesmen who have established new governments. No aspect of our governmental structure has worked more effectively for stability, order, and conservatism than the judicial system. Somehow we have been able to believe that a Supreme Court of the United States, deciding finally on the Constitutionality of both state and national legislation (the work of popular representatives), is democratic in character. It may be simply a matter of definition of what is democracy.

In the fourth place, we have been able to introduce vitality into the two-chamber or bicameral legislative body. The Senate of the United States, based upon federal and equal representation of the states, is the last upper chamber that really debates and has a vital power over the course of politics. If the House of Representatives has become so organized that seniority and a strict body of rules controls the members, such is not the case with the Senate. The upper chambers of other modern governments are often more ornamental than effective. Strong presidents, at war with strong senators, make battle scenes that are worthy of remembrance in the pages of our history.

It cannot be said that there was agreement among the founders as to the proper significance of the ingredients in our federal system. In the course of this volume, we shall have to discuss the function of the states and the philosophy of those who wanted to defend the interests of minorities against the national leviathan. But the final importance of classical federalism is that it laid the foundations of a strong government capable of conquering in the end the disruptive tendencies in so large a political unit as the United States. The contemporary radical can find little to inspire him in the work of the fathers.

The Emergence of Democratic Liberalism. Following this period of emergent federalism we come to the period of conflict that ended on the bloody field of glory in the Confederate War. Perhaps the period from Thomas Jefferson's Presidency to the end of Reconstruction, or the withdrawal of the Yankee garrisons in the South, may come to constitute one organic period in our national history. This was the period in which the rising demand for greater democracy in both state and national govern-

ments was made, and succeeded in making itself heard. It was the time of the decline of the Federalists and the passing of New England conservatism from dominance on the streets of the national capital. It was the time of increasing protest from the South against the financial and manufacturing dominance of the North: the battle of the agrarian economy against the inherent tendencies of modern capitalism had emerged. The South as a conscious minority in the Union began its long and losing fight for its own integrity. Likewise, the movement toward the west, the settlement of new lands, the formation of new states, and the rising hunger for lands owned by other powers was to be observed. The bitter conflict over the expansion of slavery, uneconomical in the North and profitable in the South, crystallized in these troubled years. As the path of empire beckoned, both tongues and swords began to be sharpened.

Intellectually, it was one of the most creative of our periods, save perhaps the present, when the scepter of intellectual leadership is passing to us from the war-stained fingers of a disintegrating Europe. The European liberalism of the last quarter of the eighteenth century came into the United States through the new leadership. Fermenting ideas of science, progress, and democracy in France were taken up in Virginia, while New England theologians fought their last fight against the secularism of the age. New principles of economics and utilitarianism, embodied in Adam Smith and Jeremy Bentham, troubled the social theories of lawyers who wished to find all answers in the musty pages of Viner, Coke, and Blackstone. Godwin had issued his repudiation of the political state and its institutions, and Malthus had tried to show that progress was impossible because of the pressure of population against the supply of food. Gradually the North began its adventures in new idealisms, into socialism of the Utopian variety, into philosophical transcendentalism, into new religious ideas, and into insistence for a time that moral principles must dominate politics rather than the forces of property and economic relations. It was in this period, too, that the South was forced gradually, almost unconsciously, into an attitude of defense that for forty years was to consume wastefully, prodigally, the intellectual power of its best minds. Yet if the South explored the whole world of science and history to defend the benevolence of slavery, it was also forced to defend the literal words of the Bible, where the institution of slavery was recognized in the Old Testament and the New. The North became liberal in its theology, while the South began the battle for Biblical fundamentalism that is still today so clear a heritage of its tragic past. Moreover, one can only regret the wasted energy by which the exegesis of the Constitution was used minutely to conquer the South, while the South in self-defense resorted to the same tactics.

The Aftermath of War. When the last Confederate soldier had taken off his gray uniform, there was a new America. There was a ruined South, for the capital accumulations of over a hundred years had been squandered in the four years of war, and the first great attack on property in the United States had come in the freeing of the slaves. The South retreated to her ruined farms and desolated cities, to brood over her misfortune and to curse the arrogant carpetbagger and the swaggering soldiers of the military garrisons.

But the North had expanded to the westward during the War of the Confederacy. The Homestead Act was passed in 1862; and while the cannon roared, the migrants went ever westward. Her army was strong, and she forced the French out of Mexico, leaving Maximilian to die before the firing squad. Her ships roamed the seven seas; the industrial revolution had come. The economic revolution, consisting of the unrestricted rise of capitalism, was being consummated. New problems and new ideas, restless conservatives and irritated radicals and critics, came over the social horizon. It was well to forget the old conflict in the new settlement, and in the enthusiasm of the Gilded Age. Industry was expanding, and natural resources were used with no thought of the future. Immigrants provided cheap labor, and the resentment that was to flare into the American labor movement could be regarded by Lord Bryce, in 1888, as simple "outbreaks" fostered by strange, foreign ideas. Men did not realize that the frontier would soon disappear; apparently they thought it would last forever. There was little to mar the thought of an ever-rising curve of economic activity—nothing save the dark years of economic depression that came with cyclical regularity. Men even began to think that government and economic life might be separated, and the utopian dream of individualism was born. They did not see that there never has been a truly individualistic society.

By 1900 the scene had again changed. It was time to take stock. There had been radical protest. Henry George had challenged the monopoly in land; the labor movement had challenged monopoly in control of the economic structure; the Populists had challenged the financial domination of the eastern part of the United States; and the socialists were crying on the outskirts of the social conflict. Critics began to wonder at the corruption of cities, and Lincoln Steffens wrote, in 1904, *The Shame of the Cities*. Liberals demanded that trusts be broken, and that the power of the party oligarchy and the financial oligarchy be broken. Reform was in the air, and there were demands for the conservation of natural resources. Yet a press—magazines included—that exposed so much in the early years of the century gradually came under the control of the financial centers, and it grew dumb; the muckraking

period was over. Nor would interludes such as the Spanish-American War help much. For when the war was over, the old criticisms rose again, and the battle between the conservatives and the critics was resumed.

There was also a growing demand that real democracy be instituted. New devices, not discussed by the fathers or by the earlier democratic movement of a hundred years before, were introduced. The direct primary was adopted to break the power of the party bosses, but somehow it did not. The initiative and referendum would finally restore sovereignty to the people; but its spread through the country was checked, and where it was adopted, it was found that the old interests could use it at times to befuddle the people quite as much as before. There were attacks on the judicial system; but it was not possible to shake from its entrenched position in our Constitutional system the power of judicial review. The courts struck at reform legislation with bitter savagery; the judges thought, it would seem, that they might introduce economic individualism into a society that had never yet really established a separation between the government and economic life. It is clear that the early attack on the optimism and arrogance of the Gilded Age was failing. The leaders of opposing camps fought their battles while the common men did their day's work or followed the seasons in their planting and their harvesting. The older ideal of political freedom was reexpressed as an ideal of equal economic opportunity. In spite of carelessness in the use of natural resources, the standards of living of different American groups had risen.

The Great Republic. At the same time, the American had caught a vision that Greeks and Romans had seen in their times: the dream of the expanding state. When the Spanish-American War was ended we had a world republic. We were carrying the white man's burden, and some were willing to civilize those who sat in darkness. If some saw that one function of foreign policy is to protect American business, to guarantee the open door in China, and to preserve those systems that did not conflict with ours—if they saw South America as a market and insisted that no foreign power should set its political foot there—the common men were moved by a humanitarianism that had been characteristic of the followers of Jefferson. In our history we have been moved by the plight of the Greeks groaning under Turkish tyranny; we accepted those who came here fleeing from oppression in Europe. We felt with the Cuban who was fighting the Spanish overlord; we rejoiced when the South American nations threw off their yokes and established republics, as we had done before. The American people have been deeply humanitarian.

Twentieth-century Crisis. That America had become a world power, none could deny. But the world itself, the world of Western civilisation, was moving on to a period of crisis. While the nineteenth century was a period of relative peace, the twentieth has been one of intermittent war. Statistically it is probably the most bloody of any recorded in the annals of Western culture. When the First World War broke out in August, 1914, a new epoch began. It may be designated as the time of crisis for European culture—a time of crisis that is still with us through the many minor wars that have been fought since 1914 and in the larger one that continued the conflict of 1914 in September, 1939. We had been moving along with the economic revolution up to 1914, but now we had to face a world in trouble. The economic and political system of the nineteenth century, under which our optimism grew, has disintegrated. What will take its place when this long travail of spirit is over no one knows. We have seen in certain countries the achievements of democracy wither away; we have seen the principle of free trade and economic individualism vanish before tariff barriers and regional economic groupings; we have seen a monetary system that helped to unify the West disappear in inflation and the abandonment of the gold standard; we have seen the principle of obedience to treaty obligations (*pacta sunt servanda*) crumble before the bleak assertion of national interest; we have seen a League of Nations, built upon that treaty system, go with the treaties themselves; and we have seen the doctrine of democracy and self-determination ignored and prostituted by apostles of international violence.

Perhaps more serious than all of this, we have seen evaporating before our eyes the principle of a high and ever-improving standard of living for the humble men and women who compose the phalanxes of society. We have witnessed the slowing down of the world economic system and, in Russia, the failure of a great experiment to fulfill its promise of a generation ago. We have witnessed also the crumbling of political ideas that seemed like mighty fortresses, and have seen part of the European intellectual world sink into conflict and wrangling over social orthodoxy. The gentleman in politics is harder to find than in a previous day, and the standards of intellectual decency of the nineteenth century seem quaint to many of the militants of today. Science has increasingly become technology for building navies, equipping armies, and creating atomic bombs. Even the end of war in 1945 has only emphasised the continuation of world crisis.

We are studying here, however, the ideas of men and their political theories. In the end, intellectual history is a profound factor in history in general. De Tocqueville has argued that in aristocratic centuries historians seek men in the foreground, and that to them history is made by

the great and effective. In turn, he urged that in democratic times mediocre men see history governed by general causes, and that democracy may abuse the idea of general causes and effects in making history. In the democratic time, says De Tocqueville, general causes do operate to a great extent because men are leveled in their social condition. In either case, for us the intellectual factor is essential in understanding our America. We may urge that the excellent man must know the ideals and the principles that have shaped his historical heritage. We may agree that whatever has been the current basis of social ethics, individuality is the final claim we all make. How the claims of each personality are to be realized depends upon the circumstances under which men labor.

Selected Bibliography

Adams, J. T.: *The American: The Making of a New Man* (1943).

———: *The Epic of America* (1934).

Beard, Charles A., and Mary R. Beard: *America in Midpassage* (1939).

———: *The Rise of American Civilization* (2 vols., 1927–1930).

———: *The American Spirit: A Study of the Idea of Civilization in the United States* (1942).

———: "Written History as an Act of Faith," *The American Historical Review*, XXXIX (1934), 218*ff*.

Blau, J. L.: *American Philosophic Addresses, 1700–1900* (1946).

Bryce, James: *The American Commonwealth* (2 vols., 1888).

Carpenter, William S.: *The Development of American Political Thought* (1930).

Cheyney, E. P.: *The European Background of American History, 1300–1600* (1904)

Clark, F. G.: *Magnificant Delusion* (1940).

Commager, H. S., and Allan Nevins: *The Heritage of America* (1939).

Cook, Thomas I.: *History of Political Philosophy from Plato to Burke* (1936).

Coker, Francis W.: *Democracy, Liberty and Property* (1942).

Curti, Merle: *The Growth of American Thought* (1943).

———: *The Social Ideas of American Educators* (1935).

Davidson, Donald: "The Attack on Leviathan" (1938).

Fischer, Eric: *The Passing of the European Age: A Study of the Transfer of Western Civilization and Its Renewal in Other Continents* (1943).

Gabriel, Ralph H.: *The Course of American Democratic Thought* (1940).

Gettell, R. G.: *History of American Political Thought* (1928).

Hacker, L. M.: *The Shaping of the American Tradition* (1947).

Hart, A. B.: *National Ideals Historically Traced, 1607–1907* (1907).

Hofstadter, Richard: *The American Political Tradition and the Men Who Made It* (1948).

Jacobson, J. M.: *The Development of American Political Thought* (1932).

Lewis, E. R.: *A History of American Political Thought from the Civil War to the World War* (1937).

Merriam, Charles E.: *American Political Theories* (1903).

———: *American Political Ideas, 1865–1917* (1920).

Northrop, F. S. C.: *The Meeting of East and West: An Inquiry Concerning World Understanding* (1946).

PARRINGTON, V. L.: *Main Currents in American Thought* (3 vols., 1927–1930).
RILEY, I. W.: *American Thought from Puritanism to Pragmatism and Beyond* (2d ed., 1941).
ROURKE, CONSTANCE: *The Roots of American Culture* (1942).
SABINE, G. H.: *A History of Political Theory* (1937).
SCHLESINGER, ARTHUR M.: *Political and Social Growth of the American People, 1865–1940* (1941).
———: "World Currents in American Civilization," *Studies in Civilization*, University of Pennsylvania Bicentennial Conference (1941).
SCHNEIDER, H. W.: *A History of American Philosophy* (1946).
TOCQUEVILLE, ALEXIS DE: *Democracy in America*, trans. from the French (1862).
———: *Democracy in America*, ed. by Phillips Bradley (1945).
TURNER, F. J.: *The Frontier in American History* (1920).
WARE, C. F., ed.: *The Cultural Approach to History* (1940).
WEBB, W. P.: *The Great Plains* (1931).
WHITEHEAD, A. M.: *Adventures of Ideas* (1933).
WRIGHT, B. F.: *A Source Book of American Political Theory* (1929).

Chapter 2

POLITICAL THOUGHT IN THE COLONIAL ERA

> We have not felt the new chains of the Presbyterian tyrants, nor in this colony have we been consumed with the over-zealous fire of the (so called) godly christian magistrates. Sir, we have not known what an excise means; we have almost forgotten what tithes are, yea, or taxes either, to church or commonwealth. We could name other special privileges, ingredients of our sweet cup, which your great wisdom knows to be very powerful (except more than ordinary watchfulness) to render the best of men wanton and forgetful.—Roger Williams in a letter to Vane in 1654.[1]

The English Settlements. The American colonists were the recipients of a rich social experience. While they were pushing slowly to the west, while new immigrants were arriving, while new towns were springing up and new industries were shaping economic life, there was war with the Indians, there was fighting that moved in gear with the wars of Europe, there was conflict between the colonies and against their magistrates, and there were increasing disagreements with the political and economic policies of the mother country. A new nation was unconsciously coming into being during the 169 years that mark the span from the founding of Jamestown in 1607 to the signing of the Declaration of Independence.

The settlement at Jamestown was but the beginning of a remarkable movement of settlement in a new area. In 1620 the Separatists from Holland founded the colony at Plymouth, armed as they were with the Mayflower Compact of November in that year. Nine years later the Company of Massachusetts Bay began to make its settlement in New England, and in the following year (1630) the Company was moved to the new land. Both north and south of Massachusetts Bay the settlers began to expand and to found new communities; the struggle to the north, which remained uncertain for years over the territory now in Maine, resulted in the establishment of New Hampshire some fifty years later. To the south the settlers began moving into what is now Connecticut; and by 1635 the new colony was founded, establishing in 1639 the Fundamental Orders of Connecticut, regarded by some as the first of the modern written constitutions. When Roger Williams fled from the jurisdiction of Massachusetts in the winter of 1636, he carried in his soul the

[1] *Publications of the Narragansett Club* (1874), Vol. VI, p. 268.

colonizing impulse. He founded Providence; and two years later in 1638 Rhode Island came into being—the two being united under one charter in 1644. The first experiment in federal union in North America occurred in 1643, when the United Colonies of New England was established for the purposes of defense—excluding, however, Rhode Island and Providence Plantations.

If we turn toward the South, we find the first settlements in the Carolinas taking shape by 1670; although the year before John Locke had attempted to draw up the Fundamental Constitutions of Carolina, a fantastic, feudal document which could not be enforced in the new colony. Finally, in 1729 the colony was divided into North and South Carolina. Soon after the first settlers came to Virginia, settlement occurred in Delaware; in 1664 the Dutch colony of New Amsterdam became New York under British control; and some years later British emigrants moved into the Jerseys. In 1634 the first colonists reached Maryland; in 1681 a grant of land was made to William Penn, and the following year the first inhabitants of Pennylvania had appeared upon the scene. In 1733 Georgia, the last of the original thirteen colonies, was established. Yet at the same time preparations were under way for the struggle between the British, French, and Spanish governments for the control of North America—since settlements from these countries were being established to the north in Canada, to the south in Florida, and on to the southwest.

It is not our purpose here to trace the political conflicts in the colonies. It is a stirring tale, showing the forfeiture of charters and the extension of home control through the royal governors; and there are rebellions such as Bacon's Rebellion in Virginia in 1676. Under royal control, the rulers of Massachusetts saw property qualifications for voting substituted, in 1691, for the earlier requirement of church membership. The executive was powerful in the reorganized colonial system, and the local assemblies waged a long and measurably successful struggle against the influence of the governors. Likewise, those excluded from political participation were at times restive under restrictions on the right to vote and to hold office.

Of certain matters we can be sure. The political ideas and institutions of England had to be modified to suit the new conditions under which Englishmen were living. There was no aristocracy that could head up the social structure. If the leaders of the colonies were by our standards aristocratic, they did not succeed, over the colonial period, in establishing a system of government that would check the resistance of those who had no share in government. Moreover, much of the impulse to settlement in the New World came directly from opposition to the social and political conditions of England. The poor sought new opportunities, and the re-

ligious dissenter wanted a freer air in which to propound his favorite orthodoxy. In addition, the economic leaders of the colonies eyed askance the growing body of restrictions imposed by British mercantilism that began to take shape in the midst of seventeenth-century colonizing. Some of these restrictions were undoubtedly beneficial to the young industries of the colonies, but others were not; and the agricultural sections of the colonies found themselves from the start indebted to the mother country for the finished goods they imported.

Congregationalism in Colonial Politics. It is an impressive fact that during the seventeenth century the section of the colonies which was most articulate in its political philosophy was New England. In the eighteenth century, as the movement against the British government got under way, the habit of political speculation spread to all of the colonies. Yet the Established Church in the southern colonies did not produce political thinkers of stature, although religious life in New England did.[2] Indeed, almost from the very founding of the Plymouth and Massachusetts Bay colonies, the leaders were discussing the nature of society and the proper extent of secular and religious control. It is true that by the end of the seventeenth century, when New England's intellectual energy flared in the witchcraft frenzy, little save the democratic thought of John Wise was left to comment upon. Yet the earlier period was brilliant in its way; it was brilliant as the Calvinist tradition had been brilliant during the previous century in Geneva and Scotland, and as it was in England at the same time as in New England. We may summarize the situation by saying that outside of New England seventeenth-century colonial political thought tended to be conventional, following in the path of the predominant trend in England so long as the Presbyterians were not in power. From the outset the Calvinists were in a minority in relation to the rest of the social world around them; but minority thinkers often make excellent political philosophers.

Before we turn to the society of John Cotton (1584–1652), John Winthrop (1588–1649), Thomas Hooker (1586?–1647), Roger Williams (1603–1682), John Eliot (1604–1690), Increase Mather (1639–1723), Cotton Mather (1663–1728), and John Wise (1652–1725), we must go back to the adventure of the spirit enacted in Geneva in the early sixteenth century. For while New England modified Calvinism profoundly in theology, in political tradition it was close to Geneva. To understand Roger Williams we must try to understand Calvinist congregationalism

[2] On the other hand, one should avoid minimizing the influence of religious thought on social life in the southern and middle colonies. In Pennsylvania, for example, the pacifism of the Quakers was a continuing political issue. Anglicanism seems usually to have been a sobering, conservative force.

in its expanding period, before it became respectable and mellow. We must try to understand the Calvinistic aspect of the Reformation, for we are little concerned with the Lutheran factor, or with the political principles of the Established Church in England.

Men have wondered at the creative force of little Athens, of Rome before she established a world empire, of Florence during the time of the Renaissance; but much the same wonder might be directed to the little city at the western end of Lake Leman, Geneva, an ancient Catholic city of the Holy Roman Empire and, in the sixteenth century, the intellectual center of Protestantism. The preachers and the religious publicists of Geneva drew the young men of Protestantism to their schools, and their writings influenced their brothers in France, Holland, Scotland, England, and finally America. Religious refugees came to Geneva and when they left they were branded for the remainder of their days with its spirit. Geneva was the city of the Frenchman, Jean Calvin; and Calvin was a man of one great book, the *Institutes of the Christian Religion.* This book was the codification of a new point of view; it was the law of a large part of Protestant society.

Can we catch again the spirit of Calvinism? Can we reconstruct the mentality of the leaders of Massachusetts Bay during the early years of the colony? Our own mentality has changed so much since then, and the very spiritual and intellectual descendants of Calvin are so different, that it becomes indeed a difficult task. But let us try. For nearly four hundred years, from the pulpit in St. Peter's Church—the Church where Calvin preached—the preachers of Geneva have urged the sovereignty of God. All Christians recognize God as sovereign; but in Calvinism there was a peculiar emphasis on this idea. God was the ruler of the heavens and the earth; and as He has established order in the physical world, so He has created law for the world of the soul. Man lives, in this world and in the next, in the context of this law and under this sovereignty, against which his vaunted freedom means nothing save presumption. The contrast between God and man is overwhelming. By the Fall man is corrupted and depraved; and he is, ineluctably, a victim of sin. By himself nothing can be done to save him; his depravity is too great. Yet by the scheme of salvation or redemption it is possible that some may be saved not, however, by their own choice, but because God has chosen them for His elect.

God knows all and has so known from the beginning of time. But His choice or His election of some for salvation is not just a matter of foreknowledge; it is a matter of judgment and eternal destiny. Without being chosen, a man is damned, since without grace he cannot save himself. The most important fact in any man's life, therefore, is to find assurance

that God has chosen him for redemption. The Christian life of anyone might indeed be proof of God's election of his soul, yet no knowledge of man would be absolute proof of this great fact. No minister of God is able to say upon his authority whether anyone has been chosen for eternal happiness.[3]

Those who are elected to salvation constitute quite clearly a Christian aristocracy among men. Those who show the signs of God's favor in their life are set apart from those who are denied by Him the sanctification of their souls. Such a condition leads not only to distinctions between men in the church and in the hope of life, but also in the ordinary cares of living. The elect are in effect an aristocracy of the "holy commonwealth," whose position in relation to the Christian life justifies a larger control in the affairs of men. All men are equal in the Fall and in their corrupt and sinful nature; but men are not equal in the salvation of God.

Our concern in this discussion is the relation of such doctrines to the political world. Two problems are of particular importance. First, we must inquire as to the relation of church and state; and second, we must review the theory of the state that was expressed or was implicit in Calvinism. Like the Jesuits in their Counter-Reformation theory, Calvinists admitted that state and church are two societies, the church naturally being the higher and more perfect organization, since it was founded directly out of revelation and the will of God. Yet in Calvinism the church was more of a body of the elect than an institution, though the divine principle of organization was admitted in Reformation thought. The state was another and different society, with different organs, and with diverse functions to perform. The church was not composed of just anyone who might want to enter its membership; it was composed of those who were admitted by the elders and the ministry upon sufficient examination. On the other hand, the state was composed of the elect

[3] New England Puritanism modified the classical Calvinist statement of predestination. A reconciliation between the free will and responsibility of the individual, and predestination, was attempted through "covenant theology" or "federal theology." It has been said that Jonathan Edwards was the first authentic Calvinist in New England. The Puritan view held that God had voluntarily entered into a reasonable contract with man, so that the reason of a regenerate man may discover goodness and truth and attain salvation. Covenant theology minimized the force of predestination in New England thought.

However, in political tradition the Puritan leaders were closer to Geneva and to classical Calvinism. The effort to establish the "holy commonwealth" raised in New England the same problems it had raised in Geneva, Scotland, and England. It should be mentioned, likewise, that the reassessment of New England thought has very properly emphasized the wide range of intellectual interest, the concern with science, and the progressive attainment of truth to be found in seventeenth-century New England.

and the unelect; it included all persons living under its jurisdiction, though not all of them were to be allowed the right of participation. Geneva and her sisters were conservative and oligarchic cities.

One of the fundamental aspects of Calvinism was its emphasis on the Old Testament. While the Calvinists went to the New Testament for their ecclesiastical organization, they went to the Old for the statement of divine law—particularly the Decalogue—and for the principles of political organization that should be reflected in the state. The Old Testament became a book of law for every age and social condition, as well as a mentor to those who might construct forms of government. Later in New England John Cotton and John Eliot were to proclaim that the best form of polity was to be found in the political organization of the children of Israel. Likewise, those who would ground their liberties in a study of the already ancient common law of England were to be rebuked; for the law of God, to be found principally in the Decalogue, was sufficient for the needs of the children of sin. In this position on law and polity can be seen the application of what has been called Calvinistic determinism; for as there is an order in the heavens, so there is a predetermined order in the world of men. This political order, grounded in the will of God as sovereign of the universe, was not a democratic order that accepted the free will and the judgment of common citizens; it was not a democracy, for it was to the core an aristocracy of the elect.

Is the function of the civil rulers or the magistrates, then, to abide by the will of the majority? Not at all. The people, as sixteenth-century Calvinistic controversialists had shown, consisted primarily of their magistrates. The magistrate was burdened with the responsibility of making the great political choices, and it was the duty of the masses to follow. Yet the church and the state are separate institutions: separate in origin, separate in functions, and separate in officials. What can the magistrates have to do with the will of God as expressed in the church? The function of the magistrates is to watch over the conduct of sinful men who are citizens. They must repress those acts which are contrary to the law of God. But the most important aspect of any man's life is his salvation, his status in the world to come. Heresy, therefore, was regarded by Calvin and his theocratic followers as the greatest of crimes. It must be repressed with the same energy with which one suppresses and punishes murder. However, as the magistrates enforce the secular side of the law of God, so they must turn to His ministers for information on the interpretation of that law. The ministers must be called upon to counsel with the secular rulers, and they must be given the chance, through sermons and discourses, to inform the magistrates of their duty. Moreover, it was not inconsistent that the spiritual leaders should appear

before the temporal in the guise of prosecutors of those who were flouting the will of God. And to those who were guilty of violating the law of God, the greatest mercy was appropriate punishment for their sins.

In Book IV, Chapter XX of the *Institutes,* Calvin speaks as follows:

> But we shall have a fitter opportunity of speaking of the use of civil government. All we wish to be understood at present is, that it is perfect barbarism to think of exterminating it, its use among men being not less than that of bread and water, light and air, while its dignity is much more excellent. Its object is not merely, like those things, to enable men to breathe, eat, drink, and be warmed, (though it certainly includes all these, while it enables them to live together;) this, I say, is not its only object, but it is that no idolatry, no blasphemy against the name of God, no calumnies against the truth, nor other offences to religion, break out and be disseminated among the people; that the public quiet be not disturbed, that every man's property be kept secure, that men may carry on innocent commerce with each other, that honesty and modesty be cultivated; in short that a public form of religion may exist among Christians, and humanity among men. Let no one be surprised that I now attribute the task of constituting religion aright to human polity, though I seem above to have placed it beyond the will of man, since I no more than formerly allow men at pleasure to enact laws concerning religion and the worship of God, when I approve of civil order which is directed to this end, *viz.*, to prevent the true religion, which is contained in the law of God, from being with impunity openly violated and polluted by public blasphemy. But the reader, by the help of a perspicuous arrangement, will better understand what view is to be taken of the whole order of civil government, if we treat of each of its parts separately. Now these are three: The Magistrate, who is president and guardian of the laws; The Laws, according to which he governs; and The People, who are governed by the laws, and obey the magistrate.

Calvin then discusses the divine sanction given to magistrates, citing, among other verses of the Scriptures, the words of St. Paul in his Epistle to the Romans: "There is no power but of God; the powers that be are ordained of God. Rulers are ministers of God, revengers to execute wrath upon him that doeth evil. Do that which is good, and thou shalt have praise of the same." In Calvinism there was a sharp distinction between the first and the second table of the Law. The first table consisted of the first four commandments of the ten, and the second table of the last six. The first table established principles concerning the relation of men to God, and the second regulated relations between men. If the Scriptures did not teach that the office of the magistrate extends to both in tables of the law, insisted Calvin, we might learn it from heathen writers; for none of them has treated the office of magistrates, of legislation, and of civil government without beginning with religion and divine worship. Of the second table, Jeremiah, Moses, and David testify that

the function of the civil ruler is to provide justice and righteousness in worldly affairs.

It was admitted that we should obey God rather than men, but the emphasis of early Calvinism was upon the Christian duty of obedience to the magistrate. There was no toying in the thought of the Calvinists that moral right might come from a judgment of the mere numerical majority of the people. There is no recognition of that force which today is considered so great, the effect of public opinion on government—unless, indeed, that opinion supports the already recognized truth that God has given in the Bible. Correspondingly, there is no inclination to tolerate those whose opinions are wrong. Calvin himself sanctioned the principle of the execution of heretics in the case of Servetus; and his follower, Beza, wrote a treatise to support the principle of the temporal punishment of those whose doctrines stank in the nostrils of the Lord.

As Calvinism spread, it was to change its tone. The Huguenot minority in France was pressed to the wall, and by the end of the third quarter of the sixteenth century, especially after St. Bartholomew's night, they were ready to resist the authority of the government; in Scotland such men as John Knox supported rebellion against Catholic political superiors; and in England the Presbyterians, finally under Cromwell, were to execute the second of the Stuart kings, Charles I. Calvinism when in a minority position was rebellious; but when in power it made no reservations about suppressing those who were wrong. In the end their position, although today it is unfamiliar on religious questions, is on other questions not unlike many modern American points of view. It is a characteristically human position; it is as old as the history of social struggle. The force of Calvinism, however, was weakened because of division within the ranks. Any movement that comes to power finds it necessary to close its ranks against those whose concept of the exercise of power diverges from those in control. In England there were, aside from the oppressed Catholics, those who supported the Church of England; there were those who wished to introduce Presbyterianism into that Church; and there were those whose Presbyterianism could brook no compromise with the Elizabethan religious settlement. There were the radicals of the Presbyterian movement—the Independents and the Separatists, such as the Pilgrims who landed at Plymouth. For the most part, the more aristocratic the Calvinist was, the more ready he was to establish a strong national system; the more humble in origin, the more ready he was to break with such a principle. In the seventeenth century in England, at the extreme "left" there were men who believed not only in religious freedom, but also in economic equality. The Levellers and the Diggers were quickly

suppressed, but their names linger on in the centuries-old discussion of the economic and social misery of the human race.

Roger Williams: Symbol of the Time. The Calvinists who came to New England were no more democratic than the aristocrats of Geneva. They wanted freedom to worship God in truth and fidelity, but they had no desire to tolerate error, such as the doctrines of the Anabaptists, the Jews, or the Quakers. They had no desire to let the control of the government in Massachusetts fall into the hands of irresponsible and erratic men. Suffrage was vested in church members; and while all were compelled to attend the services, they were not by that token entitled to become members of the church in the full, political sense of the word. Although a representative system was established in the colony in 1634 (each town having the right to send delegates to the General Court), it was true for sixty years that all but church members were excluded from the suffrage. Because of the principle of covenant and compact—*e.g.*, the Mayflower Compact—and because of emphasis on local government, a democratic basis of society was in the making and ready to flower when the Calvinist theocrats were driven from the seats of power. Doctrinally, however, democracy owes little or nothing to classical Calvinism. Democracy was simply a stronger force than the doctrines of John Calvin; and in their struggles as a minority his followers unleashed forces, the power of which they had no conception. Those who founded colonies in Connecticut expanded the recognition given democratic ideas; but it was the founder of Rhode Island, Roger Williams (1603–1682), who deserves to be mentioned as a pioneer of much that today is typically American. We can understand him, even though the gnarled sentences cloud his thought, while in John Cotton, the great champion of New England theocracy, the same manner of expression leaves many today quite chilled to the marrow.

Indeed, we must conclude that the stern Puritans are important today in part because of the rebels they produced. They are important because their descendants have differed from them profoundly. By the end of the century, the charter of Massachusetts was revoked, and the British government had instituted a property qualification for voting that can only be regarded today as a step in the direction of modernity. It would be well to tarry over the ideas of Thomas Hooker in the Connecticut Valley and of John Wise at Ipswich; but our focus must turn to Roger Williams, a sturdy individualist and stormy pamphleteer of the seventeenth century in his battle with John Cotton, who labored in his way in the vineyard of the Lord.

Roger Williams arrived in Boston in February, 1631, and he soon became a teacher and preacher in the church at Salem. By the positions

he took, he was soon out of touch with the Boston authorities, and he shifted to Plymouth for a short period. In 1633, we find him again in Salem, asserting his disturbing doctrines: namely, that the civil state had no jurisdiction over the first table of the Law, that the King's patent conveyed no just title to the land owned by the Indians, and that the magistrate should not give an oath to an unregenerate person, the oath being a part of religious worship. Finally, in 1635, he was brought to trial before the Massachusetts General Court for his opinions. He refused to make any defense, merely reaffirming his principles, though in Separatism the principle of toleration of free churches was implied. In October of that year, Williams not having recanted, formal sentence of banishment was passed upon him; but owing to the approach of winter, he was permitted to stay in the colony on condition that he make no effort to get converts to his belief. It can be seen that one of the disturbing aspects of Williams's ideas was his attack on the authority of the British government in relation to the colony, though even more disturbing was his attack on the Massachusetts oligarchy. Until the charter was forfeited and a royal governor presided over the government of Massachusetts, every effort was made to avoid an open break with the crown.

However, Williams preferred to talk and in the early days of 1636 he barely escaped being forcibly deported to England. He fled from the jurisdiction of the Massachusetts authorities and in June, 1636, founded the first Rhode Island settlement. In 1639 he joined the Baptists, was baptized by immersion, and founded the first Baptist church in America. Yet he remained in this church for only a few months, having been struck with doubts about the validity of all baptism. Basically, Williams was a Seeker in religious view; he sought the "truth" throughout his life. That very uncertainty of point of view certainly was one of the reasons for his willingness to tolerate those who differed with him on theological questions. He succeeded in getting a charter for the settlements he had established, although he bought the land occupied by them from the Indians, and he was governor of the colony for several years.

Religious Toleration. Some time after the formation of the Rhode Island colony a letter written by Master John Cotton justifying the banishment of Williams fell into the hands of the Rhode Island leader. Then began the controversy between Williams and Cotton, an examination of which gives the keynote of the political theory of the time. In 1644 Williams wrote *The Bloudy Tenent of Persecution for Cause of Conscience;* Cotton replied in 1647 with *The Bloudy Tenent Washed and made White in the Bloud of the Lambe;* not to be outdone by the great theological champion of New England, Williams retorted in 1652 with *The Bloudy Tenent yet more Bloudy.* The discussion of the nature of the

church and the state and the extent of the civil power over religious matters in these writings brings out most significant points. The first of Williams's works was written in England, where he had been in contact with Cromwell, Milton, Locke, and many other liberals of the Puritan movement.

It is a point of serious controversy in the analysis of Williams's writing, whether he desired to examine directly the nature of the state or whether discussion of the nature of the state is incidental to the major insistence on the right of religious freedom and the principle of political toleration of sectarian differences. Whatever the intention of the author, we find Williams reaching a purely secular conception of political authority, basing it on the principle of consent and the compact or covenant so important in the Puritan organization of the church. As a part of the secular conception of the state, Williams urged the idea of toleration, since the state by its nature had no control over the formation of churches. The remarkable feature of Williams's argument for toleration is the judicious combination of principle and expediency. He argued not only that true Christianity, based on the words of the Scriptures, forbade the persecution of men for cause of conscience, but also that the actual history of persecution for such cause had produced no good. Williams made respectable for all time the left-wing position of the Puritan revolution in England, and he introduced into American thought not only toleration but an effective application of the idea of the separation of church and state. We have seen, on the contrary, how the Calvinist acceptance of the separation of church and state led in fact to a close cooperation, if not an overlapping, of the two institutions.

Williams was not, however, the first to argue that toleration of difference in religious opinion is part of the genius of Christianity.[4] A young Frenchman, Sebastian Castellion, a century before had fallen into argument with Calvin over certain points and was banished from Geneva. Calvin pursued him unrelentingly; but Castellion defended himself by trying to show that the true Christian used persuasion and not force in supporting his faith, and that, further, the whole spirit of the Reformation stood for freedom of the Christian man. Here is an argument on principle and not on expediency. Expediency was urged during the sixteenth century in France by the *politiques* who believed that loyal Frenchmen should rally round the king and act like gentlemen when their religious differences were concerned. In England in the following century, Milton had insisted that freedom of the press and discussion led to truth. But

[4] It must be remembered also that the smaller Independent or Separatist religious movements stood, in fact, for religious freedom.

it was given to Roger Williams to show persuasively for us that the true Christian may be a tolerant man. Even if Williams, seeking the advice of Governor Winthrop of Massachusetts, was led to deny freedom to some in Rhode Island, his stand was far more modern than that of most of his contemporaries.

Let us turn, therefore, to some of the points of *The Bloudy Tenent.* What is the nature of the church in relation to the state? In the most quoted of all the passages written by Williams, he declares in Chapter VI (with modernization of spelling):

> The church or company of worshippers (whether true or false) is like unto a body or college of physicians in a city; like unto a corporation, society, or company of East India or Turkey merchants, or any other society or company in London: which companies may hold their courts, keep their records, hold disputations; and in matters concerning their society, may dissent, divide, break into schisms and factions, sue and implead each other at the law, yea, wholly break up and dissolve into pieces and nothing, and yet the peace of the city not be in the least measure impaired or disturbed; because the essence or being of the city, and so the well-being and peace thereof is essentially distinct from those particular societies; the city courts, city laws, city punishments distinct from theirs. The city was before them, and stands absolute and entire, when such a corporation or society is taken down. For instance, further, the city or civil state of Ephesus was essentially distinct from the worship of Diana in the city, or of the whole city. Again, the Church of Christ in Ephesus (which were God's people, converted and called out from the worship of that city unto Christianity or worship of God in Christ) was distinct from both.
>
> Now suppose that God remove the candlestick from Ephesus, yea, though the whole worship of the city of Ephesus should be altered; yet (if men be true and honestly ingenuous to city-covenants, combinations and principles) all this might be without the least impeachment or infringement of the peace of the city of Ephesus.
>
> Thus in the city of Smirna was the city itself or civil estate one thing, the spiritual or religious state of Smirna, another; the Church of Christ in Smirna, distinct from them both; and the synagogue of the Jews, whether literally Jews (as some think) or mystically false Christians, (as others) called the Synagogue of Satan, Rev. 2, distinct from all these. And notwithstanding these spiritual oppositions in point of worship and religion, yet hear we not the least noise (nor need we, if men but keep the bond of civility) of any civil breach, or breach of civil peace amongst them: and to persecute God's people there for religion, that only was a breach of civility itself.[5]

Jesus Christ, the prince of peace, said Williams, took no relish in the blood of the thousands of souls of Protestants and papists shed because of religious wars. These very souls cry for vengeance against those who

[5] *Publications of the Narragansett Club* (1867), Vol. III, pp. 73–74.

sent them to their death in the name of religion. Williams undertook to prove, further, that God does not require uniformity of religion to be enacted and enforced in any state. Such a uniformity sooner or later is the cause of civil war, "ravishing of conscience, persecution of Christ Jesus in his servants, and of the hypocrisy and destruction of millions of souls." Reject the heretic, and avoid them that are contentious; but God has not appointed the civil sword as the remedy for the sores of His body and His church. The civil magistrate has charge of the bodies and goods of the subject, and the spiritual officers, overseers, and governors of Christ's kingdom have charge of the safety of souls. Rebuke those who are in error, that others may learn to fear, as Saint Paul urged Timothy; and thus the Church of Christ has a spiritual means of healing the soul that has sinned, or that is infected and is infecting others.

Driven hard by these arguments based on history and Scripture, John Cotton agreed that the church was distinct from the state; but he insisted that the church was the chief society in the state and that the purity of the church would insure purity in the state. In direct contradiction of Williams's argument, he urged that the church could not be destroyed without serious danger to the body politic. The true church being once introduced into the state, it was the duty of the state to protect it from impure influences. God's institutions, such as the government of the church and the commonwealth, may be close and compact and yet not confounded. God has given directions in His Word as to the frame of the government of the church—directions which are compatible with any commonwealth; even so, when a commonwealth has the liberty to create its own government, there are in the Scriptures principles for the right ordering of the same. It is better that the commonwealth be fashioned to exalt His church than to frame the church government to the interests of the state. Indeed, upon the request of the General Court of Massachusetts, Cotton had attempted to draw up a code of laws suitable to the colony. In this effort he advised theocracy—that is, God's government—as the best form of government where the people that choose civil rulers are God's people, in covenant with Him.

In common with the thought of his day, Cotton favored similar principles in both the government of state and church. If the church is an aristocracy of the elect, the state must likewise be an aristocracy of those most fitted to govern. The three estates of the commonwealth—the ministers, the magistrates, and the people—must be blended in a common liberty founded on the defense of the truth God has revealed. Cotton could not, therefore, accept Williams's proposition that the activity of the state should be limited to the second table of the Law, or the last

six of the Ten Commandments. Scandalous offense against parents (urged Williams), against magistrates in the fifth command, and so against the life, chastity, goods, or good name of the rest, is properly transgression against the civil state and common weal, or the worldly state of men. Cotton replied to these arguments that it was a carnal and worldly and, indeed, ungodly imagination, to confine the magistrates' charge to the bodies and goods of the subjects and to exclude them from the care of their souls. He insisted that the duty of the magistrates included the maintenance of the purity of the church and of individuals in the state. Implied in this position is the contention that laws concerning religion are part of the civil laws of political society, for whatsoever concerned the good of the city is a civil law. Religion is the highest good of the city, and therefore laws about religion are civil laws.

For these contentions Cotton needed Scriptural authority; and not finding a direct passage, he resorted to the theological method so repugnant to him in the churches of England and Rome—that of indirect or implied proof of Christian practice and morals. Not finding what he wanted in the New Testament, he showed that there was no authority in the New Testament for the punishment even of adultery and murder, and that it must be assumed that such a rule could be found elsewhere in the revealed Word. Following the Puritan method of taking such of the Old Testament as fitted in with his ideas, he declared that the laws of Moses were universal in their effect, and that what the Kings inflicted as punishment supplied models for Christian practice. Cotton thus found abundant sanction for what he was trying to prove; and it could be argued logically from these premises that offenses against both tables should be punished by the magistrates, as well as offenses arising from erroneous doctrine. In short, he contended that the state should be responsible for the observance of church law and ceremony, just as if they were its own enactment, and that the force used to maintain the one might be used to sustain the other. Legal terrors, urged Cotton, are ordinary means blessed of God to prepare hard and stout hearts to conversion.

Yet Cotton would not admit, any more than King James I in England, that he sanctioned the persecution of anyone for cause of conscience. As of old, Cotton felt that only the conscience not in error has a right to consideration. A rightly informed man who really follows his conscience will not be in error. The rightly informed conscience should be allowed to worship without disturbance, especially from those whose consciences are misinformed. On the other hand, if a conscience is rightly informed and yet persists in false belief and erroneous practice, it is the true conscience that is being sinned against, because of the operation of the evil spirit in such a person. Such persons should be punished because they

refuse really to follow their conscience; and punishment cannot be considered persecution, for Master Cotton said that to persecute is to punish an innocent, but a heretic is a culpable and damnable person.

Roger Williams's Political Practice. The pattern of argument involved in the controversy between Williams and Cotton is old, and still lives within other substance. To place the conscience in the cosmic order and to define its rights is still a matter of concern to those who deal with men with the hand of authority. Likewise, it is always easy to show the limits on toleration placed there by an advocate of freedom. No theory of freedom or toleration is, indeed, any better than the exceptions to it; the most important factor in any theory of toleration is what it is not, not what it is.

The glory of Roger Williams may be attacked in several ways. It can be urged, first, that his argument for toleration was an afterthought, originating years after his banishment. In the second place, it can be argued that, as governor of Rhode Island, Williams's political practice suggested disturbing limitations on his theory of freedom. In 1874 there was some effort made in Massachusetts to secure the repeal of the edict of banishment against Williams; but it was not until three hundred years after his banishment that this repeal took place. Strange to say, there were a few defenders of the edict—or, to put it another way, there were defenders of the old Puritan tradition and the fair name of the home of American theocracy.

It was pointed out that expediency was the primary motive in banishing Williams, who was a cantankerous and irresponsible agitator against the British government; that Williams was not charged at the time with maintaining freedom of conscience; and that on the whole he was really an undesirable citizen of the Massachusetts Plantations. The attitude of Williams on the question of land patents from the King, on which he maintained that the Indians were the only ones who could give just title to the land by sale, was particularly dangerous, because there was a move in the Privy Council to bring the New England colonies under more direct control, which would have meant the overthrow of the theocratic Puritan organization. Enemies in England were seeking to undo what Winthrop was accomplishing in New England. The result of Williams's agitation might have been to bring Massachusetts under Episcopal control. In fact, the Puritan leaders had discussed the question of armed resistance to the forces of the King, should they seek to change the general tone of the church and government in the colony. The issue, it can be said, was fairly joined: either the Governor and Company of Massachusetts must abdicate in favor of this young Salem pastor, or he must abandon his public position or take himself out of the colony.

Related to this argument is another. It can be contended, plausibly, that Williams did not think of the question of freedom of conscience until after he had failed to convert the Puritans to his point of view. Much of Williams's early argument, theological or otherwise, does not have the ring of true toleration about it. In his early condemnation of his enemies, he demanded that no communication be held with the Church of England, and that if any of his church members had heard a minister who conformed to that church without declaring his repentance of it, he should be excommunicated; that no communion was to be held with an unregenerate person; and that good Christians should not say a blessing before an unconverted relation. Moreover, he had refused to join the church of Boston because it had failed to express open repentance for ever having had communion with the Church of England—an act which would have been politically inexpedient, to say the least.

During the time Williams was governor of Rhode Island, he often called on Governor Winthrop for advice. From the letters written during this time, it is apparent that Williams and other leaders attempted to refuse admission to the colony to certain persons whom he thought undesirable. One Master Gorton was refused admission because of his "unclean and foule censure of all the ministers of this country." In addition, Williams assumed the right to disfranchise certain persons. One in particular was a man who had refused to hear the Word with them for about a year and had sought to take his wife into ungodliness with him. On one occasion he sought the advice of Governor Winthrop concerning a person who had, openly in meeting of the citizens, dared to hope for a better government than they had at the time in Rhode Island. Williams deplored this attitude, calling it "the rasing of the fundamental liberties of the country which ought to be dearer to us than our own eyes."

Or let us consider the case of one Harris, who by his writings and utterances had become the leader of a small group of Rhode Islanders—Baptist pacifists, who felt that since all were equal in Christ, the authority of one man over another was evil, and that there was no right to compel obedience, especially to compulsory service in the militia. Cotton and others in Massachusetts contended this antinomian development was the logical outcome of Williams's theory. Williams wrote in reply to Harris (but he first had him arrested and bound over to keep the peace):

> That ever I should speak or write a tittle, that tends to such an infinite liberty of conscience is a mistake, and which I have ever disclaimed and abhorred. To prevent such mistakes, I shall at present only propose this case: There goes many a ship to sea, with many hundred souls in one ship, whose weal or woe is common, and is a true picture of a commonwealth. . . . It has fallen out sometimes, that both papists and protestants, both Jews and Turks, may be embarked into one

ship; upon which supposal, I affirm . . . that none of the papists, protestants, Jews, or Turks, be forced to come to the ship's prayers or worships, nor compelled from their own particular prayers and worship, if they practice any. I further add that I never denied, that notwithstanding this liberty, the commander of this ship ought to command the ship's course, yea, and also command that justice, peace and sobriety be kept and practiced, both among the seamen and all the passengers. . . . If any shall mutiny and rise up against their commanders and officers; if any should preach or write that there should be no commanders or officers, because all are equal in Christ . . . I say, I never denied but in such cases . . . the commander . . . may judge, resist, compel and punish such transgressors, according to their deserts and merits.[6]

John Cotton's conception of the state was a continuation of European Calvinistic experience. But both Cotton and Williams were taking part in the controversies which were to lead to the English Revolution. Religion was the primary focus of their thought. Yet it can hardly be denied that Williams stated with some clarity the modern conception of the separation of church and state. He provided in part the groundwork of the later liberals who were to establish the American principle of workable religious toleration. Here is a lasting contribution, while the society Cotton was defending was to pass more quickly than he knew. New England theocratic thought was to bow before the rising secular and commercial British Empire. The rulers of that Empire disliked democracy no less than did the exponents of Calvinism, but the British solution was to vest political control in the hands of those who had property.[7]

Later Puritan Thought: John Wise. The growing power of the democratic principle in American life can be illustrated from the work of John Wise (1652–1725), pastor in the town of Ipswich, who represents Puritan thought at the beginning of the eighteenth century. Wise was a leader in protests against British policy, and he was imprisoned for a time by Governor Andros; he was one of the ministers who protested against the witchcraft trials of the sixteen-nineties, and his mind was receptive to new

[6] *Publications of the Narragansett Club* (1874), Vol. VI, pp. 278–279. The practical politics of toleration in Rhode Island is shown by the fact that under Williams's leadership the colony admitted Jews and accorded them full civil liberty. As the Quakers were punished, even by execution, in Massachusetts, they were given full freedom in Rhode Island. Baptists, likewise, who had urged religious liberty in England, were to find it in full measure in Williams's colony.

[7] See H. M. Dexter, *As to Roger Williams and His Banishment from the Massachusetts Plantation* (1876); *Collections of the Rhode Island Historical Society* (1827–), Vol. I; *Publications of the Narragansett Club* (1866–1874), Vols. I–VI; J. E. Ernst, *The Political Theory of Roger Williams* (1929); *Roger Williams: New England Firebrand* (1932); Herbert L. Osgood, *The American Colonies in the Seventeenth Century* (3 vols., 1904–1907); Charles M. Andrews, *The Colonial Period of American History* (4 vols., 1935–1938).

ideas. Moreover, the basis of his thought in politics was partially continental, as he used the work of Pufendorf to support his democratic, contract theory of both state and church. Emphasizing the concept of natural law, he asserted the right of men to form societies suited to the temper and inclinations of the people. There is no particular form of civil government described in God's Word; neither does nature establish any. The government of the Jews, for example, was changed five times. Civil government is not formed by nature; it is established by men. And of the forms of government, democracy, in which the right of determining all matters relating to the public safety is placed in a general assembly of the whole people, seems most in accordance with the rights of men under the law of nature.

These ideas of *A Vindication of the Government of the New England Churches* (1717) were directed against a proposal to abolish the independence of the churches and place control in the clergy. If Christ has settled any form of power in His church, He has done it for the safety of the church and for the benefit of every member. Christ must be presumed to favor that government which would least expose the members to the fraud or arbitrary measures of particular men. "And it is plain as light, there is no Species of Government like a Democracy to attain this end." The early eighteenth-century defense of democracy in both state and church was to be increasingly significant as the conflict between the colonies and the mother country moved on toward the Revolution.

The Thought of William Penn. The intellectual and cultural sterility of the frontier has been frequently illustrated in the movement of Western men to the outposts of their society. The American colonial period cannot be considered an exception to this general proposition, any more than can the later frontier in the history of the United States as an independent country. New England congregationalism was a reflection, in its earlier years, of the political struggles of Calvinism in the Old World; and the ideas of other colonies must be grouped in much the same way. But certain individuals brought to the New World ideas that savored of the future, and these ideas became, in the course of generations of colonial life, a part of the heritage of those who today are Americans. If we turn from New England, we can see in the principles of two sons of Pennsylvania, William Penn and Benjamin Franklin, some of the conceptions of political society that later were to be part of the American point of view. This statement is true when we remember that much of our articulate political theory up to the period of the framing of the Constitution was a protest against standards and methods of control embodied in the British Constitution. Theories of protest are, for the most part, liberal in character; though liberalism in power—as in the period after the Revo-

lution—tends to construct the pattern of authority in much the same manner as other principles of government.

As the New England theocracy was dying in its struggle with the British government of the Restoration period, William Penn was a wealthy young Quaker (Society of Friends) who was finding his way both toward a philosophy of life and to a position of eminence in English official circles. He lived from 1644 to 1718, a period exciting enough in the development of the political system of his homeland. Penn's character has been simplified by the legend makers. It is true that he was a friendly and tolerant man up to a certain point, but he was also a courtier; he was no enemy of the monarchy. He was a wealthy man who believed in the rights of property and that those who occupied the lower rungs of the ladder should keep their place. William was the son of Sir William Penn, a distinguished English admiral. For his education he went to Oxford, where he showed strong religious impulses, and he was finally expelled because of his nonconformity. Upon leaving the university he traveled on the continent, served in the navy, and studied law. In 1667 he became a Quaker, and soon found himself imprisoned for his attacks on the orthodox religious system. Penn was beginning the amazing and prolific literary career that he was to combine with a life of political and administrative activity. After suffering other periods of imprisonment, he turned his attention to America as a place of refuge for the Friends. It happened that Charles II was heavily indebted to Penn, and the latter obtained payment in the form of a land grant in the New World. Penn was made the true and absolute lord of his domain, with a wide range of governmental authority, subject to the advice and consent of his freemen. In 1682 his charter made him the proprietor of East New Jersey and Pennsylvania; and after drawing up a constitution for the colony based on religious toleration, he sailed for his new province.

As a good businessman, Penn advertised his colony; and immigration from Germany, Holland, Scandinavia, and Great Britain rapidly increased the population already there when Penn took over his territory. After two years Penn returned to England, finding happiness in neither the New nor the Old World. During the Revolution of 1688 he was treated as a Jacobite, though he finally obtained the good graces of William III and was able to resume his preaching and writing. In 1699 he again came to America with the intention of remaining, but after another period of two years he returned to England to oppose the proposal to convert his province into a crown colony. He remained in England until his death in 1718.

Penn sought to establish a land of large proprietors, but circumstances prevented the wealthy landholders from getting a foothold in the colony.

Instead, the small farmers and yeomen seeking homes came to make up the bulk of the population. Throughout the colonial period there was trouble between the proprietor and his sons on the one hand, and the colonists on the other. Penn was accused of trying to make too large a profit out of the venture, and the collection of rents proved to be a continually embarrassing problem. Under Penn's scheme of government, toleration was granted to all who professed one almighty and eternal God and who were willing to live together in civil society. Freeholders and taxpayers professing faith in Jesus Christ were given the right to vote for members of the popular assembly; however, it appears that neither Catholics nor Jews enjoyed freedom of religious worship in the early years of the colony. Likewise, sumptuary legislation directed against the theater, revelry, cards, dice, and other forms of amusement was passed. Disaffection in the colony continued to grow and finally gained the upper hand. In 1764 Benjamin Franklin was sent to England to ask for the abolition of the proprietary system and the substitution of royal authority.

In Penn's thinking are to be found the axiomatic ideas of seventeenth-century English conservative and monarchical thought. He accepted a state of nature before the rise of civil society; and government itself was based upon the consent of the governed. Yet the cause of the primeval unhappiness of man was sin, and the innocence of man was lost by "lust prevailing against duty." Human nature so depraved required the compulsion of civil society to impose the proper moral obligations upon men. It is probable that the liberal and democratic tendencies of Penn's instruments of government for New Jersey and for Pennsylvania arose from the struggles of his sect to escape from religious persecution; for when he found himself in the position of landed proprietor and in some respects a feudal lord, he displayed the characteristic conservatism of those who are defending vested interests. At home he struggled for liberty under the law; but when he faced the rebellious voices of his settlers, he called their beliefs a claim to license and not to liberty. When Penn examined the rights of servants, he insisted vigorously on the rights to property vested in the master, and he took measures to secure the return of runaway indentured servants. As the owner of slaves, he said once in a letter: "I think it an ill consequence to plead conscience against the security of property, and such are servants. . . ." Nor did Penn seek to extend to the Catholics of England the toleration that he asked for the Quakers; he was a believer in toleration for Protestants.

In some of his essays Penn preached the principle of nonresistance to evil, and as a Quaker he was opposed to war. In 1693 appeared his fa-

mous *An Essay towards the Present and Future Peace of Europe,*[8] in which he proposed the creation of an imperial diet, parliament, or congress of states for the purpose of preventing war. Penn was thoroughly conscious of the disastrous social effects of war, and in the establishment of the government of Pennsylvania he made no provision for the military defense of the colony. He insisted always that Quaker scruples against service in the militia should be respected. One of the basic criticisms of Penn as a proprietor was that he did not undertake his share of military action to defend the colonies against the dangers of Indian attack. Yet on occasion he seemed to admit that some wars might be just, and he approved of the exercise of force by a lawfully constituted government. His plan for a union of the colonies certainly admitted the eventuality of a defensive war.

For a statement of the Quaker philosophy of government as expressed by William Penn we may turn to certain passages of *Some Fruits of Solitude,* in which in a Biblical style many of his basic ideas of government are presented. In verses 329 and following we may read:

Government has many Shapes: but it is Sovereignty, tho' not Freedom, in all of them. *Rex & Tyrannus* are very different Characters: One Rules his People by Laws, to which they consent; the other by his absolute Will and Power. That is call'd Freedom, This Tyranny. The first is endanger'd by the Ambition of the Popular, which shakes the Constitution: The other by an ill Administration, which hazards the Tyrant and his Family. It is great Wisdom in Princes of both sorts, not to strain points too high with their People: For whether the People have a Right to oppose them or not, they are ever sure to attempt it, when things are carried too far; though the Remedy oftentimes proves worse than the disease. Happy that King who is great by Justice, and that People who are free by Obedience. Where the Ruler is Just, he may be strict; else it is two to one it turns upon him: And tho' he should prevail, he can be no Gainer, where his People are the Losers.

Prince must not have Passions in Government, nor Resent beyond Interest and Religion. Where Example keeps pace with Authority, Power hardly fails to be obey'd, and Magistrates to be honor'd. Let the People think they Govern and they will be Govern'd. This cannot fail, if Those they Trust, are Trusted. That Prince that is Just to them in great things, and Humors them sometimes in small ones, is sure to have and keep them from all the World. For the People is the Politick Wife of the Prince, that may be better managed by Wisdom, than ruled by Force. But where the Magistrate is partial and serves ill turns, he loses his Authority with the People; and gives the Populace opportunity to gratifie their Ambition: And to lay a Stumbling-block for his People to fall. It is true, that where a Subject is more popular than the Prince, the Prince is in danger; but it

[8] *The Peace of Europe: The Fruits of Solitude and other Writings by William Penn* (Everyman's Library). See *Harvard Classics,* Vol. I.

is as true, that it is his own Fault: For no Body has the like Means, Interest or Reason, to be popular as He.

The End of every thing should direct the Means: Now that of Government being the Good of the whole, nothing less should be the Aim of the Prince. As often as Rulers endeavor to attain just Ends by just Mediums, they are sure of a quiet and easy Government; and as sure of Convulsions, where the Nature of things are violated, and their Order overrul'd. It is certain, Princes ought to have great Allowances made them for Faults in Government; since they see by other People's Eyes, and hear by their Ears. But Ministers of State, their immediate Confidents and Instruments, have much to answer for, if to gratifie private Passions, they misguide the Prince to do publick Injury. Ministers of State should undertake their Posts at their Peril. If Princes overrule them, let them shew the Law, and humbly resign: If Fear, Gain or Flattery prevail, let them answer it to the Law. The Prince cannot be preserv'd, but where the Minister is punishable: For People, as well as Princes, will not endure *Imperium in Imperio*. If Ministers are weak or ill Men, and so spoil their Places, it is the Prince's Fault that chose them: But if their Places spoil them, it is their own Fault to be made worse by them. It is but just that those who reign by their Princes, should suffer for their Princes: For it is a safe and necessary Maxim, not to shift Heads in Government, while the Hands are in being that should answer for them. And yet it were intolerable to be a Minister of State, if every Body may be Accuser and Judge. Let, therefore, the false Accuser no more escape an exemplary Punishment, than the Guilty Minister. For it profanes Government to have the Credit of the leading Men in it, subject to vulgar Censure; which is often ill grounded.

The Safety of a Prince, therefore, consists in a well-chosen Council: and that only can be said to be so, where the Persons that compose it are qualified for the Business that comes before them. Who would send to a Taylor to make a Lock, or to a Smith to make a Suit of Cloaths? Let there be Merchants for Trade, Seamen for the Admiralty, Travellers for Foreign Affairs, some of the Leading Men of the Country for Home-Business, and Common and Civil Lawyers to advise of Legality and Right: Who should always keep to the strict Rules of Law.

Benjamin Franklin. William Penn was a soul in conflict, since as a Quaker he sided with the weak and the humble, while as a Carolinian gentleman he was a courtier and a supporter of the authority of the ruling house. As a controversialist in most of his writings, we cannot expect a logical and consistent development of his social thought; but such a situation would also arise from the fact that the liberalism of the seventeenth century was not too clear in its own assumptions. But late in the eighteenth century, when the new American nation was groping toward its defense against the policies of the British government, the intellectual atmosphere of the Western world had changed. The last half of the eighteenth century was one of those creative periods in social thought

when the ideas of the next hundred years were taking shape, and when the apparatus of protest was largely an absorption of principles that most men were talking about. Benjamin Franklin was not only a colonial; he was a figure that illustrates admirably the transition in political ideas from the colonial period to that of the American Revolution.

In many ways we are children of the eighteenth century. It was in that century that we gained our national independence, constructed our governments—state and national—and accepted a body of political axioms that have not yet been seriously questioned by Americans, whether democrats or aristocrats. Provincial America during the latter decades of this century participated in the intellectual movements of the continent; and those who were alert—whether in New England or in the middle and southern colonies—knew of the developments in science and mathematics, in the practical arts, and in the fields of social inquiry, being broadened so assiduously by Frenchmen and Englishmen. Calvinism was in retreat, and the militant Protestantism of the early nineteenth century that was to become a part of our national heritage had not yet been molded in the fires of evangelism and conversion. It was the age of deism: the belief that God, the Author of the universe, had for its movements laws that men might learn but not ignore. It was a time of philosophical inquiry; and the liberals, blinded by the white light of scientific thought, believed that men might improve their societies until they could live happy lives. It was the time of the birth of the principle of progress: the conception that society is moving on, under human pressure, toward a better time for the new generation. It was the time of belief in education, and of the founding of colleges in which scientific or secular education was evading the controls of theology. As the study of the classics declined in importance, inquiry in the practical arts of human improvement was being inserted in the newly shaping curricula. There were some thinkers in provincial America, among them Franklin, who knew and corresponded with the scientific luminaries of the older world. An elite was constituted that was to be powerful in the shaping of our emergent institutions.

For the student of politics we must emphasize the development of what today we would call "social science" in the eighteenth century. Preeminent in the social inquiry of this period were the problems of economics. The mercantilist system had produced its dialectical reaction: the French physiocrats and the economists of England, notably Adam Smith, were leading the way to new conceptions of the economic process. While mercantilism associated the state intimately with the direction of economic affairs, the new thought was seeking laws in economics which, if left to their own devices, would work out for the best interests—the identity and

harmony of interests—of all members of society. Labor was being accepted as the source of value, and the problems of money were being explored, so that the outlines of later conflicts over "hard" and paper money can be seen. Godwin and his like were proclaiming the perfectibility of humankind in England, while Condorcet and others in France were dreaming of the perfectibility of the race. Malthus late in the century issued his challenge to such optimism, urging that unlimited progress is impossible because of the pressure of population on the food supply. Likewise the conflict raged over the merits of commerce and agriculture, over the virtues of city populations against those of the countryside. If thinkers were insisting that government should withdraw from the field of economic control, they were also inquiring into the nature of liberty, following the suggestions of Montesquieu and the later French liberals. Conservatives and liberals were discovering the groundwork of their faith in the new bourgeois society that was to come into being as the result of the American and French Revolutions. The creed of political and economic liberalism was taking form, and the battle between those who trusted the masses and those who did not was to move on to another stage in the development of modern thought.

It was in the midst of the mild political climate of Pennsylvania that the mind of Benjamin Franklin took shape. He was one of our first liberal social thinkers, in the modern sense of the word. His liberalism was based upon the social and scientific ideas of his time; he was a democrat and one who consistently labored with the popular cause, and his confidence in the masses of men did not waver. His democracy was based on unrestricted manhood suffrage, annual elections, and the unicameral legislature, which was tried in Pennsylvania for a time after the Revolution. He believed in free trade; and he felt that the businessman could be a statesman better than the corrupt jobbers of the British government whom he observed during his work in England for the colonies. He was interested in new scientific thought, and he was in his own right a man of science, known in all philosophical circles. He encouraged the discussion by ordinary people of practical problems in the improvement in government. Under his leadership the American Philosophical Society began, in 1769, its long and remarkable career. He was interested in the foundation of educational enterprises, as well as in the union of the colonies among themselves and as partners in the British Empire. It would be better so than to have independence—though he came to believe in independence, in part because of his lack of confidence in the rulers of Britain. Wherever intelligence touched the problems of the day, Benjamin Franklin was there to watch the experiment. But if we

seek the historical significance of a man like Franklin, it is perhaps to be found in the fact that he understood, if vaguely, the rise of the new type of economic and social structure that we call modern. He was a prophet of the middle classes, and his writings are among the great documents in the history of social individualism.

Franklin was born in Boston in 1706, the youngest of his father's seventeen children. His father was a chandler, and Benjamin knew both the dignity and the humility of his origin. His schooling ended at the age of ten and he was apprenticed to his brother James, a printer, who published the *New England Courant.* After quarreling with his brother, Benjamin ran away to New York; and then he went on to Philadelphia, where he arrived in 1723. He worked as a printer both in Philadelphia and in London, returning from London to enter into business in Philadelphia. He established his own printing house and published *The Pennsylvania Gazette,* in which his interest in local reform was frequently expressed. In 1732 he began the publication of *Poor Richard's Almanack,* and continued writing for it until 1758. In his early forties Franklin had accumulated enough of a fortune so that his interest could shift to public affairs. His scheme for an academy was pressed, and it later developed into the University of Pennsylvania. Scientific investigations had by this time brought him a reputation that extended to Europe.

Franklin was sent to England in 1757 to protest against the influence of the Penns in the affairs of the colony, and during his stay of five years in England he labored to enlighten the government as to affairs in the colonies. Upon his return he was defeated for the Assembly, and in 1764 he was again sent to England as the agent of the colony to seek the establishment of royal government in Pennsylvania. While in England he opposed the passage of the Stamp Act. Before his return to America in 1775 he visited France, where he was received with honor. He was chosen a member of the Continental Congress, and in 1777 he was dispatched to France as commissioner for the United States. Here he remained until 1785, and he became a favorite of French society. His diplomatic work in France—he was our first ambassador—was crowned with such success that he became one of the outstanding statesmen of the United States. He died in 1790, having served as a member of the Constitutional Convention in 1787.

Franklin was among the small minority among the framers of the Constitution who did not fear the wisdom or ignorance of the common man; and if he had specific ideas as to how a liberal government ought to be constructed in Pennsylvania, it is as a prophet of individualism that we must consider him here. As a reader of the liberal economic literature

of the century, he believed in the harmony of interests of those who work for their own welfare in society. On the one hand, he seemed to believe that manufactures are founded in poverty, and that no laws can prevent their development when husbandry will not provide for all of the population. He believed that so long as there was land enough in America for our people there would never be any considerable amount of manufactures. On the other hand, while he stated that commerce is generally cheating (agriculture being the only honest way to live), his own predominant position was in favor of the tradesman. His individualism was that of the commercial state.

Franklin was inclined to rely on other means than government control for the prosperity of the merchant. In writing in 1789 the pretended wail of a protected manufacturer, he said:

> I am a manufacturer and was a petitioner for the Act to encourage and protect the manufacturers of this state. I was very happy when the act was obtained, and I immediately added to the price of my manufactures as much as it would bear so as to be a little cheaper than the same article imported and paying the duty. By this addition I hoped to grow richer. But as every other manufacturer whose wares are under the protection of that act, has done the same, I begin to doubt whether, considering the whole year's expenses of my family, with all these separate additions which I pay to other manufacturers I am at all a gainer. And I confess I cannot but wish that except the protecting duty on my own manufacture, all duties of the kind were taken off and abolished.[9]

Yet the great book Franklin wrote explaining the spirit of the bourgeoisie was *The Autobiography of Benjamin Franklin.* With L. B. Alberti of Florence and Daniel Defoe in England, Franklin, with this work, becomes one of the world's outstanding exponents of middle-class individualism. Whether or not this interpretation of man's economic relations is sound has been and is, perhaps, the most profound social issue before the American people. Franklin did not analyze the economic institutions of modern capitalism, but he understood its spirit and he presented it forcefully to his readers. Franklin is one of the chief architects of American individualism, though that individualism has always been only relative and never absolute. There never has been an economic society in which free competition prevailed, except in small areas and for limited times; but the spirit of individualism, as a dream of the kind of society we should have, has been central in the bourgeois mind.

The self-disciplined and responsible individual becomes the core of Franklin's theory of society. In the *Autobiography* he declares:

[9] *The Complete Works of Benjamin Franklin,* ed. by John Bigelow (1888), Vol. X, pp. 118–119.

It was about this time I conceiv'd the bold and arduous project of arriving at moral perfection. I wish'd to live without committing any fault at any time; I would conquer all that either natural inclination, custom, or company might lead me into. As I knew, or thought I knew, what was right and wrong, I did not see why I might not always do the one and avoid the other. But I soon found I had undertaken a task of more difficulty than I had imagined. While my care was employ'd in guarding against one fault, I was often surprised by another; habit took advantage of inattention; inclination was sometimes too strong for reason. I concluded, at length, that the mere speculative conviction that it was our interest to be completely virtuous, was not sufficient to prevent our slipping; and that the contrary habits must be broken, and good ones acquired and established, before we can have any dependence on a steady, uniform rectitude of conduct. For this purpose I therefore contrived the following method.

In the various enumerations of the moral virtues I had met with in my reading, I found the catalogue more or less numerous, as different writers included more or fewer ideas under the same name. Temperance, for example, was by some confined to eating and drinking, while by others it was extended to mean the moderating every other pleasure, appetite, inclination, or passion, bodily or mental, even to our avarice and ambition. I propos'd to myself, for the sake of clearness, to use rather more names, with fewer ideas annexed to each, than a few names with more ideas; and I included under thirteen names of virtues all that at that time occur'd to me as necessary or desirable, and annexed to each a short precept, which fully express'd the extent I gave to its meaning.[10]

[10] "These names of virtues," said Franklin, "with their precepts, were:

"1. Temperance. Eat not to dullness; drink not to elevation.

"2. Silence. Speak not but what may benefit others or yourself; avoid trifling conversation.

"3. Order. Let all your things have their places; let each part of your business have its time.

"4. Resolution. Resolve to perform what you ought; perform without fail what you resolve.

"5. Frugality. Make no expense but to do good to others or yourself; *i.e.*, waste nothing.

"6. Industry. Lose no time; be always employ'd in something useful; cut off all unnecessary actions.

"7. Sincerity. Use no hurtful deceit; think innocently and justly, and, if you speak, speak accordingly.

"8. Justice. Wrong none by doing injuries, or omitting the benefits that are your duty.

"9. Moderation. Avoid extremes; forbear resenting injuries so much as you think they deserve.

"10. Cleanliness. Tolerate no uncleanliness in body, cloaths, or habitation.

"11. Tranquility. Be not disturbed at trifles, or at accidents common or unavoidable.

"12. Chastity. Rarely use venery but for health or offspring, never to dulness, weakness, or the injury of your own or another's peace or reputation.

"13. Humility. Imitate Jesus and Socrates."

The road to moral perfection was hard, but the enlightened men of the eighteenth century thought it possible to travel it. Life was serious to the individual; indeed, it must be if the individual, freely willing, becomes the center of the moral cosmos. Man is responsible for his little world, and nothing must be wasted. Franklin proceeded, for example, to show how he worked at the moral virtues he had in mind. "The precept of *Order,*" he said, "requiring that *every part of my business should have its allotted time,* one page in my little book contain'd the following scheme of employment for the twenty-four hours of a natural day." This scheme began at five o'clock in the morning. Upon rising he was to ask himself: What good shall I do this day? Until eight o'clock he was occupied with rising, washing, and addressing *Powerful Goodness.* "Contrive day's business, and take the resolution of the day; prosecute the present study, and breakfast." From eight until twelve he was to work, but from twelve to two he was to read, "or overlook my accounts," and dine. Again from two to six he worked, and from six to ten in the evening he "puts things in their places. Supper. Music or diversion, or conversation. Examination of the day." Incidental to the last he asked himself: What good have I done today? But even a hard-working moralist, believing in the perfectibility of man, must sleep, and the remainder of the twenty-four hours was assigned to this more pleasant *task.*[11]

Poor Richard's Almanack discussed, in 1749, the question "How to Get Riches," and the passages bear quotation.

> The Art of getting Riches consists very much in Thrift. All Men are not equally qualified for getting Money, but it is in the Power of every one alike to practice this Virtue. He that would be beforehand in the World, must be beforehand with his Business: It is not only ill Management, but discovers a slothful Disposition, to do that in the Afternoon, which should have been done in the morning. Useful Attainments in your Minority will procure Riches in Maturity, of which Writing and Accounts are not the meanest. Learning, whether Speculative or Practical, is, in Popular or Mix't Governments, the Natural Source of Wealth and Honour.
>
> Precept I
>
> In Things of moment, on thy self depend,
> Nor trust too far thy Servant or thy Friend:
> With private views, thy Friend may promise fair,
> And Servants very seldom prove sincere.

[11] See *Autobiography* (Modern Library ed.), pp. 88–93. Italics for word "task" are not Franklin's, but the author's.

Precept II

What can be done, with Care perform to Day,
Dangers unthought-of will attend Delay;
Your distant Prospects all precarious are,
And Fortune is as fickle as she's fair.

Precept III

Nor trivial Loss, nor trivial Gain despise;
Molehills, if often heap'd, to Mountains rise;
Weigh every small Expence, and nothing waste,
Farthings long sav'd, amount to Pounds at last.

In 1748 Franklin gave his "Advise to a Young Tradesman," and some of the lines written on this subject may add a little to the picture.

Remember, that *time* is money. He that can earn ten shillings a day by his labour, and goes abroad, or sits idle, one half of that day, though he spends but sixpence during his diversion or idleness, ought not to reckon *that* the only expense; he has really spent, or rather thrown away, five shillings besides. Remember, that *credit* is money. If a man lets his money lie in my hands after it is due, he gives me the interest, or so much as I can make of it during that time. This amounts to a considerable sum where a man has good and large credit, and makes good use of it. Remember, that money is of the prolific, generating nature. Money can beget money, and its offspring can beget more, and so on. Five shillings turned is six, turned again it is seven and three-pence, and so on till it becomes an hundred pounds. . . . He that kills a breeding sow, destroys all her offspring to the thousandth generation. He that murders a crown, destroys all that it might have produced, even scores of pounds. . . . In short, the way to wealth, if you desire it, is as plain as the way to market. It depends chiefly on two words, *industry* and *frugality;* that is, waste neither *time* nor *money,* but make the best use of both.

Benjamin Franklin expressed the commonsense and the spirit of individualism of his day. His was a complex personality, and while he recognized the objective, aggregate, or statistical forces at work in society, his final delight was to show that the individual by his knowledge and by his industry could make his world much as he would like to have it. He expressed the philosophy of capitalism that was to linger on in the modern world long after the economic structure had moved beyond the powerful individual to the powerful, impersonal economic unit, controlling vast blocks of wealth, unresponsive to the wishes either of the worker employed by it or to the stockholder outside of the inner counsels of its being. Franklin knew realistically the world of provincial America. He repre-

sents the honest men and women who, by their toil and their patriotism, made America a free country. He illustrates the continuity of thought from the educated and practical men who were America before the Revolution and who were also America after the winning of independence.

SELECTED BIBLIOGRAPHY

ANDREWS, C. M.: *The Colonial Period of American History* (4 vols., 1935–1938).
BEARD, CHARLES A., and MARY R. BEARD: *The Rise of American Civilization* (2 vols., 1927–1930).
BEATTY, E. C. O.: *William Penn as Social Philosopher* (1939).
BOURGEAUD, CHARLES: *The Rise of Democracy in Old and New England* (1894).
BROKUNIER, S. H.: *The Irrepressible Democrat: Roger Williams* (1940).
CARPENTER, WILLIAM S.: *The Development of American Political Thought* (1930).
COKER, FRANCIS W.: *Democracy, Liberty and Property* (1942).
CURTI, MERLE: *The Social Ideas of American Educators* (1935).
DEXTER, H. M.: *The Congregationalism of the Last Three Hundred Years as Seen in Its Literature* (1880).
DORFMAN, JOSEPH: *The Economic Mind in American Civilization, 1606–1865* (1946).
ERNST, J. E.: *The Political Thought of Roger Williams* (1929).
FRANKLIN, BENJAMIN: *The Complete Works of Benjamin Franklin,* ed. by John Bigelow (10 vols., 1887–1888).
———: *The Writings of Benjamin Franklin,* coll. and ed. by A. H. Smyth (10 vols., 1905).
GETTELL, R. G.: *History of American Political Thought* (1928).
GREENE, EVARTS B.: *Religion and the State: The Making and Testing of an American Tradition* (1942).
GUMMERE, A. M., ed.: *The Journals and Essays of John Woolman* (1922).
HALLER, WILLIAM: *The Rise of Puritanism* (1938).
HUTCHINSON, THOMAS: *The History of Massachusetts from the First Settlement Thereof in 1628 Until the Year 1750* (2 vols., 3d ed., 1795).
JACOBSON, J. M.: *The Development of American Political Thought* (1932).
JORDAN, W. K.: *The Development of Religious Toleration in England* (1932–1938).
MATHER, COTTON: *Magnalia Christi Americana* (1702).
MERRIAM, CHARLES E.: *American Political Theories* (1903).
MILLER, PERRY: *The New England Mind: The Seventeenth Century* (1939).
———, and T. H. JOHNSON: *The Puritans* (1946).
MORRIS, R. B.: *Government and Labor in Early America* (1946).
MORISON, SAMUEL E.: *Builders of the Bay Colony* (1930).
NARRAGANSETT CLUB: *Publications of the Narragansett Club* (6 vols., 1866–1874).
OSGOOD, HERBERT L.: *The American Colonies in the Seventeenth Century* (3 vols., 1904–1907).
PARRINGTON, V. L.: *Main Currents in American Thought* (3 vols., 1927–1930).
PENN, WILLIAM: *The Peace of Europe: The Fruits of Solitude and Other Writings by William Penn* (Everyman's Library).
PERRY, R. B.: *Puritanism and Democracy* (1944).
SCHNEIDER, H. W.: *A History of American Philosophy* (1946).
———: *The Puritan Mind* (1930).
STEARNS, R. P.: "Assessing the New England Mind," *Church History,* September, 1941.

THORPE, F. N.: *The Federal and State Constitutions, Colonial Charters and Other Organic Laws of the United States, Territories, and Colonies Now or Heretofore Forming Part of the United States of America* (1909).

VAN DOREN, CARL: *Benjamin Franklin* (1941).

WALKER, WILLISTON: *The Creeds and Platforms of Congregationalism* (1893).

———: *History of the Congregational Churches in the United States* (6th ed., 1903).

WARD, NATHANIEL: *The Simple Cobbler of Aggawam in America* (1647).

WINSLOW, O. E.: *Jonathan Edwards, 1703–1758* (1940).

WINTHROP, JOHN: *Winthrop's Journal "History of New England," 1630–1649*, ed. by J. K. Hosmer (2 vols., 1908).

WINTHROP, ROBERT C.: *Life and Letters of John Winthrop* (2 vols., 1864–1867).

WRIGHT, B. F.: *A Source Book of American Political Theory* (1929).

Chapter 3

THE PHILOSOPHY OF REVOLUTION

> Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shown, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security.—Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their former Systems of Government.—from the Declaration of Independence.

The Nature of Revolution. "No one can rise from a comparative study of the literature of revolution in all ages," declares Charles A. Beard, "without a sense of profound admiration for the ingenuity, the learning, and the mastery of the native tongue revealed in the documents of the American revolt." [1] The writings of the leaders of our Revolution are thus part of the world's great revolutionary thought; they are a phase of our political tradition; and even though the specific issues of 1776 no longer concern us, the central themes of that era are significant today because they outline the nature of a free society. In political theory, it is not so much the fact of revolution that is important, as the principles of social justice that are used to defend resistance to an established government.

Yet why do revolutions take place? What is the historical pattern of revolutions? Why are some revolutions great and others insignificant? Does the American Revolution fit into the pattern of revolutions the world over? Are the literary or ideological justifications of revolution ever more than a façade to cover the deeper psychological and economic motives that bring men to act together in a violent manner against constituted authority? These and other questions rise to plague the student of revolutions; and now, when we live in another era of profound change,

[1] Charles A. Beard and Mary R. Beard, *The Rise of American Civilization* (1927), Vol. I, p. 188. Copyright 1927, 1930, and 1933 by The Macmillan Company and used by permission.

they are as worthy of study as they have ever been. We must rest, in part, on the fact that the American Revolution did take place, that the colonies won their political independence, and that the place of the United States among the powers of the world makes our Revolution of increasing significance in the history of modern times. Nor can we speak lightly of the reasons assigned by the leaders of the American Revolution for their action. We are not willing to reduce the opinions of these men to mere emotional outbursts against the frustration they felt under the control of the British government.

In modern times we may begin with the revolutionary period of seventeenth-century England, which produced in effect the philosophy that was used, with modifications, by the leaders of revolt in America. The England of the eighteenth century was a product of revolt against a system of government that was attempting to keep step with absolutistic systems on the continent. Our own Revolution is followed in point of time—quickly followed, however—by the French Revolution. That Revolution carried forward and developed in idea and institution the principles of liberalism expressed in the North American colonies. The nineteenth century was a time of revolutionary change in Europe, in which efforts were made to apply the liberal ideas of the French and American Revolutions. With other revolutions the empire Spain held in the New World was ended, but success on the field of battle has not meant the immediate application of democratic principles. The glorious purposes men set before themselves are often mutilated in the process of social existence. The Chinese Revolution, beginning in 1911, is hardly over; that date merely states the beginning of a long revolutionary period for the Chinese. If the English revolutionary period lasted fifty years in the seventeenth century, surely the Chinese in the twentieth must be allowed as much. Nor can we say that the Russian Revolution, beginning in 1917, has ended; its future is hidden in the mind of Clio. Or what of the fascist revolutions that came upon the dying echo of the cannons of the First World War? What is to be their significance for the future? And are not further revolutions brewing in the painful disintegration of the nineteenth-century system? Who can say that the defeat of the South in 1865 put the final term to revolutionary change for the United States?

The Background of American Revolt. The disagreements in thought that finally led to the outbreak of the American Revolution may be traced far back into colonial experience. The frontier, the environment, and the separation from England by the width of the Atlantic Ocean began their work almost from the outset of permanent colonization. A social system with no aristocracy, with only remnants of the feudal tradition, and with an attitude of resistance to the sometimes harsh system

of colonial control was emerging in North America. National feeling, our American mentality, is difficult to trace; but when it has emerged, it stands clearly in the light of day as a source of misunderstanding between a mother country with no conception of colonial nationalism, and a colonial society that was not lacking in pride or in a consciousness of its own interests. During the generation before the clash of arms, there was a gradual disintegration of the customary support given to the home government; British economic interests were in trouble, and the extension of commercial and financial control to the colonies went counter to the definite interests of preeminent colonials; war, both in Europe and in the western regions between the French and English, had sharpened the colonial insistence on political recognition; and there was developing, through constant bickering with the British government, a class of men who could provide organization and leadership for a revolutionary movement. At the beginning of the Revolution the American was caught between economic depression and the commercial control of British mercantilism, which regarded the colonies simply as a part of the total British economy.

The laws and decisions of the British government in regimenting the economic life of the colonies extend from the coronation of Charles II in 1660 to the beginning of the American Revolution. British imperial and economic policy was no accidental decision; it was a part of a long-sustained and determined drive to integrate the resources and commercial activity of the Empire in order to defend it against its European enemies. The navigation acts begin with the statute of 1651, which limited the carrying trade, to and from the colonies, to British bottoms manned by English seamen. In a general sense these laws were an advantage to the colonials, in that they protected from aliens a lucrative business. The trade laws regulated the imports and exports of the colonies; enumerated articles had to be shipped to England, while others not enumerated could be sold wherever a buyer could be found. On the other hand, as a rule manufactured goods had to be bought from England. Other acts put restraints on colonial manufacturing; woolen goods could not be made for the general trade, and certain types of milling were prohibited. Finally, the interests of British creditors were carefully protected, and from the middle of the eighteenth century, the issuing of paper money was prohibited. The Board of Trade made serious efforts to enforce these statutes, but there was a large amount of disobedience. How much, is a matter of historical debate—just as it is not clear, with mathematical precision, how noxious or beneficial the economic regulations were to the colonials.

It is not subject to debate, however, that the economic enterprise of

the colonies was growing and pressing against the restrictions of the government. Under George III and his ministers, increasing efforts were made to enforce the old laws and to collect a large amount of revenue from the colonies—needed, in a measure, because of the French and Indian Wars. The Sugar Act and the Stamp Act struck all classes of society, and resentment against the British government therefore became general. The local legislatures asserted that the people could not be taxed without the consent of their representative assemblies and that they had paid already more than their share for imperial defense; and in 1765 the Stamp Act Congress met in New York to protest the program of the government. A general boycott of English goods began, and the British merchants were soon demanding the repeal of the act. The Molasses Act took the place of the Stamp Act, though the new law was also for the purpose of raising revenue. In 1767, with the new import duties imposed on American trade and the serious effort to enforce the laws in the colonies through revenue agents empowered to use special judicial means, resistance to British regulations became general. Events moved on to the Tea Act of 1773 and the Boston Tea Party. The five "intolerable acts" were passed, and in effect the Revolution had begun. Steel was to clash against steel. Sam Adams had begun his work of organization;[2] the committees of correspondence were at work; the first Continental Congress was to meet in Philadelphia, the second Continental Congress in the following year, and in 1776 the Declaration of Independence was to be drafted. On April 19, 1775, at Lexington, the shot was fired that was heard around the world.

It is in the language of the lawyers and not of theologians that the philosophy of revolution is couched. Ministers of the time, it is true, blended John Locke with illustrations from the Old Testament, in their appeals for support of resistance against the British troops. Yet it is from the lawyers that the classic expressions of the theory of resistance have come down to us. That philosophy, we have said, was a modification of the theory of revolution in England in the seventeenth century. Republicans and democratic thinkers of that time found ready readers among the leaders of colonial revolution. Milton, Harrington, Sydney were read, along with Blackstone's *Commentaries on the Laws of England,* published in 1765. However, it was the writing of John Locke that summarized the principles of the American Revolution. His *Two Treatises of Civil Government* in 1690 crystallized the Whig justification of the Glorious Revolution; and from his statements the essential views

[2] See *The Writings of Samuel Adams,* coll. and ed. by H. A. Cushing (4 vols., 1904–1908).

that were to be embodied in the Declaration of Independence were taken. We may marvel today that such social ideas could be used by the philosophers of revolution. How could Jefferson and his colleagues believe in the social contract, for which there is not the slightest historical evidence? How could the gentlemen who framed the Declaration of Independence believe in the equality of men? Or did they? Yet it must be remembered that it is only the following generations that can see all the faults in the thinking of a previous time—always in the light of the assumptions that have come to be axiomatic at that later time. Our own thinking awaits, no doubt, a similar fate. But what must not be forgotten is that many of the basic ideas of the revolutionary period were transformed into doctrines suitable for the construction of a stable and lasting government; we must remember that today, in transformed dress, many of these ideas are part of our "commonsense" and everyday political thinking.

John Locke: The Social Contract. John Locke was not an original thinker; he was a summarizer and a compiler of ideas that had been accepted for a generation—a revolutionary generation—in England. Our own political forebears cannot be accused of great originality, any more than can John Locke. Our purpose here is to understand such ideas as were accepted, and not to seek only those principles that have upon them the mark of novelty.

The first principle upon which Locke's system was built is the idea of a state of nature. There was a sharp distinction between the condition of man before and after the creation of civil society. The state of nature was a period or condition in which the institutions of government did not exist; it was a period in which men were governed directly by whatever force there was to be found in the principles of natural law. In Locke's view, men had rights under the law of nature, inalienable rights; but owing to the lack of government, it was impossible for men to be secure in the enjoyment of these rights. The law, while fundamentally just, was not recognized by all; the determination of the law by a competent judge was not an institutional fact; and the law was but feebly enforced. The inconveniences of the state of nature led men to seek some escape from it. And the solution hit upon was the creation of a civil society on the basis of agreement between men—or, in other words, the social contract. It is the combination of these ideas in Locke which is fresh, for all of his ideas, in one form or another, had existed for centuries.

From the dawn of literate civilization, men have speculated on the existence of a law above the whim or the decision of individuals. They have believed that a moral order exists in the universe, just as there is order in the movement of the stars or in the changing of the seasons.

The Greeks, the Romans, and the Hebrews all had such ideas; and although we live in an age in which moral relativism is advocated, we can witness each day individuals slipping back to the positions taken by Plato, Aristotle, Cicero, the Hebrew prophets, and the Christian fathers. It was not until the seventeenth century that natural law was broken down into a series of rights; but natural law from its earliest statement is a belief that men can, by reason, discover a valid order of rights and duties in society. The theory of the English rebellion in the seventeenth century was based on the idea that men had rights by their participation in the law of nature.

In the early modern period, social thinkers began to analyze the state of nature. Hobbes believed that the state of nature was one of war between men, but Locke thought of it only as a condition of inconvenience antedating the social contract. Christian thought, especially Catholic thought, argued always that the origin of the state is to be found in the will of God, but that the form of government might be a matter of agreement between men; thus, in the Catholic thought of the Middle Ages, the governmental contract was accepted. No contract was needed to explain the origin of society, for man (said Aristotle and Aquinas) is in the first place a social and political animal. The social-contract theory, which attempts to explain the creation of civil society, is therefore a Protestant doctrine, while the governmental-contract theory is most at home in Catholic thought. For in Protestant thought man was escaping from the horrors or disagreeableness of the state of nature into the protection of civil society.

As Locke summarized the currents of thought of the seventeenth century for the victors of the Glorious Revolution, he therefore argued that men created society by consenting to it, and that this stamp of approval was included in the social contract. The contractualists are pleasantly vague as to whether the contract was simply an idea (as Kant later held) or a document such as a constitution or fundamental law. Once men had become members of civil society, however, they were bound by its laws. Yet if the laws of society were in part the judgments of the majority, they were also in part those of nature; they were fundamental; and not only were they superior to mere citizens, but they also were fundamental and governing in relation to the rulers of society. Legislatures as well as executives and judges were bound by the law that might be discovered by the right use of reason. It is true that ordinary decisions might be made by majority vote, but such a vote would in no case invalidate the rights men brought with them from the state of nature: the rights of life, liberty, and estate (or property). Hence, it was possible that when government abused its power, men might have the right and the duty to rebel

and to establish a reasonable system in which their rights would be protected.

There are many ambiguities in social-contract theory. All of the contractualists are somewhat uncertain whether the state of nature was an actual historical epoch; some writers seem to indicate that it was such a period, while others suggest the later Kantian and metaphysical interpretation of the contract simply as a rationally necessary idea in all governments. The state of nature would, therefore, be simply an idea used in the justification of political authority. Pufendorf, a seventeenth-century German social-contract thinker, made the contract theory absurdly clear. He held that there was first a contract to establish civil society; there was next an agreement as to the form of government; and in the third place, there was a governmental contract. It is not clear whether Locke meant that his readers should believe that there was a governmental contract following the social contract; some of his interpreters say he meant this. But it is certain that Locke did not talk about a governmental contract, while he did talk about government being a trust vested in the rulers. The same uncertainties prevail in American social-contract thinking; if anything, the American writers are more vague than their European predecessors or counterparts. In the United States, however, certain practices and institutions emerged which for the moment, and for the moment only, seemed to apply in a real sense the principle of the contract as the basis of government.

Consent to government as its proper justification is, indeed, the core of the theory of the social contract. Today, we do not need a theory of a state of nature to argue consent as the basis of government. We may even go as far as David Hume and urge that all governments, however despotic, are based on consent; at least, the government lasts because the people do not rise in rebellion. Consent has become, in modern realistic political theory, more of an idea than a practice; but to the leaders of the American Revolution it was a living, vital principle. Today we assume that governments have existed as long as men have lived in societies, and we assume that consent to the *origin* of government is a kind of modern illusion or myth, which satisfies some need felt by the citizen as he is driven this way and that by the authorities of his government. Man is born into society; he is what he is because of the nurture of society; his freedom comes not from the natural rights of a state of nature, but from his convictions as to moral right and the kind of society he accepts.

The theory of the social contract was not axiomatic throughout eighteenth-century thought. David Hume showed the weakness of the theory, both historically and logically; Montesquieu had no need of it; Jeremy

Bentham and the students of economics and utilitarianism in both France and England were outgrowing the constriction of the theory. Yet it just so happened that, as both France and the United States approached their revolutionary era, the theory of social contractualism appeared to be the best system of ideas to justify rebellion. Jean Jacques Rousseau and others in France discussed the social contract with telling effect; and in the United States the principle of consent and the contract underlay the propositions defended by our political forebears. Perhaps the vagueness of American contract thought was added to by the criticisms of the idea of the social contract during the earlier years of the eighteenth century; but in any case, consent as such was more discussed than the technique of the creation of society through a social contract. For a short while during the American and French Revolutions, the principle of the social contract came to life; but when the revolutionary purpose had been served, social theory moved on to the discussion of urgent political problems. As the conviction that there are a law of nature and a system of rights for men in society existed before the muddling speculations about social contracts, so the conviction of a moral order in the social universe was to last beyond the idea of social contract. Likewise, the development of constitutional systems and the institutions of responsible government were to make unnecessary any elaborate consideration of the notion of a governmental contract. The contract theory served in the modern world to focus attention on the principle of consent; but consent to government as a justification of authority is not yet dead. We have merely failed to establish any set of institutions which will make consent an even, continuous, or effective force in political life.[3]

The Declaration of Independence. The Declaration of Independence was a document written for the common man. It was an appeal for action, on bases that would be understood by all. Let us consider the grounds given for the American revolt against the British government. In general, the Declaration is against the British King, and in form it is a statement of the many wrongs he had committed against the inhabitants

[3] The introduction of social-contract theory into the colonies early in the eighteenth century may be illustrated from *A Vindication of the Government of New-England Churches* (1717) by John Wise. Wise defended the congregational principle of church organization on the rather elaborate basis of Pufendorf's theory of the social contract. As he prepared to copy Pufendorf's three contracts, he remarked: "The formal reason of government is the will of a community, yielded up and surrendered to some other subject, either of one particular person, or more, conveyed in the following manner. Let us conceive in our mind a multitude of men, all naturally free and equal; going about voluntarily to erect themselves into a new commonwealth. Now their condition being such, to bring themselves into a politick body they must needs enter into divers covenants."—Edition of 1772, p. 29.

of the colonies. But behind these charges is the belief that when the rights of men are invaded, government has lost its just claim to the obedience of its citizens; the citizens are justified in revolt against authority; and they alone must decide whether this is the case.

The bill of grievances states in part:

He has refused his assent to laws, the most wholesome and necessary for the public good. He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their operation till his assent should be obtained; and when so suspended, he has utterly neglected to attend to them. He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the legislature, a right inestimable to them and formidable to tyrants only. He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public records, for the sole purpose of fatiguing them into compliance with his measures. He has dissolved representative houses repeatedly, for opposing with manly firmness his invasions of the rights of the people. He has refused for a long time, after such dissolutions, to cause others to be elected; whereby the legislative powers, incapable of annihilation, have returned to the people at large for their exercise; the state remaining in the meantime exposed to all the dangers of invasion from without, and convulsions within.[4]

He has endeavored to prevent the population of these states; for that purpose obstructing the laws of naturalization of foreigners; refusing to pass others to encourage their migration hither, and raising the conditions of new appropriations of lands. He has obstructed the administration of justice, by refusing his assent to laws for establishing judiciary powers. He has made judges dependent on his will alone, for the tenure of their offices, and the amount and payment of their salaries. He has erected a multitude of new offices, and sent hither swarms of officers to harass our people, and eat out of their substance. He has kept among us, in times of peace, standing armies without the consent of our legislature. He has affected to render the military independent of and superior to the civil power. He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his assent to their acts of pretended legislation: For quartering large bodies of armed troops among us: For protecting them, by a mock trial, from punishments for any murders which

[4] These charges show the claims of the colonists to rights under the British Constitution, one of those rights being an orderly system of representation without undue executive interference. In particular, the charges indicate a defense of the colonial institutions of representative government, and in principle a direct relationship of these bodies to the King. The studied ignoring of the rights of the British Parliament in the passing of laws relating to the colonies is of great significance; for out of the position taken by the colonists, there emerged a theory of a federal British Empire. These charges are against the King and not against Parliament; in theory, the King could have defended the colonial legislative bodies against Parliament and against the royal governors.

they should commit on the inhabitants of these states: For cutting off our trade with all parts of the world: For imposing taxes on us without our consent: For depriving us in many cases, of the benefits of trial by jury: For transporting us beyond the seas to be tried for pretended offenses: For abolishing the free system of English laws in a neighboring province, establishing therein an arbitrary government, and enlarging the boundaries so as to render it at once an example and fit instrument for introducing the same absolute rule into these Colonies: For taking away our charters, abolishing our most valuable laws, and altering fundamentally the forms of our governments: For suspending our own legislature, and declaring themselves invested with power to legislate for us in all cases whatsoever.[5]

He has abdicated government here, by declaring us out of his protection and waging war against us. He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people. He is at this time transporting large armies of foreign mercenaries to compleat the works of death, desolation and tyranny, already begun with circumstances of cruelty and perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the Head of a civilized nation. He has constrained our fellow citizens taken captive on the high seas to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands. He has incited domestic insurrections amongst us, and has endeavored to bring on the inhabitants of our frontiers, the merciless Indian savages, whose known rule of warfare, is an undistinguished destruction of all ages, sexes and conditions. In every stage of these oppressions we have petitioned for redress in the most humble terms: Our repeated petitions have been answered only by repeated injury. A prince whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people.

Nor have we been wanting in attention to our British brethren. We have warned them from time to time of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which would inevitably interrupt our connections and correspondence. They too have been deaf to the voice of justice

[5] The British government in these laws was doing only what is generally done by a modern imperialistic power. The Irish suffered the same abuses; and the modern Indian, working for a free British India, might make the same charges. Imperialism in any case has some of the flavor of mercantilism, whether in the eighteenth or later centuries. The colonists had reached a point where they felt themselves to be partners in the British Empire, but the British government could not accept the implications of this position, as it has in the development of later relations between the home government and the dominions. Our forebears were simply fortunate enough to be able to win a war against Britain and gain their independence. It is hardly necessary to argue whether the charges are true: the colonists believed they were suffering these injuries.

and of consanguinity. We must, therefore, acquiesce in the necessity, which denounces our separation, and hold them, as we hold the rest of mankind, enemies in war, in peace friends.

The Declaration of Independence is one of the great documents of modern liberalism. Either directly or by implication, it states the major propositions that have become characteristic of free governments in modern times. No government today can do the things complained of by the colonists without falling under the stigma of corrupting and denying the freedom which has been associated with the idea of liberal or democratic government. For above all else, a democratic or a liberal government is one that grants certain rights and assures them in practice to the people living under such a government. But there are two lines of argument running through the Declaration. One of these is universal and fundamental: it is a statement of the rights of men and of the essential principle that some sort of consent, recognition, or acceptance is the valid basis of authority in a community. The other line of argument has to do with the position of the colonists under the British Constitution.

This latter argument has many phases. The colonists defended their charters as fundamental instruments of government. They insisted that they had the rights of Englishmen under the law of England, just as Englishmen had asserted these rights against the interference of the Stuarts during the early part of the seventeenth century. Such an argument meant that the common law of England and the settled system of courts and legal process of the home country should be extended to the colonists as subjects of the King. In the end, the opposition of the judges to unusual judicial actions, such as the issuance of writs of assistance in the years immediately before the outbreak of armed conflict, was a factor of great importance in uniting the colonies against the British government. The judges turned to the common law and, in most cases, either refused to issue such writs or delayed consideration, hoping to avoid an outright break between the British cabinet and the colonial judiciary. One of the strongest of the charges against the government in England was that it had resorted to arbitrary executive action in order to enforce the laws enacted by Parliament to control the economic life of the colonies and to raise added taxation revenue from them. Always the modern authoritarian state has found it necessary to dispose of the judges' freedom of action; star-chamber justice is widespread in the modern world.

Theories of the British Empire. In the earlier years of conflict between the colonies and the British government, there was much discussion of taxation. Representation, as established in the colonial legisla-

tures, was held to be essential in the levying of taxes. Some of the colonial thinkers were willing to admit that external taxes might be levied by Parliament, but that internal taxation could justly be imposed only by the local legislatures themselves. Such a position implied that, in certain aspects, the colonial legislatures were on an equal plane with the British Parliament in relation to the King. There was discussion as to whether the colonists could be represented in Westminster, but it was generally concluded that such was impossible. "No taxation without representation" was a good battle cry, though in fact the existence of property qualifications for voting in the colonies implied the principle of "no representation without taxation."

There has been continuous discussion of whether the claims of the Declaration of Independence coincide with the actual developments of the British Constitution. It has been urged that the colonists, who studied the British system through Montesquieu, had not understood developments in the British government. Parliament was becoming supreme, and the cabinet system of government was emerging, along with the tendency of the power of the monarch to become less significant. If we say that Montesquieu was interested in the mixed form of government, with the separation of powers as an incidental device to maintain the mixed constitution, it can be argued that his mistake was not great. It may be added that Englishmen in the eighteenth century, notably Blackstone in his *Commentaries on the Laws of England* (1765), did not believe that Montesquieu had misinterpreted the British Constitution. Blackstone's theories of government likewise exercised a powerful influence on the political thinking of the colonists. Hindsight is better than foresight, and one can hardly blame the authors of the Declaration of Independence for not being abreast of the theory of the British Constitution expounded a century later.

As the colonists looked toward established institutions, there were good historical grounds for believing in a British Empire that combined the rights of local parliaments with the rights of the Parliament at Westminster. Yet alive were ideas of Scottish autonomy, and the Irish Parliament was still in existence. If the colonists had a theory of the Empire that did not accord with the views of the ruling class in London, it is hardly fair to blame them, for such was their first line of defense. The British ruling class, with its imperialistic and mercantilistic notions, was inevitably forced to break down institutions which restricted their control of the whole Empire. It was a fight in which the colonists were able eventually to escape from the control of London, though they were not able to sustain their theory of a federal Empire with autonomous divisions. When the rights of Englishmen could no longer be defended on

the basis of an interpretation of judicial protection and the decentralization of legislative authority, those rights were of necessity derived from a universal foundation, the natural law and the natural rights of men. Just as the seventeenth-century revolutionists in England identified their rights under the common law with the universal rights of men, so the colonists were forced to the same position.[6]

In that process of shifting positions, ideas of the seventeenth century began to emerge again with clarity. Just as the beaten Levellers in England during the Revolution turned to natural rights grounded in a fundamental written law, so the colonists began to think of a fundamental law, written and engrossed, which would limit governments, and which would provide "a government of laws and not of men." The written constitution, with its principles of limited and decentralized governmental authority, came to be the fundamental law upon which American state and national governments were based. In these constitutions it was agreed that there must be a statement of the rights of men to stand above the authority of government, just as John Locke had insisted in his examination of political fundamentals. When the colonists faced the purposes of the British ruling class, they found that the relation of the King to Parliament, and the relation of the colonial governments within the British system, were not the essential issues. The fundamental issue became the basic justification of any governmental authority over men who claimed that they were free under the laws of God and nature.

James Otis. The argument for the rights of the colonists under the British Constitution and for their rights under the law of nature moved jointly, side by side, through the literature of protest that expressed the resentment of the colonists against the British government. In the first Continental Congress, for example, the conservatives of New York and Pennsylvania founded their grievances on the British Constitution and colonial charters, but the radicals insisted that natural law and rights

[6] The development of the thought of the American Revolution may be summarized in three distinct but overlapping stages: from the earliest protests to 1774, the colonists accepted the general jurisdiction of Parliament but denied a Parliamentary right to tax them without their consent; from 1774 to 1776 Parliament was denied the right to govern the colonies at all, though allegiance to the sovereign was professed; and ultimately, in 1776, the assertion of independence was made. In other words, the emphasis in the argument shifted from colonial charters and the rights of Englishmen to the nature of the British Empire and the rights of Englishmen, and finally to the assertion of general principles of political justice. However, the difference is a matter of emphasis, since the natural-law argument appears from the beginning of the controversy. *Cf.* B. F. Wright, *A Source Book of American Political Theory* (1929), p. 42.

should be included as well. Thus the conservatives, as usual, were more cautious and less doctrinaire than the radicals.[7]

Such a combination of argument can be seen in James Otis's *The Rights of the British Colonies Asserted and Proved* (1764). Government is founded ultimately in the unchanging will of God, though he admits with "the incomparable Harrington" that empire follows the balance of property. Yet property, grace, force, or compact are not enough to explain the leading principles of political authority; the ultimate power is in God, but expressed, as in Vattel and Locke, through the legitimate power of the people. The natural liberty of man is to have only the law of nature for his rule, and the colonists, being men, are entitled to all of the rights of nature along with Europeans. "Every British subject," he said, "born on the continent of America, or in any other of the British dominions, is by the law of God and nature, by the common law, and by act of Parliament, (exclusive of all charters from the Crown) entitled to all the natural, essential, inherent and inseparable rights of our fellow subjects in Great Britain." These rights included the strict maintenance of the subordinate legislatures in the communities in which their authority was just; that there should be no arbitrary legislature, whether supreme or subordinate; that there should be no arbitrary decrees in government; that consent or representation must be the property of all men against the supreme power; and that the legislature may not delegate its power of lawmaking to other hands. Furthermore, it cannot be said that the British Parliament is supreme, since it is limited by the laws of God and nature, and any law which goes against these principles is void. Every Englishman is a free man, and no parts of His Majesty's dominions may be taxed without their consent.

Thomas Jefferson. Thomas Jefferson took much the same attitude in 1774 in *A Summary View of the Rights of British America.* The right of the people to emigrate and found a new state was considered by him as fundamental; mere grants of aid to the colonists did not establish the rights of sovereignty over them. But both the King and Parliament had encroached on the rights of the colonists, by passing laws which violated the natural right of free trade and by the use of arbitrary measures of government, such as the suspension of local legislatures. The American legislatures were regarded as part of the legislatures of the empire, but when they were dissolved their power reverted to the people and not to the British government. All lands, urged Jefferson, are subject to the particular civil society in which they exist, and the attempt of the King

[7] See Edward P. Alexander, *A Revolutionary Conservative: James Duane of New York* (1938), pp. 100*ff.*

to grant lands himself was a revival of the feudal system introduced by the Normans, but of which the earlier Saxons had no knowledge. The rights of the colonists go back to the law of nature, and kings are servants and not proprietors of the people.[8]

James Wilson. In a vein similar to that of Jefferson, James Wilson wrote in 1774 his *Considerations on the Nature and Extent of the Legislative Authority of the British Parliament.* He accepted the political maxims of the law of nature and the rights of men, and he raised the question of the means to secure the liberties that rightfully belonged to the colonists. He distinguished between allegiance to the King and the authority of Parliament; he asserted that "the colonists are not bound by the acts of the British parliament; because they have no share in the British legislature." On the other hand, the fundamental harmony between the subjects of the King on both sides of the ocean can best be preserved by "the operation of the legal prerogatives of the crown" rather than by the exercise of an unlimited authority of Parliament.

Alexander Hamilton. The brilliant young Alexander Hamilton, like others, made his contribution to the cause of the Revolution, though his arguments can hardly be called original. For his argument accepted the fundamental postulates of a law of nature and certain rights of the colonies under the British system of government. There is an eternal and immutable law, he declared in *The Farmer Refuted* in 1775, in reply to Samuel Seabury—a law which is obligatory on all mankind prior to any institutions whatever. Quoting Blackstone, this law of nature "which, being coeval with mankind, and dictated by God himself, is, of course, superior in obligations to any other. It is binding over all the globe, in all countries, and at all times. No human laws are of any validity, if contrary to this; and such of them as are valid, derive all their authority, mediately, or immediately, from this original." Drawing the customary

[8] In 1767–1768, John Dickinson wrote his *Letters from a Farmer in Pennsylvania to the Inhabitants of the British Colonies.* In these letters he admitted the right of Parliament to regulate trade and manufactures, but denied its right to levy taxes on the colonists without their consent. Never before the Stamp Act did the British government adopt measures simply for raising revenue in America. In the fourth letter he declared: "An objection, I hear, has been made against my second letter, which I would willingly clear up before I proceed. 'There is,' say these objectors, 'a material difference between the *Stamp-act* and the *late act* for laying a duty on paper, &c. that justifies the conduct of those who opposed the former and yet are willing to submit to the latter. The duties imposed by the *Stamp-Act,* were *internal* taxes, but the present are *external,* and therefore the parliament may have a right to impose them.' To this I answer with a total denial of the power of parliament to lay upon these colonies any 'tax' whatever." See *The Writings of John Dickinson,* ed. by P. L. Ford (1895), Vol. I, p. 328.

conclusions from this premise, Hamilton asserted that men have rights and that no basis of government is valid save that of the consent of men to the form of government under which they live. There must be a voluntary compact between the rulers and the ruled that will save the absolute rights of the individual against the action of government. The first and primary end of government is to maintain and regulate the absolute rights of men.

The actions of Parliament pretend to an authority to which the colonists have not given their assent, and these actions rob the Americans of their right to security under the law of nature. The British government is under the fundamental laws of nature, just as any other government; the status of colonists is not that of slavery. The King is not King of America by virtue of the acts of Parliament which govern the succession; he is the King of America by virtue of a compact between the colonists and the King. In disclaiming the authority of Parliament, the colonists are not denying their allegiance to the King. The laws of nature and the British Constitution confine allegiance to the King. The charters of the colonies are grants of the King to the subjects who live in the colonies. But even more important, Hamilton argued that part of the fundamental structure of the British Constitution was the right of subjects to participate in making laws which restrict and limit the powers of the King. It is an inalienable right of an Englishman to be represented in the making of the laws which shall govern him. And whatever rights Parliament acquires over the colonists must be by their consent.

If the fundamental axiom is accepted that civil liberty is only natural liberty, modified and secured by the sanctions of civil society, the situation will be clearer. The natural liberty of colonists preserves to them their right to a share in the legislative power. "The foundation of the English constitution rests upon this principle; that no laws have any validity or binding force, without the consent and approbation of the people, given in the person of *their* representatives, periodically elected by *themselves*. This constitutes the democratical part of the government." Agreeing with Blackstone, Hamilton notes that only those persons who are in so mean a position that they are esteemed to have no will of their own are denied the right of voting by means of property qualifications; but this does not alter the essential characteristic of the democratic part of the British Constitution. Unless Americans are given the same rights as Englishmen in England, they are "precipitated in an abyss of slavery."

It is true [continued Hamilton] that New York has no charter. But if it could support its claim to liberty in no other way, it might, with justice, plead the

common principles of colonization: for it would be unreasonable to exclude one colony from the enjoyment of the most important privileges of the rest. There is no need, however, of this plea. THE SACRED RIGHTS OF MANKIND ARE NOT TO BE RUMMAGED FOR AMONG OLD PARCHMENTS OR MUSTY RECORDS. THEY ARE WRITTEN, AS WITH A SUNBEAM, IN THE WHOLE VOLUME OF HUMAN NATURE, BY THE HAND OF THE DIVINITY ITSELF, AND CAN NEVER BE ERASED OR OBSCURED BY MORTAL POWER. The nations of Turkey, Russia, France, Spain, and all other despotic kingdoms in the world, have an inherent right whenever they please to shake off the yoke of servitude . . . and to model their government upon the principles of civil liberty.

John Adams. From the fall of 1774 to the spring of 1775, John Adams, one of the leading lawyers of New England, engaged in a newspaper debate with Daniel Leonard on the rights of the colonists. Leonard wrote under the name of Massachusettensis; and the papers written by Adams became *Novanglus: Or, A History of the Dispute with America, from Its Origin, in 1754, to the Present Time.* The seventh letter in Adams's series is a discussion of the nature of the British Empire and the position the colonies occupied in that structure. Adams observes of Leonard's argument:

Then we are told, "that the colonies are a part of the British empire." But what are we to understand by this? Some of the colonies, most of them, indeed, were settled before the kingdom of Great Britain was brought into existence. The union of England and Scotland was made and established by act of parliament in the reign of Queen Anne, and it was this union and statute which erected the kingdom of Great Britain. The colonies were settled long before, in the reigns of the Jameses and Charleses. What authority over them had Scotland? Scotland, England, and the colonies were all under one king before that; the two crowns of England and Scotland united on the head of James I, and continued united on that of Charles I, when our first charters were granted. Our charter, being granted by him, who was king of both nations, to our ancestors, most of whom were *post nati,* born after the union of the two crowns, and consequently, as was adjudged in Calvin's case, free, natural subjects of Scotland, as well as England,—had not the king as good a right to have governed the colonies by his Scottish, as by his English parliament, and to have granted our charters under the seal of Scotland, as well as that of England?

If a new constitution was to be formed for the whole British dominions, and a supreme legislature coextensive with it, upon the general principles of the English constitution, an equal mixture of monarchy, aristocracy, and democracy, let us see what would be necessary. England has six millions of people, we will say; America has three. England has five hundred members in the house of commons, we will say; America must have two hundred and fifty. Is it possible she should maintain them there, or could they at such a distance know the state, the sense, the exigencies of their constituents? Ireland, too, must be incorporated, and send another hundred or two members. The territory in the East Indies and West

India Islands must send members. And after all this, every navigation act, every act of trade must be repealed. America, and the East and West Indies, and Africa too, must have equal liberty to trade with all the world, that the favored inhabitants of Great Britain have now. Will the ministry thank Massachusettensis for becoming an advocate of such a union, and incorporation of all the dominions of the King of Great Britain? Yet, without such a union, a legislature which should be sovereign and supreme in all cases whatsoever, and coextensive with the empire can never be established upon the general principles of the English constitution which Massachusettensis lays down, namely,—an equal mixture of monarchy, aristocracy, and democracy.

I agree, that "two supreme and independent authorities cannot exist in the same state," any more than two supreme beings in one universe; and, therefore, I contend, that our provincial legislatures are the only supreme authorities in our colonies. Parliament, notwithstanding this, may be allowed an authority supreme and sovereign over the ocean, which may be limited by the banks of the ocean, or the bounds of our charters; our charters give us no authority over the high seas. Parliament has our consent to assume a jurisdiction over them. And here is a line fairly drawn between the rights of Britain and the rights of the colonies, namely, the banks of the ocean, or low-water mark; the line of division between common law, and civil or maritime law. . . . The acts of trade and navigation might be confirmed by provincial laws, and carried into execution by our courts and juries, and in this case, illicit trade would be cut up by the roots forever. . . .

That there are any who pant after "independence," (meaning by this word a new plan of government over all America, unconnected with the crown of England, or meaning by it an exemption from the power of parliament to regulate trade,) is as great a slander upon the provinces as ever was committed to writing [asserted Adams (Letter VIII)]. The patriots of this province desire nothing new; they wish only to keep their old privileges. They were, for one hundred and fifty years, allowed to tax themselves, and govern their internal concerns as they thought best. Parliament governed their trade as they thought fit. This plan they wish may continue forever.[9]

Thomas Paine. The publication by Thomas Paine of his *Age of Reason,* which associated him with an attack on the orthodox system of Christianity, has long obscured his contribution to the movement for

[9] In *A Dissertation on the Canon and Feudal Law* (1765), Adams stated the viewpoint of the colonies on as broad a basis as possible. "A native of America who cannot read and write is as rare an appearance as a Jacobite or a Roman Catholic, that is, as rare as a comet or an earthquake. . . . But none of the means of information are sacred, or have been cherished with more tenderness and care by the settlers of America, than the press. . . . There seems to be a direct and formal design on foot, to enslave all America. This, however, must be done by degrees. The first step that is intended, seems to be an entire subversion of the whole system of our fathers, by the introduction of the canon and feudal law into America. The canon and feudal systems, though greatly mutilated in England, are not yet destroyed."

American independence. Paine wrote his *Common Sense* in 1776, and knowing little of the learned background of those who argued the legality or illegality of taxation of the colonies by the British Parliament, he was able to appeal to those of the rank and file who, like Paine, had no liking for the British ruling system. His was the first open American attack on the institution of monarchy, and the first generally read and effective plea for American independence.[10]

Had the religious views of the late eighteenth century been similar to those of today, Paine's antireligious writings would have passed without particular notice. On the other hand, subsequent developments in democratic theory followed the broad outlines suggested by Paine; he was a great and courageous but erratic democrat.[11]

> Society in every state is a blessing [stated Paine in the most quoted passage in *Common Sense*] but Government even in its best state is but a necessary evil; in its worst state an intolerable one; for when we suffer, or are exposed to the same miseries *by a Government,* which we might expect in a country *without Government,* our calamity is heightened by reflecting that we furnish the means by which we suffer. Government, like dress, is the badge of lost innocence; the palaces of kings are built upon the ruins of the bowers of paradise. For were the impulses of conscience clear, uniform and irresistibly obeyed, man would need no other lawgiver; but that not being the case, he finds it necessary to surrender up a part of his property to furnish means for the protection of the rest; and this he is induced to do by the same prudence which in every other case advises him out of two evils to choose the least. Wherefore, security being the true design and end of government, it unanswerably follows that whatever form thereof appears most likely to insure it to us, with the least expense and greatest benefit, is preferable to all others.

Paine supposes men in a state of nature, enjoying their natural liberty. But many motives lead men to think of society, and they are led to cooperate with each other. "Some convenient tree will afford them a State House, under the branches of which the Colony may assemble to deliberate on public matters. It is more than probable that their first laws

[10] Paine's *Rights of Man* was published soon after the outbreak of the French Revolution, and was a reply to Burke's attack on this Revolution in his famous *Reflections on the Revolution in France.* At various times in his life Paine was a citizen of England, of the United States, and of France. But because of his contribution to the cause of American independence, he is regarded as an American thinker.

[11] In the preface to the third edition of *Common Sense,* Paine ingenuously remarked (his authorship not being made public) that "he is unconnected with any party, and under no sort of Influence, public or private, but the influence of reason and principle." *The Writings of Thomas Paine,* ed. by M. D. Conway (1894), Vol. I, p. 68.

will have the title only of Regulations and be enforced by no other penalty than public disesteem. In this first parliament every man by natural right, will have a seat." With the growth of society, representative institutions would be introduced, though prudence would dictate that elections should be frequent in order that the elected might return and mingle with those who elected them. Paine insisted that he was drawing his principles of government from nature and not from the much-boasted-of English Constitution.

The British Constitution was noble, indeed, for the dark and slavish times in which it was generated. Any escape from tyranny is better than no escape at all. However, the British government is not simple; it is so complex that the people may suffer for years without being able to detect the part of the constitution that is at fault. In sum, the British Constitution is compounded of two ancient tyrannies—the remains of monarchical tyranny, the remains of aristocratical tyranny—with some added republican materials, such as the House of Commons, "on whose virtue depends the freedom of England." Likewise, to argue the value of the mixed constitution is an absurdity; it presumes, in turn, that each part of the government is wiser than the others. But, he argued, "the crown" is the overbearing part of the constitution. If limitations have been imposed on the monarchy, the keys to the door of absolute monarchy have been placed in its hands, as the corruption of the British government will show.

> The prejudice of Englishmen, in favor of their own government by King, Lords, and Commons, arises as much or more from national pride than reason. Individuals are undoubtedly safer in England than in some other countries, but the will of the King is as much the law of the land in Britain as in France, with this difference, that instead of proceeding directly from his mouth, it is handed to the people under the formidable shape of an act of parliament. For the fate of Charles the First hath only made Kings more subtle—not more just.

Paine thus turns to the general consideration of monarchy as an institution of government. He condemns without reservation this hoary denial of the rights of the common man. Almost every argument that might be advanced against such a form of government is suggested in his devastating analysis.

There is no natural basis for the distinction between kings and subjects, and in the early ages of the world, according to the Scripture chronology, there were no kings and consequently there were no wars. "It is the pride of kings which throws mankind into confusion." The peace of Holland and the experience of the ancient world suggest the

proposition that monarchy is a dangerous and disastrous institution. Likewise, the children of Israel in following the heathen model in establishing a monarchy against the will of God lost their peace and prosperity. But among the chief evils of monarchy is that of hereditary succession, which is not only a denial of the equality of men by birth but an insult imposed on them as well. Nature herself ridicules this principle, since people frequently get an ass instead of a lion for a king. Most men in private affairs consider hereditary right with contempt, and the same principles apply in public matters as in private matters. Or if we turn to the origin of kings we shall find the original kings were the principal ruffians of restless gangs, becoming preeminent among the plunderers of ordinary men.

> England, since the conquest [said Paine], hath known some few good monarchs, but groaned beneath a much larger number of bad ones; yet no man in his senses can say that their claim under William the Conqueror is a very honorable one. A French bastard, landing with an armed Banditti, and establishing himself king of England against the consent of the natives, is, in plain terms, a very paltry, rascally original. It certainly hath no divinity in it.

Kings originally could come into being only by three methods: by lot, by election, or by usurpation. But if the first might have been established by these means, hereditary succession has no meaning. If the first king was chosen by lot, the others should be also; the same is true of election, and certainly usurpation cannot justify hereditary succession to the throne. Instead of providing wise men for governors, monarchy establishes in power the foolish, the wicked, and the improper. "In England a King hath little more to do than to make war and give away places; which, in plain terms, is to impoverish the nation and set it together by the ears. A pretty business indeed for a man to be allowed eight hundred thousand sterling a year for, and worshipped into the bargain! Of more worth is one honest man to society, and in the sight of God, than all the crowned ruffians that ever lived."

Having shown that there was no hope of satisfactory government under the British system, Paine turned to the problem of whether independence was the best policy for the colonies. Let men use their reason rather than prejudice and prepossession, and the plain facts will speak for themselves; plain arguments and common sense are all that are needed in order to show that the colonies should separate from England in order to foster their own interests. Likewise, it is not the question of a city or a province, but it is a problem of the destiny of a continent that is at stake. "Now is the seed-time of Continental union, faith, and honor." The whole scope of argument has changed since April 19 and the call to

arms. Paine then proceeded to argue the extent of the material injuries the colonies sustained because of their British connection, injuries they would always suffer should that connection remain. If it be argued that the colonies have flourished under British rule, he answers that without such government they would have flourished more. "The commerce, by which she [America] hath enriched herself are the necessaries of life, and will always have a market while eating is the custom of Europe." If it be argued that Britain has protected the colonies, Paine answered that Britain would have protected Turkey for the same motives: to wit, trade and dominion. If Britain is the parent country of the colonies, the more shame upon her, since even brutes do not devour their young. Since the time for reconciliation is past, independence is the only course. The colonists must stand forth against tyranny.

> O! ye that love mankind! Ye that dare oppose, not only the tyranny, but the tyrant, stand forth! Every spot of the old world is overrun with oppression. Freedom hath been hunted round the Globe. Asia and Africa have long expelled her. Europe regards her like a stranger, and England hath given her warning to depart. O! receive the fugitive, and prepare in time an asylum for mankind.

The Loyalist View: Daniel Leonard. Among the conservative arguments that have, perhaps, the least popular appeal are those advanced by lawyers. If the masses do not understand the law and mistrust its operation when it touches the poor, it can hardly be expected they will appreciate the arguments for order and stability that arise out of the presuppositions of the legal mind. Of such a character were the contentions of Daniel Leonard, a Boston attorney, who wrote under the name of Massachusettensis during the fall and winter of 1774–1775. We have already considered the arguments of John Adams in reply to the ideas of Leonard. Their debate represents the conflict of the legal mind in the colonies on the eve of the Revolution.

There has been much talk of liberty and tyranny, declared Leonard, but let us consider the cause of the present disorder. In large measure, it is caused by the bad policy of the popular party in the province, which has been consistently over a period of years against the public good. Instead of a defense of liberty, the agitation of the popular party has been a tyranny carried into execution by mobs and riots; it has been a despotism more cruel than "the enormous monarchies of the East." Every barrier that civil government has erected for the protection of property, liberty, and life has been torn down by the rudest invaders of these rights. Under simple governments, of monarchy, aristocracy, or democracy, there is little protection of rights; but balance these elements in due proportion as in the British Constitution, and a government is established that is best

calculated to endure and to attain the proper ends of government. It is the glory of an Englishman to have such a government under which to live.

Now the colonies, he said, are part of the British Empire. Two supreme authorities cannot exist in the same state. The mother country, with its rights over the colonies, and the governments of the colonies cannot both be supreme. The supreme power in the British Empire is vested in the estates in Parliament, though each of the colonies have in their legislatures certain powers granted to them. To argue that the colonies are not under the supreme power of the estates in Parliament is a novel and unsound argument. It could be true only in an absolute monarchy to say that each part of the Empire has a direct connection with the King. Assuming there is a mixed government in Britain, it is absurd to argue that the relation of the colonies is directly with the King. There would, in fact, be no state at all, were the colonial legislatures to be given the same authority as the Parliament in Britain. Under the charters granted by the imperial government, the local authorities are well adapted to the needs of the individual colonies; but without the supreme regulative agency in Parliament they would be entirely inadequate to the whole needs of government. The rights of Englishmen can be preserved, indeed, only under the bulwark of the British Constitution. A careful consideration of the rights of the colonists under their charters, he urged, can show only that they are a part of the British Empire and subject to the jurisdiction that all Englishmen are subject to when they remove themselves from the immediate system of representation organized within Great Britain.

Jonathan Boucher. When the cause of independence was being argued, the preachers were important in expressing both popular and Tory ideas. Just as the lawyers and the businessmen were, the clergy were divided. Some of them used the arguments of John Locke, illustrated with Old Testament material, while others followed the principles of John Wesley and opposed the demand for independence. Those who represented the ideas of the Established Church in England were naturally more inclined to favor the continuance of the authority of the British government. They could, perhaps like Leonard, express the ideas, deeply felt, of the loyalists, who believed that they must leave the colonies and go either to the West Indies or to Canada in order to remain under British government. It should be remembered that obedience to political authority is one enduring aspect of the Christian tradition. St. Paul, particularly, admonished Christians to be subject to the powers that be, since these powers are ordained of God for the punishment of the wicked and for the reward of the just. It may be urged also that to understand popular

thinking in the Revolutionary era one must be familiar with the Christian apparatus of social thought. There has always been a Christian philosophy of government, and indeed any religious system must say something concerning the authority of the state. It is not, therefore, a mere antiquarian interest to consider the arguments of one of the most articulate of the clerical defenders of the cause of Britain in the colonies.

Jonathan Boucher published in 1797 in London *A View of the Causes and Consequences of the American Revolution, in Thirteen Discourses Preached in North America between the Years 1763 and 1775.* Boucher was an Anglican minister in Virginia and Maryland, but it is reported that he never acquired any love for the colonial way of life. As a supporter of the authority of the British government, he soon found himself at odds with those of his parishioners who were critical of the policies of the home government. Before he was forced to leave the colonies in 1775 he adopted the policy of preaching with a pistol near-by. His thought is a combination of the Christian philosophy of submission to government and the ideas of Sir Robert Filmer, a defender of the divine right of kings and of the Stuart monarchy.

"What is liberty?" asked Boucher. If we turn to the New Testament, we find it to be admission to the covenant of grace, and freedom from the bondage of sin. A sinner is a slave, and true liberty consists in being a servant of God, whose service is perfect freedom. The discussion of liberty which Boucher attacked was not to be met with in the Bible; it was the product of the heathens and modern patriots. The word "liberty," meaning civil liberty, does not occur at all in the Scriptures. Instead, the Scriptures indicate that men should be obedient to their lawful governments. The Gospels have nothing to say on the form of government, and they make no suggestions as to changes that may be made in the lawfully constituted authority over men. Boucher emphasized that Christ told the Jews that the truth would make them free. Further, Christ and the Apostles were insistent in rejecting the rumor in their day that Christ had come to overthrow the existing government. Consequently, obedience to the established powers was frequently urged upon the early Christians. Freedom, therefore, is to be found in a conscientious respect and reverence for law. If there ever was a mere man of nature, he had no freedom; he was under a lifetime of bondage. For it is only by being included within civil government that one takes his rank as a free man. Those who promise the people liberty are themselves the servants of corruption.

True liberty, then, is freedom to do what is right and at the same time restraint from doing what is wrong. Its foundation cannot be in the licentiousness of the people, for in proportion as the people follow their

own desires, they are less free than before. Government may be for the common good, but one cannot consult the feelings of the people in order to determine what the common good is. People have never agreed on this in the past, having established and destroyed governments, and the people of one age have not taken the same view as the people of another as to the nature of the common weal. But if the common good is not to be discovered by examining the common feeling, the principle that government was instituted by common consent is, of course, false.

If Boucher is opposed to the idea that consent and compact are the foundations of government, he is likewise opposed to the notion that men are equal. Men differ from men, and particularly so in those things that lead to a relation of supremacy and subjection. On the theory of equality, a man cannot be forced to submit to the ordinances of a government already established. Nor can acquiescence be taken for consent, for even an explicit consent would bind a man only so long as he wished. Equality entitles a man to withdraw his consent from government whenever he sees fit. In practice the theory of equality and consent would result in an endless succession of schemes of government. For the sake of peace in society, it cannot be supposed that men can withdraw their allegiance; and as Locke suggests, the minority must be bound by the majority. But how, asks Boucher, can Locke advance this argument on the basis of his own theory of equality and consent? In each individual case, it must be proved that consent to be bound by the majority has been given, and this of course cannot be done. Moreover, Locke is inconsistent in declaring that there is a right of resistance, while affirming we should be bound by the majority—that is, the law.

In his objection to government founded with a reservation of the right of resistance, Boucher appeals to history. There is no example of such a government. This argument, since the days of Hume, had been fundamental in the attack on the compact theory. However, our author is more concerned with the moral instability of government if there is a right of revolution. Our people are taught, he said, that government is an evil, and such a conclusion flows logically from the principles of compact. Yet it is to government that men owe their redemption from barbarity into which they fell because of sin and corruption. It cannot be supposed that men who knew nothing of government could rationally meet and decide on the surrender of certain rights in order to establish government. Government, declares Boucher roundly, comes not from compact, but from God, the source of all legitimate authority.

> This visionary idea of a government by compact [he continues (Discourse XII)] was, as Filmer [in the *Patriarcha*] says, "first hatched in the schools; and hath, ever since, been fostered by Papists, for good divinity." For some time, the

world seemed to regard it merely as another Utopian fiction; and it was long confined to the disciples of Rome and Geneva, who, agreeing in nothing else, yet agreed in this. In an evil hour it gained admittance into the Church of England; being first patronized by her during the civil wars, by "a few miscreants, who were as far from being true Protestants, as true Subjects."

But if we turn to the Scriptures and seek the true doctrine, we will find little that helps men to escape from the bonds of government and little that "may conciliate our regards by flattering our pride." In seeking the true origin of government, Boucher concludes that God intended men to live in society and under government, "for, there is no power, but God; the powers that be are ordained of God. The first father was the first king; and if (according to the rule just laid down) the law may be inferred from the practice, it was thus that all government originated; and monarchy is its most ancient form." [12] The patriarchal origin of government accords best with history; it is the most natural, the most consistent, and the most rational explanation of political society.

Moreover, the Scriptures are clear in their injunction to obey the state. Nowhere do they permit resistance to authority, and it is the duty of the Christian to submit. Rather than deriving their commission from the consent of men, kings obtain their authority from God. If men must obey God and not men when there is a direct conflict between human and divine authority, it is also true that the best manner of obeying God is to obey the state. And the state in turn cannot be limited in its power over subjects, save by the limitations imposed on all by the will of God. Government by its nature is supreme and irresistible; if it is supreme, there is no superior to limit it.

Samuel Adams and Thomas Hutchinson. The conflict, lasting for years, between Samuel Adams and Governor Hutchinson in Massachusetts reveals the inner workings of the rising struggle against British rule. Adams used all of the usual arguments against the British; he defended natural rights in the years before the Revolution, as he insisted on colonial rights under the British Constitution and under the charters. The main phases of the arguments leading toward independence are summarized in his tireless writing and agitation against the work of the British ministry in Massachusetts. Governor Hutchinson was, in contrast to Adams, wealthy and conservative, and he detested the rising power of democratic town meetings. He was in favor of control from England, and he connived with plans in England and in Massachusetts to rob the democratic

[12] Boucher is here reproducing the argument of Sir Robert Filmer, who in the seventeenth century defended the divine right of kings. The argument drove primarily against those who asserted the right of the people to resist the organized power of government.

agencies of their power. Adams turned early to the common people, and he sought to organize public opinion against the policies of the government. Yet they had one thing in common: they were both organizers, and it is as a popular leader that Adams should be remembered, perhaps, rather than as a journalistic philosopher of the case for the colonies. Hutchinson was finally driven from office; whereas Adams, as the organizer of the democratic tide, was to lay the foundations of the future power of the common people in American politics. Adams was willing to admit all types of men into the secrets of power, and he was a relentless enemy of government by gentlemen whose word should not be questioned by the populace. The work of men like Samuel Adams was to initiate the form of day-to-day political activity in American politics. But first of all, it was essential in winning the Revolution.

Conclusion. Has the philosophy of revolution stated in the years before the outbreak of war with Britain any validity today? In spite of the phrases used by our Revolutionary writers, the answer must clearly be yes. There are lasting, universal, and fundamental aspects to our Revolutionary thought; and as those in other lands have been moved by it, so are we moved today in our defense of the American way. We cannot press against the modern organization of tyranny without a moral focus, without a sense of spiritual values, and without a belief in justice which is more than the convenience of either the majority or the governing elite. The fathers of our Revolution were animated by a moral passion which Americans often lack today. As they declared their belief in natural law and rights, so today we believe that a good society is based on a moral order found in the nature of man. We claim rights today because they are morally justified. We are heirs to the same tradition of social right that our Revolutionary leaders accepted, for it is the tradition that goes back to the inception of Western civilization.

Our Revolutionary leaders sought to appease the British government by effecting a compromise. When compromise failed, they resorted to independence in order to establish the basic principles of their social creed. If today we face the problem of organizing on a world scale the conditions of the good life, we cannot carelessly forget the ideal of a federation of societies propounded by our philosophers of revolution. The kind of British Empire Americans wanted before 1776 would have assured to them the rule of law and the protection of the ancient rights of Englishmen, it would have guaranteed political decentralization, and yet it would have preserved a capacity to face energetically a common danger. Naturally, the idealization of the British Constitution, as it was urged against the actual conduct of government, cannot move us today. Yet the value of legal continuity in the protection of rights, which the

colonists saw in that Constitution, cannot fail to be one of the principles for which we will stand in the future. Colonial writers saw in the British Constitution the rule of law, but perhaps the rule of law was more important than the Constitution itself.

In general, the American people saw during the Revolution that a civilization can grow only with known principles and with a sense of purpose that recognizes the dignity of man. The conservatives did not believe that the masses could preserve that heritage, while the more democratic leaders were willing to trust the future of orderly civilization to the common man. Our Revolution left us with a heritage of struggle for social justice, but the heritage is older than the Revolution. The Revolution was a limited manifestation of ancient principles.

Yet we may view the Revolution from many points of view. We might look at it from the standpoint of the workers whose wages lagged behind rapidly rising prices. We may watch, if we will, the efforts of merchants, farmers, and consumers to meet the disorganization of economic life, so common in revolutionary times. We might examine the activities of both high and low in station, as they looked longingly toward the western lands occupied by the Indians. We may consider the efforts of the British military commanders or the royal governors to check the aggressiveness of the colonists against the Indians. In the process of revolution we might watch the rise and fall of morale in the fighting forces; we might observe the problems of strategy, and military mistakes and inefficiency. Or one might tell of the bravery which brought men to offer their lives for the winning of the cause. Personalities might be studied, even for the hidden psychological motivations that were reflected in their actions, such as the tale of Benedict Arnold.

We must not forget that there is always continuity, even through revolutionary periods. Alexis de Tocqueville found that the French Revolution had simply confirmed many of the essential features, or drifts, in the France of the old regime. And so it was in colonial America. When the British grew tired of the war and turned their attention again to Europe, the basic tendencies of colonial life resumed the course they had followed before the Revolution. But new political institutions crystallized, new ideas became consciously hardened and inbred in the American mind, and the drive to the west, toward the organization of a continent, developed with accelerating pace.

Selected Bibliography

Adams, John: *The Works of John Adams*, ed. by Charles F. Adams (10 vols., 1850–1856).

Adams, R. G.: *Political Ideas of the American Revolution* (1939).

ADAMS, SAMUEL: *The Writings of Samuel Adams,* coll. and ed. by H. A. Cushing (4 vols., 1904–1908).

BALDWIN, ALICE: *The New England Clergy in the American Revolution* (1928).

BEARD, CHARLES A., and MARY R. BEARD: *The Rise of American Civilization* (2 vols., 1927–1930).

BECKER, C. L.: *The Declaration of Independence* (rev. ed., 1942).

BENNETT, WALTER H.: "Early American Theories of Federalism," *The Journal of Politics,* IV (1942), 383*ff.*

BOYD, JULIAN P.: *Anglo-American Union: Joseph Galloway's Plans to Preserve the British Empire, 1774–1788* (1942).

CARPENTER, WILLIAM S.: *The Development of American Political Thought* (1930).

COKER, FRANCIS W.: *Democracy, Liberty and Property* (1942).

DAVIDSON, PHILIP: *Propaganda and the American Revolution* (1941).

GETTELL, R. G.: *History of American Political Thought* (1928).

GREENE, E. B.: *The Revolutionary Generation, 1765–1790* (1943).

HAMILTON, ALEXANDER: *The Works of Alexander Hamilton,* ed. by H. C. Lodge (9 vols., 1885–1886).

JACOBSON, J. M.: *The Development of American Political Thought* (1932).

JEFFERSON, THOMAS: *The Writings of Thomas Jefferson,* coll. and ed. by P. L. Ford (10 vols., 1892–1899).

KENDELL, WILLMOORE: *John Locke and the Doctrine of Majority Rule* (1941).

KNORR, K. E.: *British Colonial Theories, 1570–1850* (1945).

MACDONALD, WILLIAM: *Select Documents Illustrative of the History of the United States, 1776–1861* (1897).

MCILWAIN, CHARLES H.: *The American Revolution: A Constitutional Interpretation* (1923).

MERRIAM, CHARLES E.: *American Political Theories* (1903).

PAINE, THOMAS: *The Writings of Thomas Paine,* coll. and ed. by M. D. Conway (4 vols., 1894–1896).

——— *The Complete Writings of Thomas Paine,* ed. by P. S. Foner (2 vols., 1945).

SPURLIN, P. M.: *Montesquieu in America, 1760–1801* (1940).

WARREN, MERCY: *History of the Rise, Progress and Termination of the American Revolution* (3 vols., 1805).

WILSON, JAMES: *The Works of James Wilson,* ed. by J. D. Andrews (2 vols., 1895).

WILSTACH, PAUL, ed.: *Correspondence of John Adams and Thomas Jefferson, 1812–1826* (1925).

WRIGHT, B. F.: *A Source Book of American Political Theory* (1929).

Chapter 4

POLITICAL LIBERALISM IN EARLY STATE CONSTITUTIONS

> That government is, or ought to be instituted for the common benefit, protection, and security of the people, nation, or community; of all the various modes and forms of government, that is best which is capable of producing the greatest degree of happiness and safety, and is most effectually secured against the danger of maladministration; and that, when any government shall be found inadequate or contrary to these purposes, a majority of the community hath an indubitable, inalienable, and indefeasible right to reform, alter, or abolish it, in such manner as shall be judged most conducive to the public weal.—Virginia Bill of Rights, Art. 3, June 12, 1776.

The Fundamental Law. The American people live under one of the most complicated systems of government in the modern world. Yet that complexity has not made it impossible for our government to operate with a measure of efficiency, both in times of calm and in periods of national emergency. Albert Venn Dicey, the noted student of the British Constitution, has observed that an American citizen is a born constitutional lawyer. Indeed, until recent years we have rarely been able to discuss the problems of government without indulging in argument as to the constitutional nature of any proposal. Contemporary discussions, however, of what is constitutional and what is not have lost the flavor of the eighteenth century. In that time of origins men were interested in the establishment of a fundamental law, a written law, that would govern the conduct of the state. This basic law in turn was derived from the law of nature and its accompanying code of natural rights. One of the most striking phases of the American political mind is its insistence on laws of a fundamental character that protect individuals in society. How could that law be stated? The eighteenth century felt that the proper way was to draft a written instrument as the backlog of government; all other aspects of the dynamics of politics would be tested by this law, this constitution which was fundamental law. The Revolutionary period in our history was not only the time in which Americans became conscious of fundamental law and rights, but it was also the time in which they became accustomed to the idea that the constitution stated this law. The Revolutionary period is not alone the beginning of modern written constitutional law for the United States,

for it is also the beginning of this movement for the entire world of liberal thought. We may think of liberalism today as a body of policies; but in the eighteenth century liberalism began—and almost ended—in the formation of the structure of government under the written constitution. Both republicanism and democracy invariably go back to this essential instrument of government.

The late eighteenth and early nineteenth centuries in Western culture were times of sharp change in social and political organization. In such times political thinking moves beyond the trivial defense of immediate advantages and traditional structures. It turns to what is deemed to be fundamental in the light of the thought of the day. It has been so in other times of rapid political change, as in the ancient world, when the stable city-state was disintegrating before the impact of stubborn social forces. Athenians knew the various forms of government by having had experience with them; Romans likewise learned of political change through internal conflict and the stresses of a mighty empire. But the ancient world thought of the constitution as an arrangement of offices that might be changed when new political movements attained power. To both Aristotle and Polybius, for example, the constitution was a balance of class forces; but to Polybius, more than to Aristotle, the Roman Constitution was an arrangement of political structures. It cannot be denied that the American revolutionists were interested in a change of social structure; but they sought, unlike the ancient world, to embody these changes in a code of fundamental law, springing directly from the authority of the community.

The example furnished Europe by the North American colonies was to be a powerful force in the efforts of European statesmen to create the political organization that might be called liberal. But just as Europe experimented for over a generation in what should be the proper organization of the liberal state, so the path of American liberalism was hardly less thorny. What came out of it all, however, was constitutional liberalism, attached to a fundamental law which, though seemingly stable and permanent, was yet to be as changing and dynamic as other systems of political organization. As the social equilibrium changed, it was impossible that the structure of government should not change in spirit. The old phrases could take on new meaning; and in view of this, a system of constitutions such as were drafted during the Revolution in the American states could last, along with the national Constitution, for over a hundred and fifty years without essential verbal alteration. The old principles, it was found, could be adjusted to a changing world.

Middle-class Constitutionalism. But this changing liberal society has been directed by the middle class. If the constitutions of the late eight-

eenth century reflected the youth of the bourgeoisie arrived in power, it is perhaps not strange that these constitutions could adjust themselves to the changing temperature of the middle class itself. The old phrases could still seem dear in spite of their use in the light of new experience. It was still the middle class that was reading meaning into the political structure it had originally created.

In that middle-class environment, as in Europe, equality before the law and liberty in society were eagerly sought. The conscience of men was sometimes troubled by existing inequalities; and in that century of new directives, thinkers did not see any conflict between the liberty of men to do what they liked and the equality of all in society. *The Journal of John Woolman,* covering the years 1720 to 1772, shows the Quaker conscience rising against the inequality of slavery; and, as we have seen, the sturdy Benjamin Franklin was much concerned with a practical, instrumental, and secular moral code. The contradiction in the liberalism of the middle class can be sensed also in the vigorous mind of Thomas Jefferson, who penned the Declaration of Independence and who cautiously directed his efforts toward bringing about the emancipation of slaves. But it can hardly be argued that the eighteenth century sensed, as did De Tocqueville later, the contradiction between equality and the liberty that created inequalities in society, especially in the holding of property. Like Franklin, men could argue that we are finally responsible for what happens to us in the economic world. We can say that consistently the thinkers of the eighteenth century said more than they perhaps intended; they provided in their constitutionalism ammunition for those whose artillery was to be aimed at the injustices—*i.e.,* inequalities—of society perceived by later generations.[1]

What we are asserting here is that in the early state constitutions are to be found the social principles that were later to govern the common mind of American thinking. Too much attention has been paid to the national Constitution in this respect, for state constitutions were the beginning of American liberalism. It was the first serious and geographically extended effort to make some direct application of the principles so learnedly and wisely considered in the argument against the rule of Britain in America.

Alexis de Tocqueville was a young, aristocratic Frenchman when he

[1] American liberalism from the Revolution to the Civil War was, aside from the influence of deism, deeply religious. It was applied in practice to politics and economics—to the establishment of freedom. It was not, as was often the case in Europe, antichristian in principle. American liberalism held neither the idea of the absolute autonomy of the human reason nor the idea that the state is legally absolute. Contemporary American liberalism is, however, more like its European counterpart.

traveled in the United States in 1831, having been sent by the French government to study our penitentiary system.[2] Out of his observations of American life came his *Democracy in America,* published from 1835 to 1840. De Tocqueville had lived in a France that was at the forefront of the changes that were to constitute the liberal system, and he saw in America some of the same tendencies that were at work in France. Above all, there was the steady drift toward equality, which was supported by the bourgeoisie, who were tired of the principle of inequality represented in the ancient, aristocratic, and feudal system of Europe. The trend toward equality was a permanent and universal experience, and in America he could see one clear set of institutions devoted to the realization of this idea. De Tocqueville did not believe that the development of democracy could be stopped; all that might be done was to check in various ways the tyranny of the majority in the interest of liberty. Liberty, as he saw it, was in conflict with the principle of equality. American liberalism, as De Tocqueville described it, had come out of the institutions of government adopted in the revolutionary constitutions as the permanent basis of social organization. American constitutional liberalism, however, was merely one phase of a general movement in the West; it was not simply a continuation of British institutions, since the basic spirit of the British Constitution had been rejected, even if certain institutions of England were carried from the colonial period into that of statehood. De Tocqueville could not see, as we can today, the contribution to the political structure of the modern world that the early state constitutions were to make. For with the drafting of the revolutionary constitutions, the modern period of constitutional government began; from our experiments liberals were finding how to establish governments which in some degree realized their ideas. Our state constitutions were to do what had been unsuccessfully attempted in the revolutionary period in England in the seventeenth century, and they were to be in some respects the model for hundreds of efforts to make constitutions in the two following generations.[3]

The First Period of Constitution Making. This period of political realization for the middle class, for commercial capitalism, and for the beginnings of modern technology was on the whole an honest, optimistic, and cheerful time. There was hope for the future, and it was felt that

[2] George W. Pierson, *Tocqueville and Beaumont in America* (1938).

[3] See Michael Kraus, "America and the Irish Revolutionary Movement of the Eighteenth Century," in R. B. Morris, ed., *The Era of the American Revolution* (1939), pp. 332*ff*. See J. Paul Selsam, "Brissot de Warville on the Pennsylvania Constitution of 1776," *The Pennsylvania Magazine of History and Biography,* January, 1948, pp. 25*ff*.

the principles of social progress already enunciated by the liberals of the continent were to be proved by the reality of our experience. It was a period of reform. Lands became free of the disagreeable and restrictive quitrents and residual elements of aristocratic control; primogeniture and entail were abolished; the established church in nine of the thirteen colonies was immediately on the defensive; and the way was opened for the American attainment of religious freedom for all. Restrictions on economic enterprise, entailed by membership in the British imperial system, were destroyed, and the ships of the United States were to sail freely on the seven seas. An old ruling class was evicted from its position of power, and the young enthusiasm of the new political leaders was given free scope to express its political genius. The British bureaucracy, which had sought to fasten the tax system of the mother country on the colonies, sailed away or repented, and its members became good Americans. With the departure of British officials, the new era was to begin. A new political system with a new ideology was to take the place that had been occupied by the pseudoaristocracy of late colonial times. Now, too, men might dream realistically of expansion toward the west. Under the Articles of Confederation and the new state constitutions, the economic wounds of the war began to heal, and some historians have come to the conclusion that the so-called critical period was largely a myth.[4]

We must now survey briefly the action of the different states in establishing their new frames of government. Fragmentary experience sometimes is of crucial importance at the opening of a new period, and it was natural that the principal colonial charters should be looked to in forming the new governments that were to continue after the break with the British government. With the exception of Rhode Island and Connecticut, each of the states framed at least one constitution during the Revolution. These two states continued to use their charters without serious modification. In most of the states the temporary government carried through the transition from British to American state government, and except in one or two cases, the new constitutions were not submitted to the people for popular ratification. The time had not yet come when it would be accepted as an axiom of American politics that a constitution must be submitted to the people for their approval before it can become the law of the land. A resolution of the Continental Congress on May 10, 1776, urged the adoption by the respective states of governments suitable to their needs. However, before this, in January, a convention

[4] Charles A. Beard and Mary R. Beard, *The Rise of American Civilization* (1927), Vol. I, pp. 292, 303–304. See J. F. Jameson, *The American Revolution Considered as a Social Movement* (1926).

in New Hampshire had adopted a new frame of government; this constitution was admittedly temporary in nature, and it was succeeded by others in 1784 and 1792. South Carolina followed New Hampshire in working out a frame of government suitable for the time, though in both of these cases the definite break for independence had not been made. Additional instruments of government were adopted by South Carolina in 1778 and 1790.

Following the suggestion of the Continental Congress, however, we find the state of Virginia deciding to adopt a permanent constitution. The Declaration of Rights was adopted on June 12, and on June 29 the document known as the Virginia constitution was adopted by the convention. This constitution remained in effect until 1830. Adopting a constitution that was to last until 1844, the state of New Jersey took action in July. The constitution adopted in Delaware was to last only until 1792, while in the same month the novel constitution of Pennsylvania was adopted. This constitution, which remained in effect until 1790, established a single-chamber legislative body, a plural executive, and a council of censors; but these features were not accepted in other states, and have since become points only of historical interest to the student of American government.[5] The Maryland constitution, adopted in November, 1776, lasted until 1851, and in North Carolina the constitution of December, 1776, was not displaced until 1861. Georgia and New York adopted constitutions in 1777. While the New York constitution lasted until 1821, that of Georgia was followed by another constitution in 1789. The Georgia constitution was the first to contain provisions for popular participation in the amending process, and the constitution of New York was the first to provide for the popular election of the governor. The state of Massachusetts moved more slowly in the adoption of a constitution. In 1778 the voters of the state rejected a constitution submitted to them, and then accepted the document proposed in 1780; that constitution, with amendments, still remains the fundamental law of Massachusetts. In the drafting of this constitution the experience of the other states was put to good use, and the document of 1780 stated pointedly many of the principles which were, and have been, accepted as axiomatic in the American system of government.[6]

[5] See John P. Selsam, *The Pennsylvania Constitution of 1776* (1936). The recent adoption in Nebraska of a one-house legislature may revive the unicameral movement in the United States.

[6] See B. F. Wright, *A Source Book of American Political Theory* (1929), pp. 116–119, for a very effective summary of the drafting of state constitutions, upon which the above paragraphs are based. See also B. F. Wright, "The Early History of Written Constitutions in America," in *Essays in History and Political Theory in Honor of Charles Howard McIlwain* (1936), pp. 344*ff*.

The liberal republicanism of the American constitutions stood for the rule of law, the protection of rights, and in general for both political and economic freedom. Property was assured to individuals as a natural right, and the idea was implicit throughout that a contract was a binding obligation because it sprang from the law of nature. Faintly, too, there were some indications of belief in free trade; certainly this principle was accepted in so far as it was necessary to break the restrictions of the British imperialist system. The rights of individuals were protected by bills of rights in the constitutions. It was not clear just who was to enforce these rights, but they were regarded as binding upon all agents of government. It was only later that the judiciary was to be recognized by most factions in our political system as the chief agency for the protection of personal rights. Furthermore, the sovereignty of law, the rule of law, was to be enforced by the separation of the legislative, executive, and judicial powers. Since the tyranny of the British government had been effective chiefly through the executive, there was a strong tendency to weaken the governor and to trust the legislature, which had been the chief bulwark of liberty before and during the Revolution. At the same time, there was a belief that officials, whatever their character, should return to the people frequently through the process of elections. Many believed, at this time, that only annual elections would protect the people against legislative irresponsibility such as they had suffered under the British Parliament. Clearly, liberty rather than equality was the theme of the law, although socially, certain economic reforms and the destruction of the aristocracy and the bureaucracy of Britain tended in the direction of equality. It is significant also that the framers of these constitutions, in their search for liberty, were not willing to accept any large development of social or political authority over society. That development was to come later in American history, though the nationalists and Federalists early began the process of Federal centralization which still is striding forward—though, in the twentieth century, at the behest of the masses rather than the aristocrats.

The Virginia Bill of Rights. One of the most spectacular and soul-warming of the devices of early liberalism was the bill of rights. The provisions of the American bills of rights march through the pages of our constitutional history with monotonous regularity, and the new states in the American Union did little more than copy the provisions which had become traditional. Let us select for consideration some of the ideas of the Virginia bill of rights. In the preamble we read: "A Declaration of Rights made by the representatives of the good people of Virginia, assembled in full and free convention; which rights do pertain to them and their posterity, as the basis and foundation of government." It continues:

1. That 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; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.

2. That all power is vested, and consequently derived from, the people; that magistrates are their trustees and servants, and at all times amenable to them.

The document proceeds to state that since government is for the general benefit, a majority of the community has the right to change the form of government;[7] that no man or set of men, *i.e.*, an aristocracy, is entitled to exclusive or separate emoluments except for the public services they render; and that since the public service given cannot descend by heredity, "neither ought the offices of magistrate, legislator or judge to be hereditary." Further, the legislative and executive powers of the state should be separate and distinct from the judicial power; and since the members of the first two functions of government should share in the burdens of government, they should return to a private status through the operation of frequent and regular elections. Article 6 declares: "That elections of members to serve as representatives of the people, in assembly, ought to be free; and that all men, having sufficient evidence of permanent common interest with, and attachment to the community, have the right of suffrage, and cannot be taxed or deprived of their property for public uses, without their own consent, or that of their representatives, so elected, nor bound by any law to which they have not, in like manner, assented for the public good."

We shall later consider the regulation of the right of voting in the states, but it should be observed here that the sovereignty of the people did not mean that all persons whatsoever should have the right to vote; the continuance of the community itself was regarded as of equal value with the right to consent to government. Evidence of a permanent and common interest with the rest of the community would, of course, be tested by property qualifications. During the Revolution, however, the Sons of Liberty and other urban working-class organizations urged that the right of suffrage should be broadened, but it was not until the nineteenth century that the restrictions on the right to vote were stricken from the law books of the states. Even now, it can hardly be said that the consent of the governed means a right to vote prior to all other socially necessary regulations.

[7] Students of American Constitutional history have assumed that this and similar provisions must be exercised in accordance with existing law and within the framework of government. In other words, the right of the majority is *not* a constitutionalized right of revolution.

The bill of rights provided that the power of suspending laws or of the execution of laws without the consent of the representatives of the people is injurious to the rights of the people. It is here that one of the ancient problems of constructing free governments is faced. Dictatorship in a strictly legal sense—*i.e.*, the Roman sense—is the suspension of the operation of the ordinary laws because of public emergency. All governments have to recognize that there are emergency situations in which the functioning of government has to be altered to face the emergency. However, from the outset American liberalism has attempted to place limitations on the power of the executive to suspend the force of the laws or the rights of individuals. Here it is declared that the representatives of the people must participate in any such suspension, and thus the general republican principle in this respect is stated. Only the representatives of the people themselves may provide for the exceptional circumstance under which government becomes, for the time being, a dictatorship. Martial law and the suspension of the writ of habeas corpus are examples of the previsioned exercise of dictatorial power; laws are not to be suspended permanently, but only temporarily to meet the emergency.

Corresponding to these provisions are others concerning the armed forces in the state. Republican liberty required that the military power of the state should be subordinate to the civil power, yet it was recognized that military forces must be organized for these same emergencies in which the ordinary operation of the law might be modified. "That a well-regulated militia, composed of the body of the people, trained to arms, is the proper, natural, and safe defence of a free state; that standing armies in time of peace should be avoided, as dangerous to liberty; and that in all cases the military should be under strict subordination to, and governed by, the civil power," is declared by the Virginia Declaration of Rights. The framers of our early constitutions recognized that it is all but impossible to retain the rights of liberty when the state is devoted to military purposes. Emphasis on the militia suggests also that these men were not sure, on the examples of ancient history, that they could control the military power once it was established.

In all of the bills of rights and at the very heart of modern liberalism is the principle of the juridical defense of the individual, both against his fellow man and against the officers of government. There is no rule of law unless the officers of the law obey the law themselves. Therefore, in all bills of rights there are guarantees as to legal procedure when a man's property, liberty, or life may be at stake. It is clear, of course, that one of the first moves an authoritarian regime must make is to destroy the independence of the judicial branch of the government. The Declaration of Rights stated that a man accused of crime may demand to know the

nature of the charge against him, that he shall be confronted with the accusers and the witnesses, that he may call for evidence in his favor, and that he shall have the right to a speedy trial in the locality in which he lives. This trial shall be by an impartial jury, reaching unanimous agreement before he can be convicted. Excessive bail, excessive fines, and cruel and unusual punishments are prohibited. No general warrants giving the right of search and seizure may be issued (this reflects the bitter struggle over writs of assistance during the Revolution, for these writs were in many cases general search warrants). Furthermore, in civil suits the right of trial by jury is to be preferred; and "the freedom of the press is one of the great bulwarks of liberty, and can never be restrained but by despotic governments." The Declaration concluded with what are general admonitions as to the character or spirit of government. It stated:

> . . . that no free government, or the blessings of liberty, can be preserved to any people, but by a firm adherence to justice, moderation, temperance, frugality, and virtue, and by frequent recurrence to fundamental principles. That religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence; and therefore all men are equally entitled to the free exercise of religion, according to the dictates of conscience; and that it is the mutual duty of all to practise Christian forbearance, love, and charity towards each other.

The Virginia Constitution: Jefferson's Criticism. In turning to the constitution of Virginia, adopted in the same month as the bill of rights, we have one of the early but ambitious attempts to state in structural form the principles embodied in the statement of rights. Few said the constitution was perfect, yet the constitutions of Virginia and Massachusetts stand out as interesting examples of political construction in the early period of our republican liberalism. The delegates and representatives stated that since the governmental tie with Britain had been dissolved and the General Congress had requested that the states form governments, they now ordain and declare the following provisions to be the future form of government of Virginia. At the outset they stated that the legislative, executive, and judicial powers of the government shall be separate and distinct and that no person shall exercise power in more than one of these branches at the same time. The General Assembly was composed of two branches, which met as one legislature at least once each year. The House of Delegates consisted of two representatives from each county, chosen annually of such men as reside in the county and are freeholders. It was provided that the Senate should consist of twenty-four members, for whose election the counties were

grouped into districts; these also shall be residents and freeholders. The right of suffrage for both houses was left unchanged. The governor was to be chosen annually by a joint ballot of both houses, taken separately. This official was not to remain in office for more than three successive years, and he was ineligible for reelection until he had been out of office for four years. The constitution stated that an adequate but moderate salary should be paid him, and that he should be advised by a Council of State, but he should not, in the enforcement of the laws of the commonwealth, "exercise any power or prerogative by virtue of any law, statute or custom of England." The Council of State, or Privy Council, consisted of eight members chosen by joint ballot of both houses of the legislature. Likewise, the two houses appointed by joint ballot the higher judges and other officers of the state; while the governor, with the advice of the Privy Council, appointed justices of the peace for counties.

It is a matter of debate as to which is the first written constitution in the history of America. Much depends, of course, on how a constitution is defined. There is little doubt that the assurance with which the colonists proceeded to draft written instruments of government came from their experience with colonial charters and from the fact that for decades they had lived under governments of limited powers. Professor Wright has suggested that the Virginia Charter of 1606 is the first written constitution in American history; and Thomas Jefferson, in his *Notes on the State of Virginia,* observed of the constitution of 1776: "This constitution was formed when we were new and unexperienced in the science of government. It was the first, too, which was formed in the whole United States. No wonder then that time and trial have discovered very capital defects in it." [8] In any case, it is clear that Virginia's experience in the construction of government is of profound significance in American history. But it is clear also that there is a continuity of experience from colonial times on into the era of American statehood.

We shall have frequent occasion to discuss the ideas of Thomas Jefferson, but the only book he ever wrote was the one just mentioned, the *Notes on the State of Virginia* in 1782 (actually published, however, in 1784). In the section of this work devoted to the constitution, we find Jefferson extremely critical of the work of the Virginia framers, but these criticisms show in fact the development of American constitutional theory. It is to these criticisms that we should now turn. First, the majority of those who pay and fight for the support of the state are not

[8] B. F. Wright, "The Early History of Written Constitutions in America," in *Essays in History and Political Theory in Honor of Charles Howard McIlwain* (1936), p. 347.

represented in the legislative bodies—the roll of freeholders not including half of the militia, for example. Second, among those who share the representation the shares are unequal—that is, representation in the state is not properly divided. Here we get an opening gun in one aspect of democratic politics: the continuous struggle between different sections for an advantageous distribution of legislative seats. "It will appear at once," said Jefferson, "that nineteen thousand men, living below the falls of the rivers, possess half of the senate, and want four members only of possessing a majority of the house of delegates; a want more than supplied by the vicinity of their situation to the seat of government, and of course the greater degree of convenience and punctuality with which their members may and will attend in the legislature."[9] The representatives of these nineteen thousand men, in turn, give law to nearly thirty thousand living in the rest of the state, and control the appointment of the governor and the other chief officers of the state.

Jefferson was one of the first to sense the difficulty of constructing a two-house legislature under the conditions of American democracy. He argued next that the senate was too homogeneous with the house of delegates. Because the same electors elect both houses at the same time upon the same issues, the same type of man is in both houses. Thus the purpose of introducing a divergent set of interests into the legislature is defeated. Wealth and wisdom have an equal chance at membership in both houses.

> In some of the American States [he observed] the delegates and senators are so chosen, as that the first represent the persons, and the second the property of the State. But with us, wealth and wisdom have equal chance of admission into both houses. We do not, therefore, derive from the separation of our legislature into two houses, those benefits which a proper complication of principles is capable of producing, and those which alone can compensate the evils which may be produced by their dissensions.[10]

At this point Jefferson begins a devastating attack on the failure of the makers of the constitution adequately to separate and distribute the powers of government. It cannot be too often stressed that the liberalism of the eighteenth century regarded a concentration of political power as fatal to liberty. Hence a large amount of the political ingenuity of the thinkers of the day went into the discussion of how to limit the tendency of the powers of government to develop and to escape the limitations of the law. Moreover, it has generally been admitted that the separation of powers written into the first state constitutions was

[9] Jefferson, *Writings*, ed. by P. L. Ford, Vol. III, p. 223.
[10] *Ibid.*

largely theoretical; it was a statement of purpose without suitable machinery for enforcing it. The legislature was in fact the predominant element in the government. Perhaps the separation of powers has never been more than a theory, but the later efforts to embody it in our constitutions were far more effective than the attempts of the first state constitutions.

In the fourth place, Jefferson urged that all the powers of government are vested in the legislature. Executive and judicial powers come under the concentration of authority in the hands of the legislators. The concentration of these powers in the same hands, declares Jefferson, is the essence of despotism. Nor can it be argued that since there are many people in the legislature, there will be no tyranny.

> One hundred seventy-three despots would surely be as oppressive as one. . . . With money we will get men, said Caesar, and with men we will get money. Nor should our assembly be deluded by the integrity of their own purposes, and conclude that these unlimited powers will never be abused, because themselves are not disposed to abuse them. They should look forward to a time, and that not a distant one, when a corruption in this, as in the country from which we derive our origin, will have seized the heads of government, and be spread by them through the body of the people; when they will purchase the voices of the people, and make them pay the price. Human nature is the same on every side of the Atlantic, and will be alike influenced by the same causes. The time to guard against corruption and tyranny, is before they shall have gotten hold of us. It is better to keep the wolf out of the fold, than to trust to drawing his teeth and talons after he shall have entered.[11]

To Jefferson the statement of the separation of powers as the preserver of liberty had no meaning aside from the political techniques that were used to bring it into effect. The constitution did provide for the separation of powers, but in practice the legislature had a free right to interfere with both the executive and the judicial branches of the government. In the fifth place, therefore, he objects to the power of the ordinary legislature to alter the constitution. The convention which drafted the constitution was chosen before the issue of independence was decided, and it enacted a constitution which it had no right to establish. It had no right to make a law superior to other and succeeding legislatures, and, therefore, the present constitution had no higher validity than ordinary law. Jefferson notes that the terms constitution, laws, and statutes are convertible terms, and that merely giving the title "constitution" to the present instrument of government did not make it a superior law. Authority, and not mere names, gives validity. Lord Coke, for example, argued that

[11] *Ibid.*, pp. 223–225.

one Parliament may not bind another, and indeed the delegates who drew up the Virginia constitution did not think it to be unalterable. Jefferson had no patience with those who believed the constitution of 1776 permanent or perpetual. Nor can the mere fact of no rebellion against the constitution give it a higher validity than it had originally. Other states, he declares, have been of the opinion that to render a form of government unalterable by ordinary acts of the assembly, the people must delegate persons with special powers. Therefore, in order to establish a constitution superior to the legislature a special convention coming directly from the people must be chosen.

In the sixth place, Jefferson looked with disfavor on the right of the assembly to determine a quorum of its own body in order to pass laws. The house has reduced the required quorum, and it might further abuse this power by delivering authority to one man. Emphatically, Jefferson declares that the delegates may not delegate their powers to others where judgment and integrity are required for the exercise of those powers. If necessity should dissolve the government, it returns to the people and not to any to whom the delegates might try to grant power. The people no doubt would rebel before they would permit such a perversion of republican government. In addition, Jefferson notes that the dictatorship in ancient Rome, instead of remaining temporary, became permanent and the republic fell.

> In December, 1776, our circumstances being much distressed, it was proposed in the house of delegates to create a *dictator,* invested with every power legislative, executive, and judiciary, civil and military, of life and death, over our persons and over our properties; and in June 1781, again under calamity, the same proposition was repeated, and wanted a few votes only of being passed. . . . In God's name, from whence have they derived this power? . . . What clause in our constitution has substituted that of Rome, by way of residuary provision, for all cases not otherwise provided for?

The reason for the situation which had developed, Jefferson declared to be in the lack of barrier between the three departments of government.

> Our situation is indeed perilous [he goes on to say], and I hope my countrymen will be sensible of it, and will apply, at a proper season, the proper remedy; which is a convention to fix the constitution, to amend its defects, to bind up the several branches of the government by certain laws, which, when they transgress, their acts shall become nullities; to render unnecessary an appeal to the people, or in other words a rebellion, on every infraction of their rights, on the peril that their acquiescence shall be construed into an intention to surrender those rights. . . .[12]

[12] *Ibid.,* pp. 231–235.

But Jefferson the reformer was not content merely to advocate that the constitution be made more perfect structurally. He believed that, in addition to changes in the government, certain social reforms were equally necessary. And in the study of these proposals we may witness the growth of democratic ideas in Virginia, which was, at that time, at the political forefront of the country in suggesting liberal alterations of society. As Jefferson stated it, laws should be amended that are not consistent with republicanism. There should also be a codification of the laws on the basis of the common law. The main changes in the laws approved by Jefferson were, first, provisions establishing equal inheritance of property, and the consequent abolition of primogeniture. Such a change was, in his mind, putting the ax to whatever remained of the aristocratic system left over from British rule. Second, slaves should be distributed among the next of kin as movables or personal property. Third, assessments should be made on citizens in accordance with their property for public expenses. Fourth, the rules of naturalization should be defined, and lastly, religious freedom should be established. Jefferson had never been enthusiastic about slavery, and he had already attempted to secure its abolition in Virginia; likewise, in the first draft of the Declaration of Independence the British King was charged with encouraging the slave trade.[13] He believed at the time of the *Notes* that Negroes born in the future should not be retained as slaves, and he felt that there was a social danger, a menace of race conflict, in the institution of slavery. It might be, he suggested, that the Negroes could migrate to another part of the world and whites be brought in instead. But it was clear that he believed the Negro inferior in body and mind to the whites.

Perhaps most seriously of all, Jefferson believed that education was a necessary function of the state.

> Another object of the revisal [of the Code of Laws] is, to diffuse knowledge more generally through the mass of the people. This bill proposes to lay off every country [*sic*] into small districts of five or six miles square, called hundreds, and in each of them to establish a school for teaching, reading, writing, and arithmetic. The tutor to be supported by the hundred, and every person in it entitled to send their children three years gratis, and as much longer as they please, paying for it. These schools to be under a visitor who is annually to chuse the boy of best genius in the school, of those whose parents are too poor to give them further education, and to send him forward to one of the grammar schools, of which twenty are proposed to be erected in different parts of the country, for teaching Greek, Latin, geography, and the higher branches of numerical arithmetic. Of the boys thus sent in any one year, trial is to be made at the grammar schools one or two years, and the best genius of the whole selected, and continued six years, and the residue

[13] See W. S. Jenkins, *Pro-slavery Thought in the Old South* (1935), pp. 31–32.

dismissed. By this means twenty of the best geniuses will be raked from the rubbish annually, and be instructed, at the public expense, so far as the grammar schools go.[14]

Jefferson then suggests that, at the end of six years, one-half of this number of students shall be selected to study such sciences as they may select at William and Mary College. But this institution must be expanded to include all of the useful sciences. The state must come to the aid of education, in order that the natural talents of the children of the poor will have the same chance as the children of the rich. In this manner corrupt government, exampled by Great Britain, and tendencies toward it, will be checked.

If many of the suggestions for revision of the legal structure of Virginia noted above are positive in character and imply a series of fundamental reforms and alterations in the property and political system, Jefferson was also interested negatively in throwing aside the restrictions on religious freedom which had existed under British rule. Partly under the stimulation of Virginia liberalism, religious freedom has become one of the essentials of democratic and republican government. Reason and free inquiry, said Jefferson, are the only effectual agents against error; reason must be allowed free play and it will support the true religion. For the exercise of conscience, he urged, we are answerable only to God. It does no injury to me, for example, for my neighbor to say there are twenty gods or no god. We shall consider later the Virginia statute of religious liberty which Jefferson brought to enactment; it is one of the pillars in the first house of American liberalism.

At the time of the discussion of the constitution of 1776, Jefferson was convinced of the superiority of the agricultural way of life as against the mercantilist theory of a manufacturing and exporting society. Part of the social policy he envisaged was, therefore, support of the agricultural way of life. In transferring to America the principle of manufacture we have not considered the difference between Europe and the United States. In Europe, he declared, the lands are either cultivated or locked up against the cultivator, while here there is a vast amount of land awaiting the hand of the farmer. Is it best that one-half of our citizens should be farmers and the other half engaged in manufactures and handicraft arts? Here Jefferson turns to a favorite theme: If God ever had a chosen people, it is those who labor on the earth, and in whose breasts he has found the depository of genuine virtue. There has never been an example of the mass corruption of the cultivators of the earth, but there are plenty of instances of the degradation of city populations. While we have

[14] Jefferson, *Writings*, ed. by P. L. Ford, Vol. III, pp. 251–252.

land to labor, let our workshops stay in Europe. "The mobs of great cities add just so much to the support of pure government, as sores do to the strength of the human body. It is the manners and spirit of a people which preserve a republic in vigor." [15]

Constitutionalism in Massachusetts: The Essex Result. If we turn from Virginia to Massachusetts, we find an equally energetic debate on the nature of the proper construction of government. A constitution was submitted to the voters in 1778, and there was widespread discussion in the towns. Among the documents of the time which tend to clarify the thought of Americans on the content of constitutions, is that which came out of the meeting of the delegates of the town in Essex county. Theophilus Parsons was selected to state the objections to the proposed constitution—the leading objections being the lack of a bill of rights, a defective separation of powers, and the absence of a property qualification for governor. Our interest in this document here is to indicate some of the trends in what we have called the liberalism or the constitutionalism of the times.[16] To state the propositions of the Essex Result is little more than a review of the principles of John Locke and the Declaration of Independence, yet the political leaders involved in this objection to the constitution faced squarely the problem of how a constitution ought to be framed. Their problem was essentially that of Jefferson in his criticism of the constitution of Virginia. Here, however, the chief concern is not social policy but the conceptions which underlie a total legal structure.

It is accepted as axiomatic that men have emerged from a state of nature, and that because of the inconveniences of this state certain rights are surrendered and others retained. But the rights surrendered are given because of the protection that government is able to offer.

> A republican form [they declare] is the only one consonant to the feelings of the generous and brave Americans. Let us now attend to those principles, upon which all republican governments, who boast any degree of political liberty, are founded, and which must enter the spirit of a FREE republican constitution. For all republics are not FREE.
>
> It has been observed [they continue] that each individual parts with the power of controuling his natural alienable rights, only when the good of the whole requires it; he therefore has remaining, after entering into political society, all his unalienable rights, and part also of his alienable natural rights, provided the good of the whole does not require the sacrifice of them. Over the class of unalienable

[15] *Ibid.*, p. 269.

[16] See *Memoir of Theophilus Parsons, by His Son Theophilus Parsons* (1861), pp. 359*ff.*, for a text of the Essex Result.

rights the supreme power hath no controul, and they ought to be clearly defined and ascertained in a BILL OF RIGHTS, previous to the ratification of any constitution. The Bill of Rights should also contain the equivalent every man receives, as a consideration for the rights he has surrendered. This equivalent consists principaliy in the security of his person and property, and is also unassailable by the supreme power: for if the equivalent is taken back, those natural rights which were parted with to purchase it, return to the original proprietor, as nothing is more true, than that ALLEGIANCE AND PROTECTION ARE RECIPROCAL.

The gentlemen of Essex county were interested in the balancing of the powers of government. They realized that the strongest government is that vested in one or a few; but they contend, on the other hand, that when the people are informed and have time to consider the interests of the state, they will act for the public well being. The voice of the people, it has been said, is the voice of God, yet this proposition cannot be accepted to the full extent. For too many people do not have the time to inform themselves on public matters and so determine wisely what measures should be adopted for the general welfare of society. "Yet, when we are forming a Constitution, by deductions that follow from established principles, (which is the only good method of forming one for futurity) we are to look further than to the bulk of the people, for the greatest wisdom, firmness, consistency, and preseverance. These qualities will most probably be found amongst men of education and fortune. From such men we are to expect genius cultivated by reading, and all the various advantages and assistances, which art, and a liberal education aided by wealth, can furnish." Among the people there is honesty and integrity; among those of wealth and education there is political ability. The two sources of public advantage so considered should be combined in the constitution. Let the legislative body unite them all.

The criticism of the proposed constitution of 1778 then proceeds to a discussion of the separation of powers. The three powers—legislative, executive, and judicial—ought to be in different hands, and independent of one another. Aboslute government consists in putting all of these powers into the hands of one or a large number of individuals. Or if any two of the powers are united, particular evil will flow from that combination.

The Massachusetts Constitution. A study of the constitutions adopted by the Revolutionary states shows that there was a gradual increase of certainty as to what should go into instruments of government. The constitution of 1780 in Massachusetts grew out of more controversy in the state than did the constitution of Virginia, and it was in the end the most durable of the documents of a fundamental character drafted

during this period. Yet the basic principles are not greatly different from those accepted in other states, for there was and has been in the end a remarkable agreement on what should be included in a constitution in the United States. In fact, we may say that this agreement as to basic principles—though not as to social policy—is one of the reasons the revolting states were able to live together in both a confederate and a federal union. There are some differences, however, which must be noted.

The Massachusetts constitution accepts the general ideas of the social compact, voluntarily entered into, and the protection of rights. "The body politic is formed by a voluntary association of individuals: it is a social compact, by which the whole people covenants with each citizen, and each citizen with the whole people, that all shall be governed by certain laws for the common good." But the first element of agreement in the social compact is the bill of rights, and here there is little to distinguish Massachusetts from the other states. All men are born free and equal, being endowed with certain natural, essential, and inalienable rights, including life, liberty, and property. If the leaders of Virginia insisted that the state should withdraw itself from the control of religious matters, the problem was approached with more caution in New England. The bill of rights, it is true, states that a man may worship God according to his conscience, provided he does not disturb the public peace or obstruct others. Article III of the bill of rights, however, rejects the Southern principle of the separation of church and state, which has since become one of the essentials of American liberalism.

As the happiness of a people, and the good order and preservation of civil government, essentially depend upon piety, religion, and morality [says the article], and as these cannot be generally diffused through a community but by the institution of the public worship of God, and of public instructions in piety, religion and morality: Therefore, to promote their happiness, and to secure the good order and preservation of their government, the people of this commonwealth have a right to invest their legislature with power to authorize and require, and the legislature shall, from time to time, authorize and require, the several towns, parishes, precincts, and other bodies politic, or religious societies, to make suitable provision, at their own expense, for the institution of the public worship of God, and for the support and maintenance of public Protestant teachers of piety, religion, and morality, in all cases where such provision shall not be made voluntarily. And the people of this commonwealth have also a right to, and do, invest their legislature with authority to enjoin upon all the subjects an attendance upon the instructions of the public teachers aforesaid, at stated times and seasons, if there be any on whose instructions they can conscientiously and conveniently attend.

This article clearly recognizes the right of the state to tax individuals for the support of religious bodies—provided, however, that if no religious instruction of the kind desired is available, the tax money shall go to the support of the teachers of the parish or precinct in which the money is raised. On the other hand, every denomination of Christians is recognized as equally under the protection of the law.

The Massachusetts bill of rights recognizes the state as sovereign and independent, and capable of exercising all powers not delegated to the United States in congress assembled. But since all power resides in the people, the officers and agents of the government are to be held subordinate to the people and accountable to them. No man, corporation, or association is to have any hereditary privileges, and the people have an undisputed right to alter or change their government when they feel it necessary. All officers must return to private life after stated intervals, as the laws shall provide. Furthermore, all persons given the right to vote shall have equal rights with the others given the right to vote in elections. After stating the usual legal and judicial guarantees of individual liberty, the bill of rights concludes with what is no doubt its most famous article:

> In the government of this commonwealth, the legislative department shall never exercise the executive and judicial powers, or either of them: The executive shall never exercise the legislative and judicial powers, or either of them: The judicial shall never exercise the legislative and executive powers, or either of them: to the end it may be a government of laws, and not of men.

The constitution then establishes a General Court, composed of a senate and a house of representatives, both houses being elected annually. While the principle of town representation is established for the house of representatives, the senate is to be elected from districts established by the legislature, on the basis of the amounts paid by the districts in taxes. Both senators and representatives are required to be freeholders, and those who are qualified for voting are so qualified likewise on the basis of the possession of property. A senator must have a freehold to the value of three hundred pounds, or personal estate to the value of six hundred pounds, or of both to the amount of the same sum. A representative must have a freehold of one hundred pounds, or a ratable estate of two hundred pounds. In the election of senators, male inhabitants of the district twenty-one years of age or more, having a freehold estate with an annual income of three pounds, or any estate of the value of sixty pounds, are given the right to participate in the election. Qualifications for voting for representatives were the same as for senators.

When the property qualification for voting is established, there can be

only minor variations in the conditions under which citizens are permitted to become part of the electorate. We have today moved so far from the principle of property as a basis of voting that these provisions in Massachusetts (or in other states at this time) seem archaic. It is true that there was a rising movement for a general right of adult males to vote, such as that engineered by the Sons of Liberty in New York, but in 1780 the time had not arrived when they could make their claims heard. It was still believed that the only way in which a stable society could be established was to give the right of participation only to those whose interest in stability was evidenced by the possession of property.

The Massachusetts constitution makes an attempt to provide a more vigorous executive power than was the case in some of the early state constitutions. The governor was regarded as the supreme executive magistrate. "The governor," says the constitution, "shall be chosen annually; and no person shall be eligible to this office, unless, at the time of his election, he shall have been an inhabitant of this commonwealth for seven years next preceding; and unless he shall, at the same time, be seized, in his own right, of a freehold, within the commonwealth, of the value of one thousand pounds; and unless he shall declare himself to be of the Christian religion." Those qualified to vote for senators and representatives had also the right to vote for governor, voting in their town meetings. The constitution provides also that there shall be a council to advise the governor, to consist of nine persons besides the lieutenant-governor. "Nine councillors shall be annually chosen from among the persons returned for councillors and senators, on the last Wednesday in May, by the joint ballot of the senators and representatives assembled in one room; and in case there shall not be found, upon the first choice, the whole number of nine persons who will accept a seat in the council, the deficiency shall be made up by the electors aforesaid from among the people at large; and the number of senators left shall constitute the senate for the year."

John Adams: The Balanced Government. We must move now to a consideration of the theory of John Adams, the constitutional leader in Massachusetts. As Jefferson became the leading exponent of such principles in Virginia, so Adams was the writer in New England who brought together the conservative theory of the time. It cannot be said that Adams was liberal in the same sense as Jefferson, yet he held many ideas that were not profoundly different from those of the Virginian. If Jefferson's *Notes* must be regarded as one of the formative works on the theory of government in the United States, we must put alongside of it Adams's *Defence of the Constitutions of Government of the United States of America* (1786–88). It was a long work, and dull, as are most of Adams's

writings. It was undertaken primarily in defense of the state constitutions, particularly that of Massachusetts; and the idea which Adams was most interested in supporting was the principle of check and balance in governmental structure. Turgot in France had urged that governmental powers should be concentrated in one organ rather than divided among three. The separation of powers was axiomatic in American political thought at the time, and owing to the attack made upon this idea of American liberal and constitutional thinking, it was necessary to defend it.

Yet we can not avoid the conclusion that running through this debate there is an element of confusion. All agreed that the separation of powers was for the preservation of liberty; all agreed that the concentration of authority was, by its very nature, tyranny. But what was the nature of the separation? Was it a political technique resting on inherent differences between powers exercised by government? Or was it a division based on divergent social interests, democratic and aristocratic, rich and poor, that could be organized to check each other in the operation of government? The separation of powers is a political formula, the mixed constitution (based on the mixture of monarchic, aristocratic, and democratic elements) is the social formula of eighteenth-century conservative liberalism. Jefferson favored the separation of powers, but it was to be based on the free recognition of the democratic element in society; Adams was, it seems, more interested in the mixed constitution, which would check the democratic as well as the other elements in the constitution. It would seem that Adams first of all wanted a mixed constitution, and that he would use the separation of powers as an additional technique by which to guarantee the continuance of the different orders in the state. Adams becomes, therefore, one of the outstanding students in American political thinking as to the construction of the ruling order in the state; in a large sense, he established the tone of American conservatism, as Jefferson did of progressivism or a discrete radicalism.[17]

In his discussion of the physiocrats in *L'Ancien régime,* Alexis de Tocqueville complains that they were more interested in reform than in liberty; in fact, Turgot only became concerned with liberty late in his career, after its importance had been pointed out to him by others. Likewise, the economists or physiocrats generally favored a strong, centralized monarchy that would undertake to educate the people in the natural condition of society. It seemed unreasonable to these French thinkers that the complexities of the British or other similar governments should be transplanted to the United States without good reason. Adams re-

[17] See F. G. Wilson, "The Mixed Constitution and the Separation of Powers," *The Southwestern Social Science Quarterly,* Vol. XV (1934), pp. 14*ff*.

plied that the elements of the British Constitution, notably the division of the legislature, were adopted in the United States because they had ever been so and because the Americans were convinced that such an organization was in accordance with reason and nature. There was to Adams, in other words, a *natural constitutional law* which was embodied in our state governments; Turgot would likewise agree there was a natural constitutional law, but it was very different from the American scheme.[18] To Adams, liberty must be preserved before anything else, and the only way to secure liberty was to balance the natural elements in any governmental system.

Adams defends with vigor the British Constitution against French criticism.

> A science certainly comprehends all the principles in nature which belong to the subject [states Adams]. The principles in nature which relate to government cannot all be known without a knowledge of the history of mankind. The English constitution is the only one which has considered and provided for all cases that are known to have generally, indeed, to have always, happened in the progress of every nation; it is, therefore, the only scientifical government. To say, then, that standing powers have been erected, as "mere artificial devices of great men, to serve the ends of avarice, pride, and ambition of a few, to the vassalizing of the community," is to declaim and abuse. Standing powers have been instituted to avoid greater evils,—corruption, sedition, war, and bloodshed, in elections; it is the people's business, therefore, to find out some method of avoiding them, without standing powers. The Americans flatter themselves they have hit upon it; and no doubt they have for a time, perhaps a long one; but this remains to be proved by experience.[19]

Adams was not impressed by the fact that literary men were willing to accept an order headed by a wise and benevolent but absolute prince as the best form of government. There can be no free government, he urged, without a democratical branch in the constitution. This is true even though democracies and democratical mixtures have been harried from the countries of Europe. The people of England are an exception, a fact that is to their immortal honor. But the democratical element in the constitution cannot be preserved without a strong executive, *i.e.*, monarchic element—that is, the separation of the legislative and executive powers. On the other hand, the aristocratic element must be separated from the democratic. "The rich, the well-born, and the able, acquire an influence among the people that will soon be too much for simple honesty and plain sense, in a house of representatives. The most illustrious of them must, therefore, be separated from the mass, and placed

[18] Adams, *Works*, ed. by C. F. Adams, Vol. IV, pp. 292, 300, 579.
[19] *Ibid.*, Vol. VI, p. 118.

by themselves in a senate; this is, to all honest and useful intents an ostracism." [20] Thus the able and the great do not become a menace in the state, since they can be promoted and brought together in the senate, where their influence will be felt but will not predominate over either the executive or the democratic branches of the government.

Somewhat turgidly Adams declares that the governments of the United States are erected, as the first example, on the simple principles of nature. Our people were too enlightened to accept artifice in the establishment of their governments, and their leaders had to descend to the elemental aspects of political freedom. But the elements to be found so clearly in our system of government are found in some sense in all governmental forms, and on the basis of historical recurrence Adams felt, apparently, the naturalness of what he was advocating.

Among every people and in every republic, he pleads, there has been a kind of first magistrate—a head, a chief—under various names and with different degrees of authority. The body politic cannot subsist, any more than an animal body, without a head. Likewise, in every form of government there is a senate or little council, composed of officers of state who have the most experience and power. With the executive, the principal burden of administration rests upon these persons. There is in every instance, also, a larger body of representatives chosen by the people, or sometimes composed of the people directly.

In every republic,—in the smallest and most popular, in the larger and more aristocratical, as well as in the largest and most monarchical,—we have observed a multitude of curious and ingenious inventions to balance, in their turn, all those powers, to check the passions peculiar to them, and to control them from rushing into those exorbitancies to which they are most addicted. The Americans will then be no longer censured for endeavoring to introduce an equilibrium, which is much more profoundly meditated, and much more effectual for the protection of the laws, than any we have seen, except England. We may even question whether that is an exception.[21]

Liberty is not lost, since England has preserved it by maintaining the equilibrium Adams defends, through trial by jury and by constantly refusing to maintain a standing army. In looking at our constitutions, there is no reason to blush for the United States.

Our people are undoubtedly sovereign; all the landed and other property is in the hands of the citizens; not only their representatives, but their senators and governors, are annually chosen; there are no hereditary titles, honors, offices, or distinctions; the legislative, executive, and judicial powers are carefully separated from each other; the powers of the one, the few, and the many are nicely

[20] *Ibid.*, Vol. IV, p. 290.
[21] *Ibid.*, p. 379.

balanced in the legislatures; trials by jury are preserved in all their glory, and there is no standing army; the *habeas corpus* is in full force; the press is the most free in the world.[22]

Thus the laws alone can govern.

Adams turns to consider also Congress under the Articles of Confederation. The Congress is but a diplomatic assembly, and there was, therefore, no need to institute a balance of authority, as in the state governments. "A single council has been found to answer the purposes of confederacies very well." [23] The delegates are responsible to the governments that send them to the national body.

By a realistic analysis of the process of politics and administration Adams seeks to show the absurdity of a single organ of government controlling the whole state. Can this single assembly administer all public affairs, appoint all officers, and resist the temptation presented to it to enlarge its own scope of authority? This can hardly be the case. The generals and the admirals, the high executive officials may begin to control the assembly, and great favors will produce inequalities in administration and taxation. The political divisions that are inevitable will as inevitably lead to internal struggle and the dominance of one group over the other. If you want despotism and tyranny, the way to bring them about is to follow the ideas of Turgot.

> In the present state of society and manners in America [declares Adams], with a people living chiefly by agriculture, in small numbers, sprinkled over large tracts of land, they are not subject to those panics and transports, those contagions of madness and folly, which are seen in countries where large numbers live in small places, in daily fear of perishing for want. We know, therefore, that the people can live and increase under almost any kind of government, or without government at all. But it is of great importance to begin well; misarrangements now made, will have great, extensive, and distant consequences; and we are now employed, how little soever we may think of it, in making establishments which will affect the happiness of a hundred millions of inhabitants at a time, in a period not very distant. All nations, under all governments, must have parties; the great secret is to control them. There are but two ways, either by a monarchy and standing army, or by a balance in the constitution. Where the people have a voice, and there is no balance, there will be everlasting fluctuations, revolutions, and horrors, until a standing army, with a general at its head, commands the peace, or the necessity of an equilibrium is made appear to all, and is adopted by all.[24]

During his life, and as the lines of party battle sharpened between the conservative Federalists and the Jeffersonians, Adams was subjected to

[22] *Ibid.*, p. 382.
[23] *Ibid.*, pp. 579–580.
[24] *Ibid.*, pp. 587–588.

savage criticism. He was accused of favoring monarchy and hereditary aristocracy; and he was charged with being opposed to democracy, or the right of the masses to control and participate in government. Moreover, the battle still rages as to whether Adams deserted his early defense of the American Revolution and the principles for which it stood. In defense of Adams, it may be stated that at no time did he ever urge an unrestricted control of the government by the people; he was always a conservative. It can be said also that the very legal stabilities which he favored were those being violated by the British administration of the North American colonies. It is true, no doubt, that Adams never had a very high opinion of the political intelligence of the masses of men. It will be well to give his criticism of the mass of the people, remembering that Adams insisted always that there must be a democratic element in republican government as a necessary aspect of the organization of political liberty.

In Adams's *Defence* he devotes considerable attention to the refutation of a work by Marchamont Nedham, written in 1656 and republished in 1767. Adams considers first the proposition that the people are the best keepers of their own liberties, a proposition implying the full and unrestricted control of the government by the masses of the people. The people as a body can never act; and if a representative assembly is given all power, it will invade the rights of men. "All kinds of experience show, that great numbers of individuals do oppress great numbers of other individuals; that parties often, if not always, oppress other parties; and majorities almost universally minorities." [25] Furthermore, people are constantly invading the rights of others, as robberies, murder, and other types of crime will show. A great percentage of every nation is destitute of property, and to give them unrestricted political rights will mean that the rights of the propertied classes will be invaded. "Property is surely a right of mankind as really as liberty." Anarchy and tyranny commence when the idea is admitted that the laws of property are not as sacred as the laws of God.

> There is in every nation and people under heaven a large proportion of persons who take no rational and prudent precautions to preserve what they have, much less to acquire more. Indolence is the natural character of man, to such a degree that nothing but the necessities of hunger, thirst, and other wants equally pressing can stimulate him to action, until education is introduced in civilized societies and the strongest motives of ambition to excel in arts, trades, and professions are established in the minds of men.[26]

[25] *Ibid.*, Vol. VI, p. 7.
[26] *Ibid.*, p. 9.

Selfish passions in the generality of men are the strongest of the motives governing their conduct, and a single sovereign assembly is best calculated to facilitate the gratification of self-love and private interest. Under the rule of demagogues all professions will be corrupted, and the outstanding characters of society will be driven from places of public influence. The rich are people as well as the poor, and they should have a barrier in the constitution to protect their rights against robbery, plunder, and murder. Only the establishment of a senate can achieve this result, and there must be an executive authority as powerful as either the senate or the representatives of the people. The people have a right to be heard, but if they are corrupted, the only remedy is to strengthen the executive and the senate to overbalance them. A mixed constitution, with greater or less guarantee for balance, is thus the only solution of the problem of free institutions.

Conclusion. In this chapter we have studied the principles and interpretations of the early state constitutions. We are now in a position to examine the national scene. Here we shall find many of the same ideas being given expression in the present Constitution of the United States. Classical federalism was a growth out of state, and previous national, experience; it was a reflection of the experience in government during the years of the Revolution and in the short years immediately following. Any revolution implies in some respects a lowering of the social barriers; in the years following, social control must be reestablished—in other words, the conservatives are likely to struggle successfully for power. It has become a truism that a revolution destroys less than we ordinarily suppose. There is more continuity between the pre- and postrevolutionary eras than the radicals of the time want to admit. In other words, a revolution may be all but completed before the first shot is fired or the first shout of the common people is heard. Men attack a ruling system in society in order to establish another of their own creation. It has been the glory of our Revolutionary leaders that they proceeded to establish quickly, first in the states, and then in the national arena, a body of political institutions that were able to do what the British bureaucrats in the colonies were unable to accomplish.

Selected Bibliography

Adams, J. T.: *The Adams Family* (1930).

Adams, John: *The Works of John Adams,* ed. by Charles F. Adams (10 vols., 1850–1856).

Becker, C. L.: *The Heavenly City of the Eighteenth-century Philosophers* (1932).

Carpenter, Willam S.: *The Development of American Political Thought* (1930).

Chinard, Gilbert: *Thomas Jefferson: The Apostle of Americanism* (1929).

CORWIN, EDWARD S.: "The Progress of Constitutional Theory Between the Declaration of Independence and the Meeting of the Philadelphia Convention," *The American Historical Review,* Vol. XXX (1925), pp. 511–526.

CURTI, MERLE: *The Social Ideas of American Educators* (1935).

GETTELL, R. G.: *History of American Political Thought* (1928).

JACOBSON, J. M.: *The Development of American Political Thought* (1932).

JEFFERSON, THOMAS: *The Writings of Thomas Jefferson,* coll. and ed. by P. L. Ford (10 vols., 1892–1899).

KETTELBOROUGH, CHARLES: *The State Constitutions and the Federal Constitution and Organic Laws of the Territories and Other Colonial Dependencies of the United States of America* (1918).

KOCH, ADRIENNE, and WILLIAM PEDEN, eds.: *The Selected Writings of John and John Quincy Adams* (1946).

LASKI, HAROLD J.: *The Rise of Liberalism* (1936).

MERRIAM, CHARLES E.: *American Political Theories* (1903).

NEVINS, ALLAN: *The American States During and After the Revolution, 1775–1789* (1924).

POORE, BENJAMIN P.: *The Federal and State Constitutions, Colonial Charters, and Other Organic Laws of the United States* (1877).

RUGGIERO, GUIDO DE: *The History of European Liberalism,* trans. from the Italian (1927).

SCHACHNER, NATHAN: *Alexander Hamilton* (1946).

SOMBART, WERNER: *The Quintessence of Capitalism,* trans. from the German (1915).

THORPE, FRANCIS N.: *The Federal and State Constitutions, Colonial Charters, and Other Organic Laws of the United States, Territories, and Colonies Now or Heretofore Forming the United States of America* (1909).

WALSH, C. M.: *The Political Science of John Adams* (1915).

WILSON, F. G.: "The Mixed Constitution and the Separation of Powers," *The Southwestern Social Science Quarterly,* XV (1934), 14*ff*.

WRIGHT, B. F.: *A Source Book of American Political Theory* (1929).

———: "The Early History of Written Constitutions in America," in *Essays in History and Political Theory in Honor of Charles Howard McIlwain* (1936), Chap. XII.

Chapter 5

CLASSICAL AMERICAN FEDERALISM

> . . . a pure democracy, by which I mean a society consisting of a small number of citizens, who assemble and administer the government in person, can admit of no cure for the mischiefs of faction. . . . A republic, by which I mean a government in which the scheme of representation takes place, opens a different prospect, and promises the cure for which we are seeking. . . . The two great points of difference between a democracy and a republic are: first, the delegation of the government, in the latter, to a small number of citizens elected by the rest; secondly, the greater number of citizens, and greater sphere of country, over which the latter may be extended.—*The Federalist,* No. X, by James Madison.

The Growing Constitution. Constitutions grow, but a written constitution must also be made; it must be drafted, and by a process of ratification it must come into effect. It may be that only at the time of drafting is the work of the framers of supreme importance, for ever after that the constitution is a growing, changing political experience. The further we come from the Convention of 1787, the more is its work altered by the leadership of the American people. It has been long recognized that our Constitution is both a written document and a body of political experience, only part of which is embodied in written form. More and more we see that the living Constitution must be observed from what men do, from the spirit and the political traditions of the people. What we witness is the constant transformation of the political values of yesterday and the day before that, while there is also an obvious continuity in many respects between any two periods of our political history that might be selected for study.

In this chapter we shall examine some of the major attitudes taken by the dominant political leaders of society at the time of the formation of the written Constitution under which we now live. There seems to be agreement, however, on a few broad propositions about the Constitution. It is now generally denied that the Constitution came from a widespread popular demand of patriots from all parts of the country that we should have "a more perfect union." The Constitution is a product of internal struggle; it was favored by a group of men who were able in the end to prevail over those who objected. Today it is almost archaistic to resur-

rect the arguments of the time against the ratification of the Constitution, however accurate their exponents may have been in predicting the future.

Many implications arise from the assumption that the Constitution is the product of internal struggle. Immediately, one may inquire into the character of the men who favored the Constitution. Who were those who fought its ratification in the critical months after the work of the Convention was concluded, on September 17, 1787? What motives led men to favor the Constitution, and what interests drove them into the opposition? How much continuity is there between the days of the Articles of Confederation and the early period of Constitutional development? If we say that there was social conflict behind the Constitution, what were the contours of that struggle? Today the answer to many of these questions rests upon the assumptions of social thought accepted by particular thinkers, or in other words upon current political theory. None denies that the framers were politically able, or that their work has fitted into the needs of succeeding generations of American citizens. But the great conflict is between the radical and the conservative. The radical attack on the framers insists that they were conservatives who were first of all interested in securing the rights of the upper economic classes, and that they saw in the Constitution a weapon to repress the more democratic tendencies which had been brought to light by the Revolution. It can hardly be denied that one object of the Constitution was to defend the rights of property, dangerously affected by popular movements in different states. To the conservative, such is a work of statesmanship; to the radical, it may sometimes be regarded almost as the achievement of reaction against the implications of the Revolution itself. No subject arouses debate so continuously as property, and the movement for the adoption of our present system of government goes to the heart of the problem.[1]

Constitutional Conservatism. Ours is a government which accepts property, and our Constitution was made by men who believed that one function of government, at least, was the orderly protection of the rights of the living and the dead. Property as an institution is much older than capitalism, and hence it may be argued that the spirit of our government was antecapitalistic, though it has grown naturally into the economic structure of modern society without undue stress. The framers of the

[1] Two of the most important writers of a critical character are J. Allen Smith, *The Spirit of American Government* (1907), and Charles A. Beard, *An Economic Interpretation of the Constitution of the United States* (1913); *The Economic Basis of Politics* (new ed., 1936). V. L. Parrington, *Main Currents in American Thought* (3 vols., 1927–1930), is of enduring importance in the conflicting interpretation of the spirit of American institutions. Naturally, all works which stem from Marxian or other socialistic inspiration are extremely critical of the motives of the framers.

Constitution were men of property; so were those who signed the Declaration of Independence; so were most of the men who counted for anything politically in those days.

From the viewpoint of political ideas, the problem presented by the growth of federalism in the United States is complicated because the same verbal symbols occur continuously from before the Revolution until well into the nineteenth century. The concept of natural rights, the social-compact or contractual origin of government, the people as the ultimate source of all political authority, the principle of the rule of law, the independence of the different organs of government, and other ideas are found in Revolutionary documents, in state constitutions, in the national Constitution, and in the public utterances of men of all parties. These ideas constitute the framework of liberalism; but liberalism has never been a compact unity of idea or policy: it is a changing, ragged political front in which, in certain periods, the internal conflicts are more important than the outside enemy. In the United States there was little or no opposition to these ideas; no one publicly and seriously urged that the remnants of the British feudal system be reestablished, or that the powers of government should be arbitrary and dictatorial—*i.e.*, that the executive might determine rights instead of the courts. But no one can deny, either, that the political conflicts of the time were grimly acute. That our Federal union has survived through our history may be, after all, the most remarkable of the facts about the United States.

The phraseology of public statement, then, is no safe guide to the changing spirit of politics. Any idea is a symbol in which we may combine a variety of meanings. It is safer, indeed, to go to what was advocated by particular groups, particular sections, and particular political parties. All might accept the ultimate sovereignty of the people, but this fact is meaningless in the struggle between the Hamiltonians and the Jeffersonians over the directives of Contitutional development. Furthermore, the conflict was as much sectional, at times, as ideological. From the outset the New Englanders feared the Southerners, and the Southerners, in many cases, had little faith in the political products of New England. Thus the New England conservative had to fight the radicals, the tamperers with the rights of property, in his own area; and he had to fight also for the protection of New England against what might come from other sections, be they conservative or not. Yet this much seems to be true: interests as psychological factors are powerful in politics, and never yet has a group sacrificed without struggle interests it has deemed to be for the public well-being. Indeed, interests as psychological facts or motivations to conduct are generally identified with the general welfare. *Mutatis mutandis*, this is true of radicals and conservatives.

In the conservative view at least, the framers of the Constitution were among the better educated, the wealthier, the more influential of the professional and business groups of the time. It was natural that they should want to form a government that transcended the petty limitations of their own states. It was natural that they should overcome the provincialism so often reflected in popular agitation. As they had fought the encroachments of the British bureaucracy upon their rights as men of substance, so they were equally ready to fight against such encroachments on the part of popular movements. However, the popular violations of the rights of property could only come into full force when the Revolution was won. The fact that unenfranchised persons fought in the armies of the Revolution did not give them the right to insist on the adoption of any crackbrained scheme that might be proposed by industrious saviors of the state. The conservative leaders had the broader view; always and in some sense the leaders' ideas rose above mere state boundaries (which were, incidentally, not all clearly defined at the time). It was not orderly reforms, such as those proposed by Jefferson, that aroused their ire; it was the attack on the very functioning of the economic and property system itself. In other words, contract and the enforceability of agreements were at stake. Property in contract was subject to attack by those who thought that property in use (*i.e.*, the farmer's use of his land) might be separated from contract in the statement of public policy. Trade was hampered, money was juggled. The conservatives were neither convinced of the rightness nor of the practicability of what was often proposed. Not only did they deny the rights of majorities to interfere with long-recognized natural rights (such as were embodied in the state constitutions), but they asserted that as part of natural law there was a process in society which used properly may lead to prosperity, and which when violated, would lead to economic misery for all citizens. The attack on property brought the conservatives together.

Every political attitude has to be associated with some specific program, if the skeleton is to be clothed with flesh. What happened seems to be this: the conservaties, the gentlemen, turned toward the idea of a national government to check the rashness of the democrats in the states when it appeared that the new state governments, however restrictive the franchise might be, were not efficient barriers against political dilettantism. To the radicals, the conservatives were obscurantists who would sacrifice the public interest to the protection of their holdings. The radicals sought to preserve the autonomy of the states—though it cannot be denied that conservative feeling was soon to be directed in the same direction, owing to the sectional distrust between New England and the South. At the same time a more profound orientation of thought was

taking place. If the conservatives thought the protection of property was one of the prime purposes of government, the radicals interpreted natural rights to mean the right of the people to regulate the economy in the interest of all. The conservatives sought a complicated system of balance in government to protect rights, and they looked to the judiciary as an essential guarantor of the Constitution. The democrats gradually moved toward the principle of the supremacy of the legislative, or popular, branch of the government and in the end favored the idea of universal suffrage, *i.e.*, manhood suffrage without property qualifications. The conservative view tended, in its large outlines, to be in favor of national supremacy and in favor of one natural right: that of property as protected by the independent judiciary; the democratic and radical view favored local autonomy or the state governments, and the one natural right of the people to determine by voting the course of politics—that is, they moved toward a theory of public opinion. But the picture was complicated by other factors and other issues.

Prelude to a More Perfect Union. The story of the movement toward the union of the colonies is an old one, though our interest here is concentrated on the period during and after the Revolution. In the Continental Congress the conservatives moved cautiously, generally favoring reconciliation with the home government. However, as the more daring members of the Congress came to greater influence, others, such as John Dickinson, were forced to accept independence from Britain. That a man became a Revolutionist was no proof of his radicalism. The conservatives could fight the British for much the same reason that led them to fight the democrats or radicals at home.[2] As the movement for independence won its way against opposition, the conservatives began to think of the kind of government they wanted in the United States. It appears that the first draft of the Articles of Confederation, prepared by John Dickinson, sought to establish a strong, centralized national government. They wanted a government that could take the place of the British government; they wanted a government which could and would regulate trade, control the disposition of western lands, and provide force sufficient to quell any internal disturbance. They were, likewise, disturbed at the idea of civil war between the petty democracies that

[2] "Men like George Washington, James Wilson, Robert R. Livingston, John Dickinson, Edward Rutledge, and Charles Carroll were always conservative in political philosophy and practise. None of them adopted the democratic ideas trumpeted by the radicals, though some of them accepted independence as the only solution of the troubles between the colonies and Great Britain." See Merrill Jensen, "The Articles of Confederation: A Re-interpretation," *The Pacific Historical Review* (June, 1937), p. 125. By permission of the University of California Press.

might be established as a result of independence. Many conservatives had no respect whatever for the idea that each of the thirteen states would be sovereign.

The committee which drafted the first proposal for the Articles was held in check by a knowledge of the opposition of state governments to a strong national authority, by the radicals on the committee, and by the fear of the Southerners of New England democracy. The result was, however, that the draft attempted to place large powers in the hands of Congress without any strong guarantee to the states of their power. Opposition finally brought equal representation for the states and the delegation of specific powers to Congress under the Articles. As a result, the Second Article declares: "Each State retains its sovereignty, freedom and independence, and every power, jurisdiction and right, which is not by this confederation expressly delegated to the United States in Congress assembled." Even so, as soon as the Articles of Confederation were ratified and in effect on March 1, 1781, efforts were made to establish the supremacy of the Congress over the states. It was argued by James Wilson, for example, that the central government was superior to the state governments because the Declaration of Independence preceded the Articles of Confederation, and the Declaration contemplated the power of the states together and individually. The Confederation was not intended to weaken the powers of Congress held before the Articles came into effect.[3]

The Articles of Confederation failed to establish a strong national government, and the states were able to block the levying of taxes, the control of trade, and the adequate regulation of western lands, then in dispute between the states. There is much controversy among the historians as to the character of the period under the Articles of Confederation. According to some, the conservatives, or Federalists, invented the idea of crisis and chaos, and dubbed it "the critical period." Others have argued that the critical period was mostly in the imagination of the conservatives, who had failed to establish a strong national government at the time of the drafting of the Articles. Whatever may be the truth in this matter, the fact is that there was a determined movement to establish a stronger government, a more perfect union. This movement finally prevailed with the drafting and ratification of the present Constitution of the United States. The maintenance of the public credit, both within the states and nationally, the effective regulation of trade, and the establishment of law and order in the western lands were among the primary aims held by those who felt that another Constitution of the Union was

[3] *The Works of James Wilson*, ed. by James D. Andrews (1895), Vol. I, 549*ff*.

a political and economic necessity. The grim battle between the aristocracy of the seaboard and the political irresponsibility of the men who had gone westward was fought to a triumphant victory by the aristocratic conservatives. If the conservatives could not rule always successfully in the states, they could on the national scene under the Constitution.

In any case an invitation was issued to the states to send delegates to a convention to be held in Philadelphia in 1787 to revise the Articles of Confederation. Had the invitation stated frankly that a new Constitution was to be shaped, there is little doubt that the convention would not have met. It is an old story, how the delegates proceeded beyond their instructions and framed a new Constitution, inviting in effect the states to withdraw from the Confederation and enter a new and more centralized union. It is likewise an old story of the difficulty the proponents of the Constitution had in securing ratification against energetic opposition to it in many states. It has become customary to regard the work of the Convention as a *coup d'état* which was, however peaceful, yet illegal from the standpoint of the constitutional system established under the Articles. Nor are men interested today in the fact that the opponents of the Constitution predicted with some truth that the new national union would destroy the autonomy and independence of the states. It is hard to remember the lost cause. But it may be agreed that the fifty-five men who framed the Constitution represented the talent, the wealth, and the political influence of the United States distilled to a point of high concentration. They faced an opposition that lacked education and powers of historical interpretation. It was an opposition that for the most part did not know just what to criticize, and that acted in part on intuitions which were difficult to argue.

In the Convention: The Lessons of History. In the discussion of the day the term "national government" was used in much the same sense that we today speak of a "federal government," implying the supremacy of that government over the whole political system of the country and its capacity to act directly upon individuals.[4] But the framers, being educated men, sought in the past the political lessons that there were available. Before the eyes of James Madison, for instance, moved the procession of historic federal institutions. The American framers faced similar but different problems; they were constructing a government that should last indefinitely and secure the great ends of all governments. Today we may argue that the use of history by the framers was sketchy and unprecise, but they were convinced that political experience may

[4] See *The Records of the Federal Convention of 1787*, ed. by Max Farrand (1911), Vol. III, pp. 474–475, for Madison's letter to Thomas Cooper.

indicate to the present generation what types of effort should prevail and those which are likely to result in social injury. The framers were convinced, in other words, that there is some sort of process or pattern in history, that the wise may learn in part the laws of society from the experience of the past. Let us consider a few examples.

On June 19, James Madison gave a critical analysis of the New Jersey, or small-state, plan for the new Union. He doubted that the Patterson Plan would prevent the encroachment of the states on federal authority, a tendency which had been demonstrated in every other confederated republic, ancient or modern. Madison reports his remarks in part as follows:

> If we recur to the examples of other confederacies, we shall find in all of them the same tendency of the parts to encroach on the authority of the whole. He then reviewed the Amphyctionic & Achaean confederacies among the antients, and the Helvetic, Germanic & Belgic among the moderns, tracing their analogy to the U. States—in the constitution and extent of their federal authorities—in the tendency of the particular members to usurp on these authorities; and to bring confusion & ruin on the whole.[5]

Alexander Hamilton likewise entered the lists against the New Jersey Plan, urging that the central government would be no match for the influence of the state governments in the control of the people, especially by the distribution of honors and emoluments.

> Almost all the weight of these is on the side of the States [he declared], and must continue so as long as the States continue to exist. All the passions then we see, of avarice, ambition, interest, which govern most individuals, and all public bodies, fall into the current of the States, and do not flow in the stream of the Genl. Govt. The former therefore will generally be an overmatch for the Genl. Govt. and render any confederacy, in its very nature precarious. Theory is in this case fully confirmed by experience. The Amphyctionic Council had it would seem ample powers for general purposes. It had in particular the power of fining and using force agst. delinquent members. What was the consequence. Their decrees were mere signals of war. The Phocian war is a striking example of it. Philip at length taking advantage of their disunion, and insinuating himself into their Councils, made himself master of their fortunes. The German Confederacy affords another lesson. The authority of Charlemagne seemed to be as great as could be necessary. The great feudal chiefs, however, exercising their local sovereignties, soon felt the spirit & found the means of, encroachments, which reduced the imperial authority to a nominal sovereignty. . . . Other examples instruct us in the same truth. The Swiss cantons have scarce any Union at all, and have been more than once at war with one another.[6]

[5] See *Documents Illustrative of the Formation of the Union of the American States* (69th Congress, 1st Session, House Document No. 398, 1927), p. 229.

[6] *Ibid.*, pp. 217–218.

On June 6, Madison agreed that the election of one branch of the legislature was necessary in free government, but that the protection of private rights and the steady dispensation of justice were equally important. Indeed, the latter had more than anything produced this convention.

This was the only defence agst. the inconveniencies of democracy consistent with the democratic form of Govt. All civilized societies would be divided into different Sects, Factions, & interests, as they happened to consist of rich & poor, debtors & creditors, the landed, the manufacturing, the commercial interests, the inhabitants of this district or that district, the followers of this political leader or that political leader, the disciples of this religious Sect or that religious Sect. In all cases where a majority are united by a common interest or passion, the rights of the minority are in danger.[7]

Madison then argued that his point was proved by the social experience of Greece and Rome, in which the rich and the poor, the debtors and creditors alternately oppressed each other with equal lack of mercy. What remedy is there for this situation? Madison suggested that such majorities must be prevented from forming, by enlarging and dividing the community into such a number of interests that they will not come together in a common and oppressive purpose. The republican system that the framers were trying to construct must avoid these ancient and inevitable social tendencies. It may be added, however, at this point that Madison and the supporters of the Constitution were insistent that the government should contain within itself machinery and checks sufficient to restrain any group from acquiring a complete domination of the government.

Finally, we may consider briefly some of the reflections of the venerable Doctor Franklin, who on June 4 remarked that the attention of the Convention had been called to the case of the United Netherlands.

The people being under great obligations to the Prince of Orange whose wisdom and bravery had saved them, chose him for the Stadtholder. He did very well. Inconveniences however were felt from his powers; which growing more & more oppressive, they were at length set aside. Still however there was a party for the P. of Orange, which descended to his son who excited insurrections, spilt a great deal of blood, murdered the de Witts, and got the powers revested in the Stadtholder. Afterwards another Prince had power to excite insurrections & to make the Stadtholdership hereditary. And the present Stadthder. is ready to wade thro a bloody civil war to the establishment of a monarchy.[8]

[7] *Ibid.*, pp. 161–162.
[8] *Ibid.*, p. 151.

In this manner Franklin warned his colleagues of some of the dangers that arise in the appointment of officers.

It is hardly necessary to add that throughout the Convention the precedents of the British government and the experience of the states were frequently cited. The framers regarded themselves as building realistically upon the foundations of the past.

Property. In the selections already presented we have observed the concern expressed by the framers over the attacks on property that had, in some cases, routed the conservatives in the state governments. But students of the work of the framers have pointed out that there is little debate on the question of property or the means by which it was to be protected. There was prolonged struggle on other points, but not on this. In other words, by means of Constitutional limitations and by the structure of government the evils which had oppressed the framers were to be prevented. The Constitution as the supreme law of the land would be a barrier against the political extravagance of the states. It is said that there is an economic Constitution as well as a political Constitution embodied in the same document. Certainly, throughout our history one of the prime functions of the judiciary has been to check the will of the majority, to establish in the law the rights of property, and to maintain in this manner, as Madison said, the steady dispensation of justice. We must call attention, therefore, to the limitations placed on the states in such matters, for here is one of the fundamentals of the Constitution, even if the delegated powers of the national government over commerce and money are another.

The great problem faced by anyone who seeks to stress economic motivation in politics is to separate economics from other forces, such as the psychological, for example. Psychological motivation is as pervasive as the atmosphere, and perhaps in social relations the economic factor is much the same. Certainly no social thinking has ever been able clearly to separate economic "interest," "force," or "tendency" from the context in which it is supposed to operate. It may be, in the end, that no social factor can be clearly separated from the situation in which it operates. If we turn to the framers of the Constitution, we find that they were entirely conscious of what we today might be inclined to call the economic aspect of politics; but their attitude about it was entirely natural. Economic interest or right was merely one of a series of rights and interests. Thus we find neither a very clear delineation of the economic interest, nor a conscious effort to separate economic right from any other. The framers would never admit that economic interest governed politics; rather, the whole Constitutional effort is a tribute to the belief that political action can direct the course of economic experience. If they accepted

conflict over property, the idea of classes and groups, they believed that class struggle might be controlled by a wise political system of Constitutional equilibrium. They were not Marxians or socialists in any sense; indeed, it may be argued from the history of social thought in the late eighteenth century that the conservatives pointed out to the socialists the importance of the economic problems of society. The members of the Convention did not believe that class struggle was working toward any great culmination; it was simply a constant factor in society that needed to be controlled by balance in the Constitution.

Turning to the familiar words of Article I, Section 10, we find the framers writing:

> No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.
>
> No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing it's Inspection Laws; and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Controul of the Congress.
>
> No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of Delay.

It may be clear that the limitations imposed on the states were predominantly of an economic character, but they grew out of our experience under the Articles of Confederation. The framers were determined that the control of trade should rest in the national government. They were equally determined that the abuses of the rights of property, the lack of protection to property under state governments dominated by radicals, should not be repeated under the Constitution. On the other hand, these economic restrictions are inserted among others that had little bearing on economic or financial matters.

Much the same can be argued if we observe some of the provisions of the Bill of Rights added to the Constitution as the price of securing ratifications enough to bring it into effect. Article V of the Bill of Rights declares:

> No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment of a Grand July, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or in public

danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any Criminal Case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

While these provisions were limitations on the national government rather than the states, the Fourteenth Amendment after the Confederate War extended their application to the states in the protection both of property and the recently unslaved negroes. Again, however, we notice the enumeration of the rights of property along with the rights of persons that were considered essential at that time in an ordered republican government.

These rights of property and persons, upon which there was so little debate among the framers, may be considered axiomatic today in democratic liberalism. But if one should examine a mid-eighteenth-century treatise on feudal rights in France or Germany, for example, the system of individual rights extending from the American Revolution through the period of the framing of the Constitution is revolutionary enough. It may be urged, of course, that the colonists had not suffered greatly at the hands of feudalistic privilege and inequality, but where the principle of aristocracy left off, the bureaucracy took up the task of harsh government. And after the Revolution, those who were slightly intoxicated with their new-found freedom from British restrictions passed the famous (or notorious) laws in different states encroaching on the rights of those who held property, especially in contract. Thus the framers were striking at all of the possible abuses of property that had come into their experience. John Adams protested against the attempt to establish the canon and feudal law in the United States; the establishment of the principle of equality in rights associated with property and equality in the burden of taxation would prevent such a legal revolution. On the other hand, the freedom of the masses, such as it was at the time, to pass laws by majority control of the legislatures involved other dangers not strange to any who might read the history of social struggle. Greece and Rome had lessons in social history that were not lost on the framers, for they realized that not only must the juridical defense of the individual be complete against arbitrary action, but such defense of persons must include their property rights.

Democracy and Suffrage in the Convention. Much has been said in the controversy over whether the framers were democratic. All would agree that they were republicans, that they had no interest in hereditary political institutions or in the establishment of monarchy in this country.

Naturally, the men who had so recently lived under monarchy might, in their desire to escape the excesses of the people, think on occasion that monarchy could be a useful restraining influence. But the framers were liberals in that they believed in the rule of law and the essential equality of men before the law; they were liberals because they believed in liberty, not only of the person but also of property. Were they also democratic? Here we have quite another question. For we cannot argue that they were democratic just because they believed in the social contract and the consent of the governed as the ultimate source of legitimate authority. They also believed that it was the duty of the people, in rendering their consent or support to government, to assure to men their proper rights, including the maintenance of the obligations of contract. It cannot be argued that the men of the Convention accepted the right of the people to pass any law they might desire; indeed, one of the prime objects of government was to establish such restrictions on the people that they could not pass laws that were injurious to the natural rights of men.

The Constitutional Convention left, in its broad outlines, the regulation of suffrage to the states. The Constitution provides that "the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature." By amendments to the Constitution limitations have been imposed on the states, and Acts of Congress regulate the conduct of elections, especially those in which national officials are to be chosen. However, behind the provision in the Constitution leaving the regulation of suffrage to the states was little intention of broadening the right to vote. The broadened franchise is a result of the democratic trend of the nineteenth century, not of the wishes of the framers of the Constitution. While some members of the Convention suggested that the people had political virtue, most of them were in agreement that restrictions on the right to vote should prevail; and the most common restriction was the freehold qualification, which the framers insisted was not burdensome, since most of the people had freeholds. The truth of this view may be a matter of debate, but it is certain that opposition to a wide suffrage was based on fear as to the future development of the United States. It was feared that with the growth of cities there would be a large number of artisans and manufacturers, employed by men who would control their votes, who in politics would be a source of corruption; and, to use a later expression, they would be the supports of "machines" and "bosses."

On August 7, Gouverneur Morris attempted to get the Convention to approve the principle of a freehold suffrage qualification. While the effort failed, it provoked a discussion of the right to vote that revealed the

mind of the time on this important issue. James Wilson urged that it would be extremely difficult to establish a uniform rule for all of the states, and that the Convention should avoid unnecessary innovations. It would be both administratively difficult and disagreeable to deny to certain persons the right to vote for members of the national legislature when they were allowed to vote for members of the state legislature.[9] Morris in reply pointed to the fact that the freehold qualification was generally accepted in the states and would constitute no burden on voters, but he also objected to letting the states determine the qualification for voting for national officials. Other members observed that the right to vote was a tender point, and that in any states where people were disfranchised, it would create opposition to the Constitution. Mason was of the opinion that "the force of habit is certainly not attended to by those gentlemen who wish for innovations on this point. Eight or nine states have extended the right of suffrage beyond the freeholders. . . ."

On the other hand, Dickinson viewed freeholders as the best defenders of liberty, and to give them alone the right to vote was a necessary defense against the dangerous influence of those multitudes without property and without principle, with which the country will in the future abound. He noted that at this time the great mass of the citizens was composed of freeholders, and the restriction would not be unpopular. Others noted the difficulty of defining freeholders. Wealthy merchants and manufacturers may not be freeholders, they said; which brought the reply that if such men wanted to vote, they could easily become freeholders.

Madison then reports Morris's defense of his motion:

> He had long learned not to be the dupe of words. The sound of Aristocracy therefore had no effect on him. It was the thing, not the name, to which he was opposed, and one of his principal objections to the Constitution as it is now before us, is that it threatens this Country with an Aristocracy. The aristocracy will grow out of the House of Representatives. Give the votes to people who have no property, and they will sell them to the rich who will be able to buy them. We should not confine our attention to the present moment. The time is not distant when this Country will abound with mechanics & manufacturers who will receive their bread from their employers. Will such men be the secure & faithful Guardians of liberty? Will they be the impregnable barrier agst. aristocracy?—He was as little duped by the words "taxation & representation." The man who does not give his vote freely is not represented. It is the man who dictates the vote. Children do not vote. Why? because they want prudence, because they have no will of their own. The ignorant & the dependent can be as little trusted with the public interest. He did not conceive the difficulty of defining "freeholders" to be insuperable. Still less that the restriction could be

[9] *Ibid.*, pp. 487*ff*.

unpopular. 9/10 of the people are at present freeholders and these will certainly be pleased with it. As to Merchts. &c. if they have wealth & value the right they can acquire it. If not, they don't deserve it.[10]

Mason, however, replied by saying that the true test was that any person having an attachment to the community, any person showing a permanent and common interest with the community should be allowed to vote. This attachment and community of interest might be shown in various ways. It could be shown by the possession of a freehold, but other forms of property would do just as well. Or even the parent of a number of children might be presumed to have the proper qualifications for voting.

When James Madison, "the father of the Constitution," came to consider this problem, he took a broad theoretical and historical position. The right of suffrage is certainly one of the fundamental articles of a republican constitution, and it ought not to be left to the legislature to regulate it as it sees fit. In the past, a gradual encroachment on the right to vote has been the manner in which aristocracies have been built on popular forms of government. On the other hand, he had no objection to a freehold qualification as such. He was concerned, however, with the reception the new Constitution would receive in those states where the right to vote was exercised by every description of people. He was convinced that the freeholders were the safest depositories of republican liberty. Yet the future loomed, as always, in his mind. "In future times a great majority of the people will not only be without landed, but any other sort of, property. These will either combine under the influence of their common situation; in which case, the rights of property & the public liberty, will not be secure in their hands: or which is more probable, they will become the tools of opulence & ambition, in which case there will be equal danger on another side." As to England, Madison observed that the chief source of corruption had come from boroughs and cities rather than from the counties. Bribery and the influence of the Crown had been most noticed in the cities. It was this danger that should be guarded against.[11]

It was true, however, that some members of the Convention had a kind word to say for the virtues of the common man. If Mercer snorted that election was the worst possible way of selecting candidates, that the

[10] *Ibid.*, pp. 488–489.

[11] *Ibid.*, pp. 489–490. Madison remained a staunch defender of restrictions on the right to vote, in the Virginia Convention in 1829. Those without property should not be admitted to full political participation. See *The Writings of James Madison*, ed. by Gaillard Hunt (1910), Vol. IX, pp. 358*ff*.

people cannot know and cannot judge candidates, and that the masses of the towns will unite to outvote the country, such was not the case with Franklin. His remarks, summarized by Madison, should indeed be noted.

It is of great consequence that we shd. not depress the virtue & public spirit of our common people; of which they displayed a great deal during the war, and which contributed principally to the favorable issue of it. He related the honorable refusal of the American seamen who were carried in great numbers into the British Prisons during the war, to redeem themselves from misery or to seek their fortunes, by entering on board the Ships of the Enemies to their Country; contrasting their patriotism with a contemporary instance in which the British seamen made prisoners by the Americans, readily entered on the ships of the latter on being promised a share of the prizes that might be made out of their Country. This proceeded he said from the different manner in which the common people were treated in America & G. Britain. He did not think that the elected had any right in any case to narrow the privileges of the electors. He quoted as arbitrary the British Statute setting forth the danger of tumultuous meetings, and under that pretext narrowing the right of suffrage to persons having freeholds of a certain value; observing that this Statute was followed by another under the succeeding Parliamt. subjecting the people who had no votes to peculiar labors & hardships. He was persuaded also that such a restriction as was proposed would give great uneasiness in the populous States. The sons of a substantial farmer, not being themselves freeholders, would not be pleased at being disfranchised, and there are a great many persons of that description.[12]

The Federal Structure: Sectional Conflict. The structure of American government as it came from the hands of the framers is, or should be, known by every American. Here our purpose is to inquire generally into the motives that led to the structure that actually was adopted. The framers sought to use the best of political wisdom drawn from the past and from their own experience. The Constitution is a statement of such wisdom in the light of the needs of American public life as they were seen by the delegates to the Constitutional Convention. In the first place, the American government is federal in character; that is, the Constitution as the supreme law established a division of power or jurisdiction which is supreme in relation to both the organs of the states and of the national government. Many conservative members of the Convention had little patience with state rights; many of them looked to a time when the states would cease in fact to be vital units of government. Yet the small states, rallying around the Paterson or New Jersey Plan which sought to give equal representation in the national legislature to all of the states, forced

[12] *Ibid.*, p. 490. As a last resort Mercer suggested that candidates should be nominated by the state legislatures in order to give guidance to the people.

the large states interested in proportional representation to compromise by accepting equal representation in the Senate and proportional representation in the House of Representatives. What the Convention did was to evade the issue of the future position of the states in the political structure of the nation. Even so, those who opposed the Constitution in many cases felt that the national government would eventually destroy the power of the states.

Many students have urged that a federal government either disintegrates or develops a centralization of power in the national government. During the last decades the process of Federal centralization has progressed rapidly in the United States, and in other countries much the same has happened in federal structures. De Tocqueville feared that the Federal government would grow weaker and that the Union might not stay together. Conflict between the large and the small states did not reflect completely the sectional trends in the Convention, for the Southern states felt themselves to be a section, and the same may be said of New England. The compromise of the Convention was a moment of equilibrium in the dynamics of American politics.

Among the framers there was fear of the rising western states, and some proposals were made to give the eastern states an advantage in voting strength over the western lands that in the future would become parts of the Union. More serious than this, however, members felt that the Federal union was too large to be workable, and Madison and others urged the importance of representation in preserving the Union. By representation a large territorial area could be brought together under one republican government. In the subsequent history of republican government the wide experiment with representation undertaken by the framers of the Constitution has had a profound effect; the large republican and partially democratic state was proved to be an entirely feasible adventure in politics. The Constitution succeeded only in putting off the day when the sectional issue would be resolved.

Delegates to the Convention were fully conscious of the divergent sectional interests in the nation. Gerry did not wish to see western states admitted on a basis of equality with the others. Also, he observed, foreigners are resorting to the western country, and no one knows what will take place there. Sectional interest appeared not only in the discussion of the apportionment of representation, but also in the regulation of trade by the national government. Pinckney wished laws regulating trade with foreign powers to be passed only by a two-thirds majority in each house; without such a provision, he feared that oppressive laws would be enacted.

He remarked, that there were five distinct commercial interests: 1. the fisheries & W. India trade, which belonged to the N. England States. 2. the interest of N. York lay in a free trade. 3. Wheat & flour the Staples of the two Middle States (N.J. & Penna.) 4. Tobo, the staple of Maryd. & Virginia & partly N. Carolina. 5. Rice & Indigo, the staples of S. Carolina & Georgia. These different interests would be a source of oppressive regulations if no check to a bare majority should be provided. States pursue their interests with less scruple than individuals. The power of regulating commerce was a pure concession on the part of the S. [Southern] States. They did not need the protection of the N. States at present.[18]

Mason remarked that the Southern states were the minority in both houses and that they would not deliver themselves tied hand and foot to the eastern states. Randolph of Virginia thought the Constitution would be "odious" without further protection to the Southern section of the country, while Gorham replied that if the government is going to be fettered in the regulation of trade, it would be of little use to the eastern states.

It should be observed, however, that the slavery issue took devious turns in the Convention. Many representatives did not want the slaves admitted to the count for representation, while in the South they did not wish to have the slaves counted in assessing direct taxes. Likewise, there was discussion of the regulation of the slave trade. The Constitution contained compromises of a minor character on these matters, which constituted a kind of bargain between the Northern and the Southern states.

Constitutional Balance. But it was of such compromises that American federalism was composed. Powers were delegated to the national government, and with the Bill of Rights certain others were reserved to the states. The members of the Convention did not extend their discussion to the implications of far-reaching questions that might be asked, such as the supremacy of the national government and whether sovereignty was retained by the states or simply divided. In any case, the framers reached, for the time being, a balance between the interests of the states and those who favored a strong national government. For the most part, the framers felt themselves to be dealing with concrete political and economic issues in the framing of the distribution of power between the states and the nation.

Within the national government itself the problem was of a more theoretical character. Here the axioms of political theory current at the time were to be given additional trial, particularly in the light of the experience of the states in drafting constitutions. Of these problems,

[18] *Documents Illustrative of the Formation of the Union of the American States*, pp. 633–634.

perhaps the most acute was the creation of an executive. There was strong suspicion of executive power; however, the framers finally moved toward unity and strength in the executive branch of the government, largely because of their observation of the weakness of state governments in this respect and because of the weakness of the government under the Articles of Confederation. Yet the basic assumptions are a bit tenuous. It was desired to establish balance in the Constitution, within the Constitutional structure itself, and not merely on paper as the state constitutions had done. There was to be nationally, then, a separation of powers between the legislative, executive, and judicial branches of the government. At the same time, there was to be a balance between interests, such as the popular and the wealthy interests. This required the wisdom of a Senate to check the House of Representatives, and a judicial power adequate to declare unconstitutional laws violating rights. These issues must be kept separate from those arising out of federalism, the bringing of the states together under one government. The Senate, in effect, was to serve two purposes: it was to give the states equal representation in the national government, and at the same time it was to check any rash legislation that might be passed by the lower house. There was, first, the issue of federalism; second, there was the issue of the mixed Constitution, giving wealth and influence its proper representation and check in the government; and third, there was the axiom of the separation of powers in order to preserve liberty by preventing a concentration of political authority.

The Constitution is remarkable for its careful integration of these divergent ideas. It was a federal constitution, but it was much more than that; it was a constitution that would prevent the concentration of authority in a few men, and it was a system of government designed to give the conservative influences of the country their adequate and just representation. A bicameral legislature had nothing inherently to do with the separation of powers; the bicameral legislature belongs in principle to the mixed constitution. The separation of powers, while primarily purely political in import, can be and was used to assist in preserving the mixture in the Constitution of conservative and radical influences.

Separation of Powers. The separation of powers, to be vital, had to be internal in the government. The President was given, under conditions, the power to veto legislation—the veto power being, perhaps, a contribution of the thought of John Adams. Legislation had to be passed by both houses of Congress, and Congress was given the right to override the presidential veto. While the judiciary was as independent as the other branches of the government were, and while it was given the right

to pass on the constitutionality of legislation,[14] Congress was in turn given the right to regulate the appellate jurisdiction of the Supreme Court and to determine the number of judges who should compose it. Likewise, the Senate shared in the executive authority of making appointments and in advising the ratification of treaties. The framers saw well that unless some real power were given each department to check the others, there would be only a fictitious meaning in the separation of powers. But the separation of powers means only the independence of each branch, not its isolation from all other functions of government. It means the cooperation of the different branches of government, and not their working at cross-purposes. As the excesses of state legislatures under the Articles of Confederation had impressed the framers with the idea of "legislative tyranny," they were turning to the executive and judicial branches to curb the source of disagreeable legislation. It was thus natural that much of the important discussion of the separation of powers occurred in connection with the establishment of the American presidency.

If it be a fundamental principle of free Govt. [said James Madison] that the Legislative, Executive & Judiciary powers should be *separately* exercised, it is equally so that they be independently exercised. There is the same & perhaps greater reason why the Executive shd. be independent of the Legislature, than why the Judiciary should: A coalition of the two former powers would be more immediately & certainly dangerous to public liberty. It is essential then that the appointment of the Executive should either be drawn from some source, or held by some tenure, that will give him a free agency with regard to the Legislature. This could not be if he was to be appointable from time to time by the Legislature. It was not clear that an appointment on the Ist. instance even with an eligibility afterwards would not establish an improper connection between the two departments. Certain it was that the appointment would be attended with intrigues and contentions that ought not to be unnecessarily admitted. He was disposed for these reasons to refer the appointment to some other source. The people at large was in his opinion the fittest in itself. It would be as likely as any that could be devised to produce an Executive Magistrate of distinguished Character. The people generally could only know & vote for some Citizen whose merits had rendered him an object of general attention & esteem. There was one difficulty however of a serious nature attending an immediate choice of the people. The right of suffrage was much more diffusive in the Northern than the Southern States; and the latter could have no influence in the election on the score of the Negroes. The substitution of electors obviated this difficulty and seemed on the whole to be liable to fewest objections.[15]

[14] C. Perry Patterson, "James Madison and Judicial Review," *California Law Review*, XXVIII (1939), 22*ff*.

[15] *Documents Illustrative of the Formation of the Union of the American States*, pp. 412–413.

We should not pass from the Constitutional Convention without observing that American experience was gradually producing a definite theory of the written Constitution. The judiciary was given the right, at least by clear implication, to enforce the Constitution. That instrument was declared, along with treaties and statutes passed in pursuance of the Constitution, to be the supreme law of the land. Whether this clause meant at the time the supremacy of the national government over the states has been a matter of long historical debate.[16] It was hoped that sectional claims had been satisfied by the Constitution; and it was only as the interests of the South and New England particularly became jeopardized that state rights theory emerged as a powerful political force. Yet the written Constitution was the fundamental law governing all of the branches of the government—the legislative, executive, and judicial branches—as well as the states in their relations with the total union. The American mind could not conceive of an orderly government without a written document to state the distribution of powers and to govern, through the judicial branch, the action of governmental agents.

The Fight for Ratifications. The Constitution was sent to the people of the various states, to be acted upon by conventions rather than by the legislatures. The gentlemen of Philadelphia felt, no doubt, that it was safer to follow this course. But it was already being recognized that a Constitution required a higher sanction than action by a legislature; it *should* be sent to the people to be acted upon directly through their conventions. The battle over the Constitution was focused in these conventions; it was around them that the verbal battle raged, until finally, by a small margin, the people who actually had the right to vote were persuaded to accept the new supreme law of the land. The reasoning of those who opposed the Constitution has all but left the political consciousness of the American people, yet it should be within the scope of this treatment to consider it briefly.

Robert Yates and John Lansing protested to the governor of New York that the Convention in Philadelphia had exceeded its power, since it was called to revise the Articles but had turned to the formation of a new government.[17] Likewise, they urged that the state governments

[16] See the following works by Edward S. Corwin: *National Supremacy: Treaty Power vs. State Power* (1913); *The Doctrine of Judicial Review, Its Legal and Historical Basis, and Other Essays* (1914); *John Marshall and the Constitution: A Chronicle of the Supreme Court* (1919); *The Twilight of the Supreme Court: A History of Our Constitutional Theory* (1934); *Court over Constitution: A Study of Judicial Review as an Instrument of Popular Government* (1938).

[17] See *The Debates in the Several State Conventions on the Adoption of the Federal Constitution,* coll. and rev. by Jonathan Elliot (1836), Vol. I, pp. 480–482; *ibid.,* Vol. I, pp. 383*ff.*, *The Notes of the Secret Debates of the Federal Convention of 1787,* taken by the Late Honorable Robert Yates.

would be in an inferior position in relation to the "consolidated" national government. It could not have been the intention of the New York legislature to establish such a government. Hence, amendments should be adopted which will preserve the states in their "uncontrouled constitutional rights." Fear was expressed that the United States was too large a territory for a government to give essential benefits to all interests in the United States. George Mason criticized the Constitution because it had no bill of rights. Since the new national government was to be paramount to the laws and constitutions of the states, the state bills of rights offered no security against the actions of the national government. The Senate would, he thought, acquire such power as to overbalance the other divisions of the government, while the national judiciary was so constructed as to absorb and destroy the judiciaries of the several states. Since the President has no regular council of state, he will either become the tool of the Senate or he will develop an advisory council from the heads of the great departments of the government.

By requiring only a majority to make all commercial and navigation laws, the five southern states (whose produce and circumstances are totally different from those of the eight northern and eastern states) will be ruined: for such rigid and premature regulations may be made, as will enable the merchants of the northern and eastern states not only to demand an exorbitant freight, but to monopolize the purchase of the commodities, at their own price, for many years, to the great injury of the landed interest, and the impoverishment of the people: and the danger is the greater, as the gain on one side will be in proportion to the loss on the other. Whereas, requiring two-thirds of the members present in both houses, would have produced mutual moderation, promoted the general interest, and removed an insuperable objection to the adoption of the government.[18]

Elbridge Gerry was particularly concerned that there was no bill of rights in the Constitution. He noted that it was difficult to classify the new system; the enemies of the Constitution could see neither anything democratic nor republican in it, while its friends cannot call it a monarchy, an aristocracy, or an oligarchy; however, James Wilson, in the fertility of his genius, had suggested the happy epithet of Federal Republic. Civil rights are not guaranteed, and there are no well-defined limits to the powers of the judiciary. Again, the legislative and the executive branches are dangerously blended, so as to give cause for alarm. Not only are the state governments in danger of being destroyed, but "the difficulty, if not impracticability, of exercising the equal and equitable

[18] See Paul L. Ford, ed., *Pamphlets on the Constitution of the United States, Published During Its Discussion by the People, 1787–1788* (1888), pp. 329–332. Mason urged that the new government would commence in a moderate aristocracy, and that it would become either a monarchy or an oppressive aristocracy.

powers of government by a single legislature over an extent of territory that reaches from the Mississippi to the Western Lakes, and from them to the Atlantic Ocean, is an insuperable objection to the adoption of the new system." [19] While simple men urged that lawyers and men of learning who favored the Constitution expected to hold the offices created by it, Thomas Jefferson wrote from Paris that there were both good and bad articles in the Constitution. He did not like an executive that was indefinitely reeligible to election; he was not sure whether the good or the bad preponderated in the new system. He urged, however, that the Convention had been too much influenced by the trouble in Massachusetts. No rebellion had ever been so honorably conducted as that led by Shays. "God forbid," he declared, "we should ever be 20 years without such a rebellion. . . . The tree of liberty must be refreshed from time to time with the blood of patriots & tyrants. It is its natural manure." Even if Jefferson did praise the wisdom of assembling to form the new government, he believed that a bill of rights should form part of the new instrument.[20]

The argument for the Constitution attempted to meet all of the criticisms leveled against the new government. In the end, a Bill of Rights was added by the first ten amendments, which also made some effort to guarantee the continuance of the rights of the state governments. James Wilson, in addressing the citizens of Philadelphia, urged that a Bill of Rights was useless, since the new government was to have only delegated powers. Somewhat optimistically, he suggested that the national government would have no control over the press; hence there was no need to have restrictions in this matter through the provisions of a Bill of Rights. He was not impressed by the danger of a standing army, since Congress under the Articles had already provided for regular troops. He had no fear of the Senate, and he insisted that the new government could not continue without a similar existence of the state governments. With due consideration, Wilson believed the new government was the best which had ever been offered to the world.[21] Various defenders of the Constitution denied that it created an aristocracy of the wealthy, or that it would be subject to greater corruption than other systems. Southern defenders of the Constitution assured their fellow-countrymen that the South had nothing to fear from the North; that laws restricting the importation of slaves would probably not be passed; and that with the

[19] *Ibid.*, pp. 6–14.

[20] See *The Writings of Thomas Jefferson,* ed. by Paul L. Ford (1894), Vol. IV, pp. 466–467; Vol. V, pp. 89–91.

[21] See Ford, *Pamphlets,* pp. 155–161, and *ibid.,* pp. 25–65, for Noah Webster's "An Examination into the Leading Principles of the Federal Constitution."

increase in the population of the South they would perhaps have an even greater representation than the Northern states. But it was always agreed that the states should remain together because of their mutual interests and the need for common defense.

The Federalist. Yet in the history of the debate over the Constitution the greatest argument is what has been called *The Federalist,* being essays written by James Madison, Alexander Hamilton, and John Jay in New York State in favor of the ratification of the Constitution. *The Federalist* is one of the classics in the literature of federalism, and it is one of the great books produced by Americans in the field of government. While it was propaganda for the Constitution, it was propaganda on an elevated level. Many editions of the work have appeared; it was translated into French during the French Revolution; and it was influential in the development of German federalism, as well as in the course of federalism in Brazil. *The Federalist* is composed of letters written to the people of New York under the name of "Publius," the first of the eighty-five letters appearing in October, 1787. No complete agreement has been reached as to the authorship of all of the letters. The authors of *The Federalist* attempted to deal in a realistic manner with the issue of union among the states. They were advocating a stronger and more effective government which might deal with the specific dangers that confronted the states under the Articles of Confederation. Perhaps they did not have too high an opinion of human nature in politics; perhaps because of this they were inclined to favor strong government. But they did show the people of New York that a government over as large an area as the United States was not a menace to liberty, and that through the institutions of representation there would be no danger to local governments. Certainly, they believed that one of the chief functions of government was to protect property, and that the new constitution with its power and its judicial authority would accomplish this end. In accordance with the times, and in accordance with the axioms of liberalism, they believed that government should be based on the principle of the separation of powers, and that the only way in which the separation could be effective was through the internal mechanisms of the Constitution. If many of the broader aspects of political philosophy were treated in *The Federalist,* it was still the Constitution they were defending.

The Federalist believed that the United States, as one among independent states, must face the issue of national defense. In a world in which republics as well as other types of states wage war, and in which treaties have been broken in countless instances, it is necessary that a government be established which can protect the people. A mere confederation in which the states retain their rights over foreign affairs

would be of no value. Without a direct right to enforce laws upon the individual within the states, confederate decisions are pious hopes. A good federal republic must have the direct right to enforce, through the executive and judicial bodies, the national laws against the individual. Yet the citizen is more in touch with the state government, and he sees the criminal and civil laws enforced by his local government. The states will get the support of the masses, even though national deliberation and effectiveness will be necessary for public safety. There will, under these circumstances, be no serious danger of the Federal government encroaching on the authority of the states. If the strength of the states is in the support of public opinion, that of the national government should be in better organization and administration.

Although the equal representation of the states in the Senate is contrary to the majority principle of republican government, a compromise was necessary to establish the present Constitution. To the authors of *The Federalist,* the security of the small states was more dependent on the existence of the Union than the security of the larger ones. Although it is no unusual thing to require more than an ordinary majority to reach decisions, in practice these provisions enable the minority at times to overrule the thought and deliberation of the majority. Also, a more than majority vote will on occasion foster foreign influence and corruption in the American government. In fact, one of the weaknesses of republican government is its accessibility to foreign corruption.

If it is impossible to have a unified national government, then the issue arises of what powers shall be given the Federal government and what retained by the states. Powers necessary to accomplish the ends of the national government must be given it, and the government itself should be organized to secure confidence rather than to have its needed powers curbed. The abuse of power does not depend on the extent of power. If the Federal government is less trusted than the state governments, the army will be less dangerous than otherwise would be the case. The power to defend the nation must be in the hands of the national government. Moreover, there must be a reasonable basis of taxation on which to finance the work of the national authorities. The new sources of national revenue will not drain the states of their money. It is a political axiom, the authors declare, that the means adopted should be suitable to the ends and that power should be proportionate to the task. Reassuring the states, *The Federalist* declared that the chief Federal expenses would be military in character.

Liberty, the authors said, will be safest in the hands of the representatives of the people, and no despotism can arise, since the states will constitute a check on the national government itself. Yet energy and

stability are essential in a good federal government. There is no security in government without vigor, and republican liberty must be combined with vigor and stability. But that vigor and stability are compatible with the division of power among a numerous body of officials. If the representatives are many, with short terms in office, the executive must be single, and serve a longer time in order to be effective. In republican government all power comes from the people, but that power must be exercised under the law.

Now it is a fundamental principle of political science that there be a separation of powers. The union of the legislative, executive, and judicial power leads to tyranny, whether of the one or the many. But, as in the British Constitution, separation does not mean the complete dissociation of one department from another. Constitutional overlapping and inter-departmental control are necessary for the cooperation and unity of the entire administration. On the other hand, there is a constant tendency of departments to overreach their authority, and in republics there is always a danger of tyranny: the hundred-headed tyrant is no better than the single-headed tyrant. What is the remedy for the tendency of powers to expand, to overreach? *The Federalist* believed that appeal to the people was dangerous as a regular remedy, because of the uncertainties of opinion and because the legislature itself was the most frequent offender. The remedy must be found within the structure of government; each department must be able to defend itself when necessary. In this light, it is unwise to have one branch, such as the legislature, choose another branch, such as the executive.

A realistic approach to politics teaches that one part of the people must often be protected against another, as well as against the government. The majority must not be permitted to rob the minority. Therefore, a wide diversity of interests in the state will prevent any special interest from being able effectively to assert itself against the rest. The Federal republic organized under the Constitution gives assurances on this point, since there is a division between the state and the national governments, and the territorial area of the government is larger, making it more difficult for one interest to control the whole country. Interest as expressed in the government should coincide with the interests of the people. Frequent elections will, therefore, make the legislative branch more intimate with the people, for the greater the power, the shorter should be the term of office. On the other hand, the legislator must be given a long enough term to have the proper experience in his office, and in addition the members of the Federal legislature should serve longer than in state representative bodies. The legislature itself must not be too large, since the larger it beomes, the more defective it is. And behind

the legislature there must be a wide and equal suffrage that will give the people a chance to select those men who have the public interest at heart.

Two chambers help prevent the abuse of power in the more popular assembly, indirect election being merely a support of this function of the second chamber. Special interests, it was thought, would be checked by different modes of election. The members of the Senate will be more mature, but it will not dominate Congress, since it will barely hold its own constitutional position.

Good administration, says *The Federalist,* is the real test of government. The executive must show energy and power, and liberty must be reconciled with executive vigor. Its dependence on the people, its responsibility will preserve liberty. The possibility of reelection, it was thought, was one of the strongest incentives to the performance of duty; yet the good executive must not infrequently go against the tide of public opinion when it deviates from the public interest. By means of the veto power the President has the capacity to protect his constitutional position. If the President must be subject to the people, there would be danger in a direct popular election; the electors are better judges of outstanding men, and indirect election causes less commotion among the people generally. *The Federalist* argued that the interrelationship of power between the executive and the two chambers of Congress was a benefit to the executive, since its opportunity to abuse power was checked. It would work for moderation in governmental policies.

The judiciary was, to these writers, the weakest part of the government. Its duty was to interpret the law, but it may check the other branches by its right to declare laws unconstitutional. Since judges must be independent and impartial, it is fitting that they should have a life tenure in their offices. In the new Federal government the power of the national judiciary is necessary, since the state courts will differ in their interpretations of the law; it is the Federal courts, headed by the Supreme Court, which will bring national unity to the interpretation of the law and enable disputes between the states to be settled in an impartial manner. Those who have no judge seize the sword.

In this and the previous chapter we have studied the fundamental laws of a new and growing liberal organism, the United States of America. The realism of the framers and defenders of the Constitution only sets off more clearly their political wisdom. Had they evaluated human nature more highly, had they presumed upon the good intentions of the leaders of interest groups, the new system of government would hardly have survived. If the framers recognized that economics is the sap of politics, it was the economic interests of particular groups, not a theory

remote from everyday political struggle. The framers were conservatives, but they were liberals; and because they were both, they were able to establish a Constitution that was flexible enough to meet the crises of the capitalistic era. More, it is difficult to say. Yet it may be appropriate to conclude with a quotation from *The Federalist,* No. 10, in which Madison says:

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

Selected Bibliography

Beard, Charles A.: *An Economic Interpretation of the Constitution of the United States* (1913).

——— and Mary R. Beard: *The Rise of American Civilization* (2 vols., 1927–1930).

Carpenter, William S.: *The Development of American Political Theory* (1930).

Chinard, Gilbert: "Polybius and the American Constitution," *Journal of the History of Ideas,* I (1940), 38*ff*.

Coker, Francis W.: *Democracy, Liberty and Property* (1942).

Documents Illustrative of the Formation of the Union of the American States (69th Congress, 1st Session, House Document No. 398, 1927).

Corwin, Edward S.: *National Supremacy, Treaty Power Versus State Power* (1913).

Elliot, Jonathan: *The Debates of the Several State Conventions on the Adoption of the Federal Constitution* (5 vols., 1861).

Farrand, Max, ed.: *The Records of the Federal Convention of 1787* (1911).

Federalist, The.

FORD, PAUL L., ed.: *Essays on the Constitution of the United States, Published During Its Discussion by the People, 1787–1788* (1892).

———: *Pamphlets on the Constitution of the United States, Published During Its Discussion by the People, 1787–1788* (1888).

GETTELL, R. G.: *History of American Political Thought* (1928).

JACOBSON, J. M.: *The Development of American Political Thought* (1932).

JENSEN, MERRILL: *The Articles of Confederation* (1941).

MADISON, JAMES: *The Writings of James Madison,* ed. by Gaillard Hunt (9 vols., 1910).

MERRIAM, CHARLES E.: *American Political Theories* (1903).

PARRINGTON, V. L.: *Main Currents in American Thought* (3 vols., 1927–1930).

POUND, ROSCOE, CHARLES H. MCILWAIN, and RAY F. NICHOLS: *Federalism as a Democratic Process* (1942).

READ, CONYERS, ed.: *The Constitution Reconsidered* (1938).

SCHUYLER, ROBERT L.: *The Constitution of the United States* (1923).

SMITH, J. ALLEN: *The Spirit of American Government* (1907).

WARREN, CHARLES: *The Making of the Constitution* (1928).

WILSON, JAMES: *The Works of James Wilson,* ed. by J. D. Andrews (2 vols., 1895).

WRIGHT, B. F.: *A Source Book of American Political Theory* (1929).

Chapter 6

THE SHAPING OF NATIONAL TRADITION

> Democracy is of course wrongly conceived when treated as merely a body of doctrine, or as simply a form of government. It is a stage of development. It is not created by aspiration or by new faith: it is built up by slow habit. Its process is experience, its basis old wont, its meaning national organic unity and effectual life. It comes like manhood, as the fruit of youth: immature peoples cannot have it and the maturity to which it is vouchsafed is the maturity of freedom and self-control, and no other.—Woodrow Wilson, reviewing Bryce's *American Commonwealth*.[1]

The Ideal of Balance. We have tried to picture in the two previous chapters the construction of the republican system in the United States. That system was, as the framers of constitutions recognized, lifeless without a continuous and satisfying political experience. But to judge whether experience is of this nature depends on the outcome of political conflict; it depends upon whether the inevitable stridence of conviction is moderated by compromise under the rule of law. For without this solution of conflict there is no possibility of a political system lasting from one generation to the next and reaching that maturity which gives it strength to meet the uncertainties of the future. A republic may or may not be democratic, but in its nature it is a government of law and responsibility, in which the arbitrariness of power is curbed along with similar tendencies in those who desire favors from government. No group of men in the annals of modern statecraft were more conscious of the fact that politics is a story of conflict between divergent interests than our early political leaders, and no group of men have, in modern times, made more serious effort to face realistically the weaknesses of human nature in the construction of a fair but durable political system. These men knew the power of money and group interest, and they knew also the corruption caused by the use of armed force in a state. No one can accuse the framers of believing they had reached a perfect system. What they hoped they had done was to establish a system which would bring about balance and equilibrium in the process of politics.

That ideal of balance was the substance of their liberalism. It was a

[1] In R. C. Brooks, ed., *Bryce's American Commonwealth, Fiftieth Anniversary* (1939), pp. 186–187.

balance between sectional interests, between large and small states, between the rich and the poor, between the wise and the impulsive, and between the various and conflicting interests of property that must ineluctably display themselves in the operation of a government. The framers knew well the importance of protecting legally the individual against his fellow man and against the bureaucrats above him; they knew well the importance of restraining, on occasion, the force of public opinion; they appreciated a strong executive, but they realized that tyranny had come before from executive power. The framers distrusted factions, but they hoped to secure a balance of parties which would enable the advantages of union to be maintained.

As the situation stood when the Constitution came into effect and the new government was organized, the remnants of British feudalism had been driven from the land. There was no aristocracy in the feudal sense, but there were strong groups of lawyers, political leaders, and financial and commercial men. But sectional interest had its leadership, which was, naturally, to struggle for the control of the new and effective national government. Under the Constitution the leadership of the country was brought together in doctrinal agreement on fundamentals, though not in agreement on policies that normally reflected the interests it might represent. The planting interest of the South was already as conscious as the commercial, financial, and manufacturing interests of the North and East. Yet for the moment it was possible to sink differences in a common battle against populistic experimentation, such as had occurred in several states. They were all agreed on the protection of the rights of property and of contract, though they were not disposed to deny to the masses of the people certain rights in the control of government. The conservatives sought equality in the recognition of their interests along with the presumed interests of the masses. The middle class was enjoying, in the new period under the Constitution, one of its great historical triumphs; at last, and at least in America, it had become respectable to be *bourgeois*.

Early Political Conflict. But the Constitutional system was to develop faster than might have been anticipated, since the battle lines of policy among the predominant groups appeared almost with the beginning of the new government. It is true that parties took some years to develop clearly, but the leaders of future parties were present in the first Congresses and the first Cabinets of the United States. Liberalism was almost immediately divided between what seem to be conservatives and democratic radicals. But in truth they were all conservative by present-day standards. There were, however, differences in intellectual emphasis and dependence on tradition which made the Presidency of George Wash-

ington a period of gestation for many of the later conflicts of American politics. The Constitution began to grow immediately, pushed and pulled this way and that by the divergent interpretations of intelligence in public policy. It is difficult to deny that class or group consciousness and sectional interest played their role from the start. Only in the early period the mind of the frontier, of the west, had yet to reach political maturity and be able to utilize the customary techniques of Constitutional battle. Only murmurs from the west could then be heard.

The Presidencies of George Washington and John Adams represent the period of Federalist supremacy, the period in which the spirit of the framers of the Constitution remained predominant in national councils, and in which the policies of American conservatism were written firmly into the Constitution and the statutes enacted by Congress. It has been customary to regard the struggles between Alexander Hamilton and Thomas Jefferson in Washington's Cabinet as the seeding ground for the future conflicts of political parties. If the Federalists were more alert in the organization of power and in the use of political techniques, it did not take long for the genius of Jefferson to equal and then pass the more stuffy and distant Federalists. Yet the debt of future generations to the Federalists is not to be denied; for never did the Jeffersonians or the Jacksonians undo entirely what the Federalists did in Congress, in the Presidency, and on the Supreme Court. If Jefferson and his followers courted the people, the Federalists were distant and believed in a political restraint and sobriety which would keep the people some paces removed from public power. Even so, it must not be forgotten that when Jefferson was elected to the Presidency in 1800, the movement for universal or manhood suffrage had hardly got under way. Another generation was to pass before the bars were lifted and practically all adult males were permitted to vote for their officials.

It is our purpose in this chapter to consider Washington and Hamilton as representatives of the conservative view of liberalism, and for the other side to examine the ideas of Jefferson and John Taylor of Caroline County in Virginia. Save Taylor, these men have become powerful symbols in the story of America; but this does not mean that their ideas are remembered, or will be, by those who, for example, visit Mount Vernon or Monticello.

George Washington. It can hardly be said that General Washington was a happy man when he issued his Farewell Address to the American people in 1796. If he had been elected by general agreement to the Presidency, he could not remain a colorless figure in that office. And each position taken, each policy supported, had brought friends as well as enemies. But he left in his Address his warnings, his admonitions,

to the people of the United States. It is a great state paper, and it is one of the important documents in the history of American political ideas. If today we do not like all of it, and if today we are inclined to regard some of it as outmoded, there is in it nevertheless the principle of a conservative liberalism that has hardly faded from the minds of millions of Americans. Washington did not like political parties because he had been the victim of partisan abuse; yet we have parties today that look, occasionally, to his wisdom. He did not want the United States to mingle in the ancient quarrels of Europe, yet he wished the American people to cooperate on a friendly basis with all of the peoples of the earth.

After explaining that his unwillingness to stand for another term as President was compatible with patriotism, Washington outlined the broad policies that he hoped would be followed by the United States in the future. September 17, 1796, becomes important because of the Farewell Address—one of the important dates in the development of American political ideas. First of all, Washington is concerned to defend the principle of union among the states. Not only are there dangers from abroad that must be guarded against, but the internal interest of each of the sections of the country dictates that the Constitution should be preserved in order to bring to all the benefits of the general government. Every effort to weaken the new government should be rejected resolutely, and the people should wait for experience to solve many of the difficulties which the government faced.[2]

> The *North* [declared Washington], in an unrestrained intercourse with the *South*, protected by the equal laws of a common government, finds in the productions of the latter great additional resources of maritime and commercial enterprise and precious materials of manufacturing industry. The *South*, in the same intercourse, benefiting by the same agency of the *North*, sees its agriculture grow and its commerce expand. Turning partly into its own channels the seamen of the *North*, it finds its particular navigation invigorated; and while it contributes in different ways to nourish and increase the general mass of the national navigation, it looks forward to the protection of a maritime strength to which itself is unequally adapted. The *East*, in a like intercourse with the *West*, already finds, and in the progressive improvement of interior communications by land and water will more and more find, a valuable vent for the commodities which it brings from abroad or manufactures at home. The *West* derives from the *East* supplies requisite to its growth and comfort, and what is perhaps of still greater consequence, it must of necessity owe the secure enjoyment of indispensable *outlets* for its own productions to the weight, influence, and the future maritime

[2] For the text of the Address, see James D. Richardson, *A Compilation of the Messages and Papers of the Presidents, 1789–1897* (1899), Vol. I, pp. 213*ff*.

strength of the Atlantic side of the Union, directed by an indissoluble community of interest as *one nation.* Any other tenure by which the West can hold this essential advantage, whether derived from its own separate strength or from an apostate and unnatural connection with any foreign power, must be intrinsically precarious.

If the advantage of trade between the sections of the country is great, there is another that is equally important. In union there will be no wars between the several states, and the necessity of maintaining a large standing army, which is dangerous to republican liberty, will be avoided. As a statesman, Washington condemned the interests of Washington the general. "In this sense it is that your union ought to be considered as a main prop of your liberty, and that the love of the one ought to endear to you the preservation of the other."

From this argument Washington turns to the dangers of party. Particularly was he concerned with the party which seeks to magnify the interests of one section against another; he deplored party activity which tended to breed distrust between the different elements of the population. Geographical parties were a most baneful influence on public life. It must be remembered that the party structure of the United States did not really develop in its full outlines until the Jacksonian era, and it is probably true that both Washington and Jefferson believed in a one-party system.[3] What Washington feared was that the spirit of geographical parties would weaken affection for the Union and thereby undermine the authority of the new general government.

All obstructions to the execution of the laws, all combinations and associations, under whatever plausible character, with the real design to direct, control, counteract, or awe the regular deliberation and action of the constituted authorities, are destructive of this fundamental principle and of fatal tendency. They serve to organize faction; to give it an artificial and extraordinary force; to put in the place of the delegated will of the nation the will of a party, often a small but artful and enterprising minority of the community, and, according to the alternate triumphs of different parties, to make the public administration the mirror of the ill-concerted and incongruous projects of faction rather than the organ of consistent and wholesome plans, digested by common counsels and modified by mutual interests.

As time and habit are necessary to fix the true character of governments, the hasty innovations and designing oppositions of factions should be resisted.

[3] See A. N. Holcombe, "Thoughts and After-thoughts on the Future of Democracy in America," in *Bryce's American Commonwealth, Fiftieth Anniversary,* ed. by R. C. Brooks (1939), p. 146.

But Washington turned to the consideration of parties in the broader sense. Parties are bad not only in a geographical context, but they are bad generally. Though party is inseparable from the passions of human nature, and though it exists under all forms of government, it is indeed the worst enemy of the popular form.

> The alternate domination of one faction over another, sharpened by the spirit of revenge natural to party dissension, which in different ages and countries has perpetrated the most horrid enormities, is itself a frightful depotism. But this leads at length to a more formal and permanent despotism. The disorders and miseries which result gradually incline the minds of men to seek security and repose in the absolute power of an individual, and sooner or later the chief of some prevailing faction, more able or more fortunate than his competitors, turns this disposition to the purposes of his own elevation on the ruins of public liberty.

Washington noted that there is a common opinion that parties in free countries are useful checks on the administration of the government, and that they serve to keep alive the spirit of liberty. This principle did indeed become, in the years following Washington, the accepted axiom of democratic government—*i.e.*, that the opposition was loyal to the state and that it served as a moderating influence on the conduct of government. Washington admitted that, within limits, this proposition was probably true, but especially should party be favored in governments of a "monarchical cast," since there the normal republican checks on government are lacking. However, in a popular government, such as the American, a different situation prevails. In popular governments under the elective principle, there is every tendency toward the exaggeration of the party principle, and "the effort ought to be by force of public opinion to mitigate and assuage it. A fire not to be quenched, it demands a uniform vigilance to prevent its bursting into a flame, lest, instead of warming, it should consume."

There is a proneness in those in authority to exceed their just powers; it is a tendency in human nature which must be guarded against with constant watchfulness. Thus in the government itself is the necessity of reciprocal checks on the use of power, which the experience of other governments has demonstrated. Washington warned his fellow citizens to maintain these checks of one department upon another. If any changes in government are necessary, resort should be had to the amending process, but never by usurpation. Yet the pillars of the patriotism recommended by Washington are religion and morality, from the careful preservation of which springs civic virtue and the standards of public behavior of all.

It is substantially true [insisted Washington] that virtue or morality is a spring of popular government. The rule indeed extends with more or less force to every species of free government. Who that is a sincere friend to it can look with indifference upon attempts to shake the foundations of the fabric? Promote, then, as an object of primary importance, institutions for the general diffusion of knowledge. In proportion as the structure of a government gives force to public opinion, it is essential that public opinion should be enlightened.

As a conservative in politics, Washington insisted on the observance of public credit. But this requires moderation in governmental expenditure and a careful retirement of the public debt when it is possible. Herein is one of the larger aspects of public morality in which Washington was interested. Washington would probably take little pride in what some of his successors in the Presidency have done.

We must now turn to the examination of foreign policy found in the Farewell Address. Washington's words have been a source of constant debate, since from the time of the founding of the North American colonies, America has been regarded by Europeans as a phase of the balance of power. After independence, the principles that governed foreign interest in the United States continued; we have been regarded by European governments as one of the prizes to be gained by diplomacy and war. Washington warned us to abstain from the ancient quarrels of Europe; let us look after our own interest, he said. Indeed, in his neutrality policy in the European war of his day he stubbornly insisted that we should remain out of the war and build up our own national capacity to defend ourselves.

"Observe good faith and justice toward all nations," admonished Washington. "Cultivate peace and harmony with all. Religion and morality enjoin this conduct. And can it be that good policy does not equally enjoin it?" But in such a policy Americans should avoid showing permanent, inveterate antipathies toward some nations and passionate attachments toward others. All the evils of war and social discord are likely to flow out of such a policy accepted by the people or fostered by the government. What Washington most feared was foreign influence on the American government as a result of loving and hating foreign nations. The insidious wiles of foreign influence were always there to be met. Indeed, save for the terminology, Washington discussed well the problem of alien propaganda in the United States. Only Washington urged that all foreign propagandas should be rejected and that we should maintain strictly our neutrality in relation to foreign wars. If we have engagements with foreign states, let us keep them but make no more.

The central hypothesis in Washington's argument is that:

Europe has a set of primary interests which to us have none or a very remote relation. Hence she must be engaged in frequent controversies, the causes of which are essentially foreign to our concerns. Hence, therefore, it must be unwise in us to implicate ourselves by artificial ties in the ordinary vicissitudes of her politics or the ordinary combinations and collisions of her friendships or enmities.

Our detached and distant situation invites and enables us to pursue a different course. If we remain one, under an efficient government, the period is not far off when we may defy material injury from external annoyance; when we may take such an attitude as will cause the neutrality we may at any time resolve upon to be scrupulously respected; when belligerent nations, under the impossibility of making acquisitions upon us, will not lightly hazard the giving us provocation; when we may choose peace or war, as our interest, guided by justice, shall counsel.

Why forego the advantages of so peculiar a situation? Why quit our own to stand upon foreign ground? Why, by interweaving our destiny with that of any part of Europe, entangle our peace and prosperity in the toils of European ambition, rivalship, interest, humor or caprice?

It is our true policy to steer clear of permanent alliance with any portion of the foreign world, so far, I mean, as we are now at liberty to do it; for let me not be understood as capable of patronizing infidelity to existing engagements. I hold the maxim no less applicable to public than to private affairs that honesty is always the best policy. I repeat, therefore, let those engagements be observed in their genuine sense. But in my opinion it is unneecssary and would be unwise to extend them.

Taking care always to keep ourselves by suitable establishments on a respectable defensive posture, we may safely trust to temporary alliances for extraordinary emergencies.

We do not today need to consult the Reverend Mason Locke Weems, whose life of Washington ran to half a hundred editions, to appreciate "the Father of our Country." Perhaps the most widely known item of historical personalia is the story of Washington and the cherry tree (known, it is said, along the upper reaches of the Amazon and the Yangtze), yet there is no historical authority for it save the myth-makers who early falsified the true character of Washington. Washington was one of the greatest of our conservative statesmen. His vision of a unified republic grew out of his long experience in war and politics, and if at the end of his life he looked somewhat sourly on his opponents, the patriarch of Mount Vernon can surely be pardoned. Like other statesmen, many of his ideas failed of realization. Internal improvements did not come as he had hoped, and his plans for industrializing Virginia to overcome the economic advantage of slavery failed because of Eli Whitney's cotton gin, invented in 1792. Nor did his plans for education and for the growth of centralization in the American republic proceed as he had hoped.

Certainly one of the elements of his thought was the consolidation of the Union on conservative or Federalist principles. He was the greatest of the Federalists, and part of his conservative genius was in giving scope to the ideas of the fertile mind of the younger Alexander Hamilton.

The Principles of Alexander Hamilton. Much of the controversy in politics during the early years of the republic centered on the program of Hamilton, who as Secretary of the Treasury laid the foundation for policies that yet are valid to great numbers of Americans. Sound finance, the payment of debts, the development of internal commerce, the protection of American manufactures, the preservation of foreign trade, and the establishment of a national bank were all part of this program of centralization of the energy of the American Union. But these measures were resisted by those who gradually accepted the leadership of Thomas Jefferson. The conflict reached one of its most heated moments in the administration of the Alien and Sedition Acts of 1798. Of such matters we will speak later; but in the Hamiltonian program we have the concrete measures which would strengthen the national government.

If John Adams, who served as President during the four years between Washington and Jefferson, was the philosopher of the Federalist era, it was the function of Hamilton to draft the proposals which would put into effect the type of government desired by the great majority of the framers of the Constitution. In general, the commercial and financial interests of all sections favored a governmental policy which would support the national government against the states; while the agrarians, the Southerners, and the democratic forces of all sections were devoted to the idea of decentralization and the preservation of the institutions of regional or local government. Yet in the end it must be confessed that the ideas of national supremacy against local sovereignty were symbols which reflected and only reflected the underlying motivations of the divergent groups in American politics. As in all cases when issues become sufficiently broad, the issues of that day possessed some of the qualities of universality. We are not yet beyond discussing with passion the very problems which made the substance of politics in the United States during the decade after the ratification of the Constitution. And as long as private property and the principles of capitalism prevail in the United States, it will remain so.

In 1790 Hamilton presented his First Report on the Public Credit, which is a document that reveals many of the basic ideas of the Hamiltonian philosophy. It should be observed that the Federalists were not afraid of using the power of the state to protect the interests they insisted were vital to the continuance of good government. One might even say that Hamilton's program could be called Hamiltonian socialism, or the

implicit conservatism of any vigorous government dedicated to the protection of property. In the Federalist view, however, one of the prime functions of the state was the protection of credit and the soundness of the monetary system. The radical or the progressive usually has stringent criticisms to offer against the protection of property in money and credit. Brooks Adams has suggested, for example, that the usurer plays an important role in the later development of centralization in the history of states; the conservative insists in return that one of the most important means of protecting property is the guarantee of the system of credit and the prevention of experiments in money which affect acquired rights of property.

Thus Hamilton asserts the importance of upholding the public credit and asks how it may be done.

> The ready answer to which question is, by good faith; by a punctual performance of contracts. States, like individuals, who observe their engagements are respected and trusted, while the reverse is the fate of those who pursue an opposite conduct.
>
> Every breach of the public engagements, whether from choice or necessity, is, in different degrees, hurtful to public credit. When such a necessity does truly exist, the evils of it are only to be palliated by a scrupulous attention, on the part of the Government, to carry the violation no further than the necessity absolutely requires, and to manifest, if the nature of the case admit of it, a sincere disposition to make reparation whenever circumstances shall permit.

But even more, urged Hamilton, public credit must be preserved under the principles of moral obligation; public virtue and public happiness go together. The debt of the United States was the price of liberty; the faith of America has been pledged for it, and it is a matter of regret that the obligations assumed by the United States have not yet been honored.

Thus the establishment of the new government, he noted, has given hope that the pledged word of the United States will be kept.

> A general belief accordingly prevails, that the credit of the United States will quickly be established on the firm foundation of an effectual provision for the existing debt. The influence which this has had at home is witnessed by the rapid increase that has taken place in the market value of the public securities. . . . It can but merit particular attention that, among ourselves, the most enlightened friends of good government are those whose expectations are the highest. To justify and preserve their confidence; to promote the increasing respectability of the American name; to answer the calls of justice; to restore landed property to its due value; to furnish new resources, both to agriculture and commerce; to cement more closely the union of the States; to add to their security against foreign attack; to establish public order on the basis of an up-

right and liberal policy;—these are the great and invaluable ends to be secured by a proper and adequate provision, at the present period, for the support of public credit.[4]

But if Hamilton would preserve public credit, he was also a defender of the principle of encouraging manufactures in the United States by suitable protective duties. In this argument he had to meet the view that the United States should remain an agricultural state, that the productivity of agriculture was superior to that of manufactures, and that the growth of manufacturing would be a disturbing factor in the social development of the nation. Hamilton's Report on Manufactures in 1791 is considered to be the strongest argument for protection of home industry by any American leader. Hamilton did not accept the superior productiveness of agriculture over manufactures, and he did not think that, in the long run, duties favoring industries would bring about increases in prices. Moreover, one of the prevailing motives leading to the adoption of protective tariffs was to enable the United States to develop a military system suitable for national defense. In the previous year President Washington had urged the promotion of such manufactures as would render us independent of others for our essential military supplies. The matter was referred by Congress to Hamilton, as Secretary of the Treasury, to prepare a suitable report with recommendations. As a result of this, Hamilton took a strong position against the emerging Jeffersonian thesis that agriculture was the primary and most beneficial type of economic activity. By urging a system of protective duties he suggested the tendency to national centralization that came from the original adoption of the Constitution. The Report on Manufactures may be considered, in some degree, the beginning of the long sectional debate between the North and the South over the position of Southern agriculture in the federal system. In any case, the Federalist idea of centralization won the day, and the United States was launched on the path of protectionism—a course which it has not yet deserted. Protectionism seems to have been, in the modern industrial era, one of the foundation stones of economic and political conservatism. In the twentieth century it reached its peak, no doubt, in the doctrines of economic nationalism and the idea of autarchy, or self-sufficiency planned and directed by the state.

The expediency of encouraging manufactures in the United States [declared Hamilton], which was not long since deemed very questionable, appears at this time to be pretty generally admitted. The embarrassments which have obstructed

[4] *The Works of Alexander Hamilton,* ed. by H. C. Lodge (1885), Vol. II, pp. 49–52. For a critical view of Hamilton, see Edwin Mims, *The Majority of the People* (1941).

the progress of our external trade, have led to serious reflections on the necessity of enlarging the sphere of our domestic commerce. The restrictive regulations, which, in foreign markets, abridge the vent of the increasing surplus of our agricultural produce, serve to beget an earnest desire, that a more extensive demand for that surplus may be created at home; and the complete success which has rewarded manufacturing enterprise, in some valuable branches, conspiring with the promising symptoms which attend some less mature essays in others, justify a hope that the obstacles to the growth of this species of industry are less formidable than they were apprehended to be, and that it is not difficult to find, in its further extension, a full indemnification for any external disadvantages, which are or may be experienced, as well as an accession of resources, favorable to national independence and safety.[5]

At this point Hamilton felt called upon to answer the argument that since agriculture was the most beneficial and most natural course for our economic endeavor, since "it can hardly ever be wise in a government to attempt to give direction to the industry of its citizens," and since private enterprise will "infallibly find its own way to the most profitable employment," the national government should abstain from such a policy of protection as proposed in the conservative program of the Federalists. Hamilton insists simply that it cannot be proved that agriculture is a more productive type of enterprise, and that reasons of national policy dictate that there should be a development of national manufactures. Had other countries followed a system of complete liberty in enterprise, it might be a suitable policy likewise for the United States; but such is not the case, and owing to governmental intervention, the United States is excluded from many markets of the world. We cannot exchange on equal terms with Europe; we can buy from Europe, but Europe does not wish to buy from us.

In defending the intervention of government in the encouragement of manufactures, Hamilton asserts:

> Whatever room there may be for an expectation that the industry of a people, under the direction of private interest, will, upon equal terms, find out the most beneficial employment for itself, there is none for a reliance that it will struggle against the force of unequal terms, or will, of itself, surmount all the adventitious barriers to a successful competition which may have been erected, either by the advantages naturally acquired by practice, and previous possession of the ground, or by those which may have sprung from positive regulations and an artificial policy. This general reflection might alone suffice as an answer to the objection under examination, exclusively of the weighty considerations which have been particularly urged.[6]

[5] Hamilton, *Works*, Vol. III, pp. 294–295.
[6] *Ibid.*, pp. 329–330.

Nor will such a policy give any particular class any advantage, since in time prices will be reduced and internal competition will destroy monopoly. Hamilton rejected the idea that manufactures would benefit the North and injure the South; mutual want is the strongest link between the sections.

In the clarity of his insight Hamilton stated one of the central theses of any modern economic conservatism:

> It is a truth, as important as it is agreeable, and one to which it is not easy to imagine exceptions, that every thing tending to establish substantial and permanent order in the affairs of a country, to increase the total mass of industry and opulence, is ultimately beneficial to every part of it. On the credit of this great truth, an acquiescence may safely be accorded, from every quarter, to all institutions and arrangements which promise a confirmation of public order and an augmentation of the national resource.[7]

A financial measure sponsored by Hamilton, the excise law of 1791, evoked strong opposition, especially in western Pennsylvania. The affair came to be known as the Whiskey Rebellion because of the opposition of the producers of grain to payment of the excise tax. It is to be noted that neither Washington nor Hamilton showed the slightest hesitation in the use of force to suppress opposition to the law. If the national government, if the conservative and orderly centralization contemplated by the Constitution was to be maintained, force had to be used whenever open opposition made its appearance. Under the name of "Tully," Hamilton wrote a series of papers defending vigorously the policy of the government and defending the principle of obedience to the laws of the United States.

The most sacred duty and the greatest source of security in a republic, declared the great conservative statesman, is an inviolable respect for the Constitution and the laws passed under its authority.

> Government is frequently and aptly classed under two descriptions—a government of FORCE, and a government of LAWS; the first is the definition of despotism —the last, of liberty. But how can a government of laws exist when the laws are disrespected and disobeyed? Government supposes control. It is that POWER by which individuals in society are kept from doing injury to each other, and are brought to cooperate to a common end. The instruments by which it must act are either the AUTHORITY of the laws or FORCE. If the first be destroyed, the last must be substituted; and where this becomes the ordinary instrument of government, there is an end to liberty!

Or, again, in his denunciation of anarchy and in his defense of authority Hamilton saw that symbols rather than concrete results are often used in stirring political passions to the point of resistance.

[7] *Ibid.*, p. 361.

Fellow-citizens: A name, a sound, has too often had influence on the affairs of nations; an EXCISE has too long been the successful watchword of party. It has even sometimes led astray well-meaning men. The experiment is now to be tried whether there be any spell in it of sufficient force to unnerve the arm which may be found necessary to be raised in defence of law and order.[8]

One of the devices to strengthen the central authority of the Federal government was a national bank. Today, when we are unmoved by the existence of a Federal Reserve System and centralization in finance, we have difficulty in understanding the political passion that centered around the Bank of the United States. If Hamilton saw that sound money and credit were a basis of orderly government, if he saw that manufactures must be fostered and that the authority of the laws must be preserved in opposition to the criticism of the expanding system of national taxation, he also saw the advantages of a great national financial institution. That it would augment the authority of the new government, none denied; but whether it could be considered constitutional was another and bitterly fought issue. For the conservatives, the nationalists—that is, the Federalists—began, immediately the Constitution was adopted, to expand the powers of the national government at the cost of the autonomy of the states. In the very first years of the new government the criticisms of those who opposed it were beginning to be justified. What Hamilton and those who supported him wanted was a particular kind of government, and if the Constitution did not grant directly the powers needed, they turned to a theory of the Constitution which has ever since been the secret of the flexibility of our system of government. They turned to the view that the new government could not be limited in its exercise of authority to those narrowly specified powers listed in the written document we call the Constitution.

However one may regard the struggle over the development of national powers, in the end one is inclined to believe that Hamilton and the Federalists were interested in a program that the government should follow, and that the narrow and loose constructions of the Constitution were simply techniques available in advancing the aims of the emerging Jeffersonians and the enthroned Federalists. Never since Hamilton's argument has it been possible for any group consistently to maintain that a close interpretation should be placed on the powers delegated to the national government. Hamilton's argument proceeds from a general theory of what governments ought to do, and on numerous occasions the Supreme Court has argued that implicitly certain powers are vested in

[8] *Ibid.*, Vol. VI, pp. 27–29.

the government of the United States just because it is the government of the United States.

Hamilton notes that Jefferson's theory rests on a denial that the national government has the power to erect corporations.

> Now it appears to the Secretary of the Treasury that this *general principle* is *inherent* in the very *definition* of government, and *essential* to every step of progress to be made by that of the United States, namely: That every power vested in a government is in its nature sovereign, and includes, by *force* of the *term*, a right to employ all the *means* requisite and fairly applicable to the attainment of the *ends* of such power, and which are not precluded by restrictions and exceptions specified in the Constitution, or not immoral, or not contrary to the *essential ends* of political society.[9]

Sovereignty, to Hamilton, did not appear as a general quality of the state itself as a kind of fictitious personality or corporation; sovereignty was the right of a government to certain powers in the fullest sense of the term. Sovereignty, indeed, was a bundle of powers; and as the full right of the states over certain matters constituted their sovereignty, so a similar right of the national government over other matters constituted its sovereignty. The Federal government is sovereign as to its proper objects. Hamilton noted that the Constitution is declared by that instrument to be the supreme law of the land. All sovereignties have the right to erect corporations, and the government of the United States has the same right as other governments in relation to its proper objects. Nor can it be denied, he declared, that there are implied, as well as express, powers vested in the national government. They are, in effect, resulting powers, and they are just as much delegated as those specifically noted in the Constitution. A power to erect a corporation may as well be implied as any other, provided the corporation is to serve as an instrument or means of carrying into effect the powers specifically delegated.

But what does it mean when the Constitution speaks of "necessary and proper" laws "for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof"? The phrase "necessary and proper" is a lawyer's paradise; it offers all the opportunity one could desire in the development of subtle distinctions in the arrangement of an argument. Jefferson, as Secretary of State, had argued that "necessary" meant that no means are to be considered necessary but those without which the grant of the power would be nugatory.

> It is certain [declared Hamilton] that neither the grammatical nor popular sense of the term requires that construction. According to both, necessary often

[9] *Ibid.*, Vol. III, p. 181.

means no more than *needful, requisite, incidental, useful,* or *conducive* to. It is a common mode of expression to say, that it is *necessary* for a government or a person to do this or that thing, when nothing more is intended or understood, than that the interests of the government or person require, or will be promoted by, the doing of this or that thing. The imagination can be at no loss for exemplifications of the use of the word in this sense. And it is the true one in which it is to be understood as used as in the Constitution. The whole turn of the clause containing it indicates, that it was the intent of the Convention, by that clause, to give a liberal latitude to the exercise of the specified powers. The expressions have peculiar comprehensiveness. . . .[10]

Then Hamilton quotes the passage in the Constitution to which attention has already been called.

To adopt the test of absolute or indispensable necessity would handicap the government at every turn, urged Hamilton. Few powers of the government would, in exercise, stand fully and clearly beyond the test suggested by the Jeffersonians. Every government has a right to pass laws that are necessary and proper to accomplish the ends entrusted to it, and no government has a right to do just what it pleases. Yet Hamilton, willfully or by habit of mind, failed to see that the Southern argument against implied powers did not apply to state governments; he failed to recognize that state governments were not governments of delegated powers to which the same line of reasoning would apply. Already, however, the practice of the government, said Hamilton, was against the view taken by Jefferson.

Of this, the Act concerning light-houses, beacons, buoys, and public piers is a decisive example. This, doubtless, must be referred to the powers of regulating trade, and is fairly relative to it. But it cannot be affirmed that the exercise of that power in this instance was strictly *necessary,* or that the power itself would be *nugatory,* without that of regulating establishments of this nature.[11]

Hamilton furthermore contended that, as a sound maxim of construction, the powers in a constitution ought to be construed liberally in the advancement of the public good, and this regardless of the form of government. To say that a liberal construction would extend the powers of the national government throughout the entire sphere of state legislation is not a valid argument, since the same might be said of any power fully vested in the national government or exercised by any implication.

And with the candid foresight which has made Hamilton's name survive, he remarked: "The truth is, that difficulties on this point are in-

[10] *Ibid.,* p. 187.
[11] *Ibid.,* p. 189.

herent in the nature of the Federal Constitution; they result inevitably from a division of the legislative power." But so to argue does not remove all criteria of constitutionality. Some cases will be clearly within the national power, some within the power of the states, while on others there will be controversy and difference of opinion. The criterion which Hamilton suggested is the end to which the measure relates as a means. "If the *end* be clearly comprehended within any of the specified powers, and if the measure have an obvious relation to that *end,* and is not forbidden by any particular provision of the Constitution, it may safely be deemed to come within the compass of the national authority." [12]

John Marshall, the great Federalist Chief Justice appointed at the time Jefferson took office as President, was to use in 1819 this same argument in sustaining the constitutionality of the national bank in the case of *McCulloch v. Maryland.* And with that step the argument outlined became itself a part of the living Constitutional system of the United States—even more valid, it would seem, with the development of the Constitution than it was at the time of its enunciation.

Thomas Jefferson. Let us turn now to the Jefferson we have been discussing by indirection. Jefferson's principles initiated one of those debates in American thinking that has neither ended nor is likely to. Again, it is an argument of policy—a policy this time seeking to develop a happy, agrarian America, in which learning would crown the efforts of its citizens. It was a liberalism that turned to the people for direction in government, in the belief that the people, properly educated, would accept those policies supported by believers in the supremacy of agriculture. If the Federalists wanted national centralization under a mixed or balanced Constitution in order to preserve a commercial conservatism whose symbol was destiny, the Jeffersonians turned against national centralization and to the institutions of local government. But because they had no faith in centralization they had, correspondingly, little faith in the equilibrium established in the Constitution. Hence, Jefferson felt no compunctions in attacking the Supreme Court under the predominating leadership of his fellow Virginian, John Marshall. To weaken the Court was, in this instance, simply a technique for checking the tendency toward centralization and overweening national power.[13]

[12] *Ibid.,* pp. 191–192.

[13] The interpretation of Jefferson is a highly controversial matter in American thought. Not only do the interpretations differ, but Jefferson held different views at different times in his career. His agrarianism was much sobered after the War of 1812, and his use of national power—*e.g.,* in the Louisiana Purchase—belies his reliance on local government action, or planning, as well as his strict construction of the Constitution.

If the battle began in Washington's Cabinet over the bank issue, it reached its maturity in John Adams's Presidency on the question of the United States in relation to the great struggle for power then going on in Europe. In 1798 four acts were passed by the national government—a naturalization act, an alien act, an alien enemies act, and a sedition act—which collectively have come to be known as the Alien and Sedition Acts. Not only did these laws go counter to the Southern sympathy for French liberalism and its continued hostility to the British system, but they also represented a sharp development of the powers of the national government, an expansion of executive and judicial authority, and a growth of administrative arbitrariness in government that confounded the Jeffersonian liberals. The Virginia resolutions of 1798 and the Kentucky resolutions of 1798 and 1799 were strong assaults on the Federalist policy. Jefferson was the author of the Kentucky resolutions, while Madison wrote those presented in Virginia by John Taylor. The "father" of the Constitution was affirming the principle of the sovereignty of the states in the union under the Federal compact. Could a state, in resisting Federal encroachment, declare Acts of Congress unconstitutional, or maintain that nullification by state sovereignties of unauthorized national acts was the rightful remedy for the people to choose? Such, in any case, was the intent of the resolutions adopted in Kentucky and Virginia, however unfavorably they may have been received in other sections of the country.[14]

The Kentucky resolution states:

. . . that the several States composing the United States of America, are not united on the principle of unlimited submission to their general government, but that by compact under the style and title of a Constitution for the United States and of amendments thereto, they constituted a general government for special purposes, delegated to that government certain definite powers, reserving each State to itself, the residuary mass of right to their own self-government; and that whensoever the general government assumes undelegated powers, its acts are unauthoritative, void, and of no force: That to this compact each State acceded as a State, and is an integral party, its co-States forming, as to itself, the other party: That the government created by this compact was not made the exclusive or final judge of the extent of the powers delegated to itself; since that would have made its discretion, and not the Constitution, the measure of its powers; but that as in all other cases of compact among parties having no common Judge, each party has an equal right to judge for itself, as well of infractions as of the mode and measure of redress.

[14] For texts of these resolutions, see William Macdonald, *Select Documents Illustrative of the History of the United States, 1776–1861* (1897), pp. 148*ff*. See also *The Writings of Thomas Jefferson*, ed. by P. L. Ford (10 vols., 1892–1899), Vol. VII, pp. 288–309.

The resolution continues to note that the types of crimes which Congress may punish are listed in the Constitution and do not include the criminal penalties imposed in the Alien and Sedition Acts. Freedom of religion, speech, and press are particularly not delegated to the national government, and all powers concerning these matters are reserved to the states. To Jefferson, the denial of the civil rights of an individual was a serious infraction of the liberal basis of society; being a libertarian in principle, he could not stand idly by while efforts were made to subvert the Constitution. Likewise, alien "friends" are under the protection of the states in which they are, Congress as a consequence having no power over them. The resolution further asserts that the interpretation of the "necessary and proper" clause "goes to the destruction of all the limits prescribed to their power by the Constitution: That words meant by that instrument to be subsidiary only to the execution of the limited powers ought not to be so construed as themselves to give unlimited powers, nor a part so to be taken as to destroy the whole residue of the instrument." In the following year, 1799, another resolution was passed by the Kentucky legislature which stated the principle of nullification by the states of Federal laws deemed contrary to the Constitution. Asserting that the several states parties to the Federal compact are sovereign and independent, the resolution declared: "That a Nullification by those sovereignties, of all unauthorized acts done under color of that instrument is the rightful remedy."

These resolutions of Kentucky and Virginia were the beginning of a long chapter in the story of resistance to centralization of power in the hands of national officials. Southern liberalism took its stand from the outset against the tendency toward centralized power; and though it was to lose in the end, this was to be finally acknowledged only by the surrender of Robert E. Lee at Appomattox in 1865. Confidence in the power of the people to govern themselves led the Jeffersonians to distrust the distant and powerful civil servant who has in his heart the secrets of public well-being. Those who fought centralization in all great economic systems have been defeated; it is only on the bypaths of civilization that decentralization seems to have been a living program. Power has its own laws, superseding the claims of the exponent of public opinion.

But what was the democracy of which the Jeffersonian liberal spoke? It was surely more than mere resistance to strong, centralized national authority. As with the Federalists, the Southern liberals were interested in a program, and nullification or defense of the Constitution were but techniques to be used as the situation warranted. Speaking of Jefferson, De Tocqueville asserted in his *Democracy in America,* "I am glad to cite the opinion of Jefferson . . . because I consider him the most power-

ful advocate democracy has ever had."[15] Today no more than then are thinkers inclined to define democracy with precision. Certainly Jefferson would not and could not have defined it as a body of existing institutions. Democracy, for him, was a program for the future; it was, in truth, an ideal of a society that did not then exist, nor perhaps has ever existed. In this we find much of the charm of Southern liberalism in this period. Jefferson had become the intellectual successor of the venerable Benjamin Franklin. But this succession was not so much in originality in ideas as in a constant contact with the trends of thought in the liberal, optimistic sections of Europe; in particular it was France toward which the liberal turned. French liberal doctrines were not imported to the United States without a critical inspection; but the spirit or tone of the liberalism of Jefferson was similar to that of France.

In Jefferson's time the right of suffrage was not universal, but in the formative period of American liberalism this right was not considered to be as significant as it has been in more recent years. There were democratic policies more fundamental than suffrage in both the thought of Hamilton and Jefferson, though the latter was more kindly disposed to giving men the right to vote than Hamilton. The expansion of the suffrage was distinctly a nineteenth-century experiment, and it may be considered more appropriately in connection with Jacksonian democracy. Both Hamilton and Jefferson could agree that the possession of property was an evidence of a substantial interest in the welfare of society, though Jefferson wanted measures taken which would spread the ownership of property. Indeed, the small amount of property thought desirable by Jefferson could be acquired by almost anyone. To Hamilton, liberalism was to be found in a body of national policies which today we may designate as conservatism; to Jefferson, liberalism was to be found not only in political and economic decentralization, but also in a body of policies that looked to the time when men would be educated in the fundamentals of social and natural science. The vote itself had less significance, in either case, than the policies that were advocated.

Democracy as a spirit, as a faith in the political future of men in general, was associated with the new and intoxicating idea of progress. As progress dies, so dies democracy, save as an empirical and descriptive concept in relation to the existing institutions of government. Looking to the future was a newly acquired habit in the eighteenth century. However one may date the origin of the doctrine of progress, it has become associated with the rise of French liberalism, which culminated

[15] Alexis de Tocqueville, *Democracy in America*, ed. by Phillips Bradley (2 vols., 1946), Vol. I, p. 270.

in the political religion of the Revolution beginning in 1789. Our own Revolution, though coming before in time, was in short retrospect a cousin of the French movement. It was, therefore, no effort for the author of the Declaration of Independence to continue to draw nourishment for the spirit from the multitude of books produced by the French thinkers of the latter half of the eighteenth century. "The writings of the French philosophers—Montesquieu, Voltaire, Rousseau, and the Encyclopedists —no less than the heavy theoological tomes and the newest scientific books from Great Britain were put into the hands of the colonials with amazing promptness and at moderate prices," declares Beard in assessing the intellectual sources of the late colonial and early national life in the United States.[16] Perhaps above all, it was freedom of the mind that attracted the wiry genius of Thomas Jefferson, and the great monument he built to his liberalism was the Virginia statute on religious liberty. Nor was he inconsistent if he pointed, in his own epitaph, to this statute, to the Declaration of Independence, and to the foundation of the University of Virginia as his great achievements. Educational institutions which sought to present to the able young men of Virginia the new developments in science and social science were but the application of the fundamentals so brilliantly expressed in the statute proposed by Jefferson in 1779 and passed by Virginia in 1786.

Since God had created mind free [notes the statute], all attempts to influence it by temporal punishments, or burthens, or by civil incapacitations, tend only to beget habits of hypocrisy and meanness, and are a departure from the plan of the holy author of our religion, who being Lord both of body and mind, yet chose not to propagate it by coercions on either, as was in his Almighty power to do, but to exalt it by its influence on reason alone; that the impious presumption of legislature and ruler, civil as well as ecclesiastical, who being themselves but fallible and uninspired men, have assumed dominion over the faith of others, setting up their own opinions and modes of thinking as the only true and infallible, and as such endeavoring to impose them on others, hath established and maintained false religions over the greatest part of the world, and through all time: That to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves or abhors, is sinful and tyrannical; that even the forcing him to support this or that teacher of his own religious persuasion, is depriving him of the comfortable liberty of giving his contributions to the particular pastor whose morals he would make his pattern, and whose powers he feels most persuasive to righteousness; and is withdrawing from the ministry those temporary rewards, which proceeding from an approbation of their

[16] See Charles A. Beard and Mary R. Beard, *The Rise of American Civilization* (1927), Vol. I, p. 182. Copyright 1927, 1930, and 1933 by The Macmillan Company and used with their permission.

personal conduct, are an additional incitement to earnest and unremitting labours for the instruction of mankind; that our civil rights have no dependence on our religious opinions, any more than our opinions in physics or geometry; and that therefore the proscribing any citizen as unworthy the public confidence by laying upon him an incapacity of being called to offices of trust and emolument, unless he profess or renounce this or that religious opinion, is depriving him injudiciously of those privileges and advantages to which in common with his fellow-citizens he has a natural right; that it tends only to corrupt the principles of that religion it is meant to encourage, by bribing with a monopoly of worldly honours and emoluments, those who will externally profess and conform to it; that though indeed these are criminals who do not withstand such temptation, yet neither are those innocent who lay the bait in their way; that the opinions of men are not the object of civil government, nor under its jurisdiction; that to suffer the civil magistrate to intrude his powers into the field of opinion, and to restrain the profession or propagation of principles on supposition of their ill tendency, is a dengerous fallacy, which at once destroys all religious liberty, because he being of course judge of that tendency will make his opinions the rule of judgment, and approve or condemn the sentiments of others only as they shall square with or differ from his own; that it is time enough for the rightful purposes of civil government for its officers to interfere when principles break out into overt acts against peace and good order; and finally, that truth is great and will prevail if left to herself, that she is the proper and sufficient antagonist to error, and has nothing to fear from the conflict, unless by human interposition disarmed of her natural weapons, free argument and debate; errors ceasing to be dangerous when it is permitted freely to contradict them.[17]

Thus ended religious establishments in Virginia, long before they were ended in New England. And yet, though it is customary to regard Jeffersonian liberalism as in conflict with the prevailing ideas of the conservatives in New England, it must not be forgotten that by any standard Jefferson was not a modern radical. In many matters of policy he did not differ, in the end, from the Federalists, but his spirit of confidence in the future of man contrasts sharply with the realism of the "Hamiltonian facts" of politics. The community of interest between Federalists and Jeffersonians after the smoke of political battle had blown away is shown by the late reconciliation between the old enemies, John Adams and Thomas Jefferson. Both of these men died on July 4, 1826, within the hour. During the latter years of their life they corresponded with each other, discussing freely and in the privacy of their letters their views on politics. These letters indicate how close they were, in the end, in their political conceptions.

In a letter to Jefferson on November 13, 1815, Adams says:

[17] Jefferson, *Writings*, ed. by P. L. Ford, Vol. II, pp. 237–239.

The fundamental article of my political creed is, that despotism, or unlimited sovereignty, or absolute power, is the same in a majority of a popular assembly, an aristocratical council, an oligarchical junto, and a single emperor. Equally arbitrary, cruel, bloody, and in every respect diabolical. Accordingly, arbitrary power, wherever it has resided, has never failed to destroy all records, memorials, and histories of former times, which it did not like, and to corrupt and interpolate such as it was cunning enough to preserve or tolerate. We cannot therefore say with much confidence what knowledge or what *virtues* may have prevailed in some former ages in some quarters of the world.

Jefferson would admit all of this, but he did insist that an enlightened people is not likely to abuse its power. Two years before in a letter to Adams, Jefferson had discussed the problem of improvement in the breeding of men; some improvement through heredity might be made.

But I suspect [said Jefferson] that the equal rights of men will rise up against this privileged Solomon and his harem. . . . [We will have to] content ourselves with the accidental aristoi produced by the fortuitous concourse of breeders. For I agree with you that there is a natural aristocracy among men. The grounds of this are virtue and talents. Formerly, bodily powers gave place among the aristoi. But since the invention of gunpowder has armed the weak as well as the strong with missile death, bodily strength, like beauty, good humor, politeness and other accomplishments, has become but an auxiliary ground of distinction. There is also an artificial aristocracy, founded on wealth and birth, without either virtue or talents; for with these it would belong to the first class. The natural aristocracy I consider as the most precious gift of nature, for the instruction, the trusts, and government of society. And indeed, it would have been inconsistent in creation to have formed man for the social state, and not to have provided virtue and wisdom enough to manage the concerns of society. May we not even say, that that form of government is the best, which provides the most effectually for a pure selection of these natural aristoi into the offices of government? The artificial aristocracy is a mischievous ingredient in government, and provision should be made to prevent its ascendancy. On the question, what is the best provision, you and I differ; but we differ as rational friends, using the free exercise of our own reason, and mutually indulging in errors. . . .

In 1816, again writing to Adams, he speaks of the writings of Destutt Tracy:

I gather from his other works that he adopts the principle of Hobbes, that justice is founded in contract solely, and does not result from the construction of man. I believe, on the contrary, that it is instinct and innate, that the moral sense is as much a part of our constitution as that of feeling, seeing, or hearing; as a wise creator must have seen to be necessary in an animal destined to live in society; that every human mind feels pleasure in doing good to another; that the non-existence of justice is not to be inferred from the fact that the same act is deemed virtuous and right in one society which is held vicious and wrong in an-

other; because as the circumstances and opinions of different societies vary, so the acts which may do them right or wrong must vary also; for virtue does not consist in the act we do, but in the end it is to effect. If it is to effect the happiness of him to whom it is directed, it is virtuous, while in society under different circumstances and opinions, the same act might produce pain, and would be vicious. The essence of virtue is in doing good to others, while what is good may be one thing in one society, and its contrary in another. . . .

Jefferson looked on government as fluid in the stream of political experience; it was the right of those to whom the privilege of participation was given to change the course of events, alter governments, or determine the policies of the government over living men. As Jefferson said to Adams in a letter already quoted (1815):

Every one, by his property, or by his satisfactory situation, is interested in the support of law and order. And such men may safely and advantageously reserve to themselves a wholesome control over their public affairs, and a degree of freedom, which, in the hands of the *canaille* of the cities of Europe, would be instantly perverted to the demolition and destruction of everything public and private. The history of the last twenty-five years of France, and of the last forty years in America, nay of its last two hundred years, proves the truth of both parts of this observation.

The earth belongs to the living, but not to all of the living. Can you scratch Jefferson and find a Federalist, or was he simply a democrat in the lasting sense of the word?

One of the qualities of the seminal mind of Thomas Jefferson was his ability to absorb new ideas, and to make applications of them to the American scene. Jefferson can hardly be called original; he was too close to the thinking of the men who lived around him for that. If he never wrote systematically on his political ideas, he was a social inventor, a man who could suggest devices whereby the ideas of which he approved might be put into some sort of relationship with the experience of American citizens. One of the documents which illustrates this capacity is Jefferson's letter to James Madison in 1789. In this letter he asserts the rights of the living against the claims of the dead. No man can, by natural right, oblige those who come after him to pay his debts; and what is true of individuals is true also of society at large, since the rights of the whole can be no more than the rights of the sum of the individuals who make up society. Jefferson computed that a majority continues in life for thirty-four years, and that the binding character of laws and constitutions extended for that period. If public debts were valid for no longer than this, it would bridle the spirit of war, and money lenders would have to pay some attention to this law of nature regarding the

character of public obligations.[18] By the same token, Jefferson urged that no constitution and no law could be perpetual. Every constitution and every law naturally expires with the generation which put it into effect.[19]

John Taylor. John Taylor, of Caroline County, Virginia, was the most systematic of all the theorists of Jeffersonian liberalism. It has been the custom in recent years to stress his great importance. Scholars have returned to his forgotten volumes and discovered in them many ideas pertinent to the present; likewise, he contrasts sharply with Jefferson in that he wrote a series of long, systematic volumes attacking the Hamiltonian principles of government. But a man is not important because of the number of pages he writes, and when the followers of Jeffersonian ideas return to Jefferson himself, their instinct is no doubt correct. Taylor's writings extend from 1781 to 1823, and his life was divided between his literary effort, his interest in agriculture, and his services in politics both in his native Virginia and in the national government. Among his works we may note *A Definition of Political Parties: or, The Political Effects of the Paper System Considered* (1794); *Arator: Being a Series of Agricultural Essays, Practical and Political, in Sixty-one Numbers* (1813); *An Inquiry into the Principles and Policy of the Government of the United States* (1814); *Construction Construed, and Constitutions Vindicated* (1820); *Tyranny Unmasked* (1822); and *New Views of the Constitution of the United States* (1823).

[18] In July, 1816, in writing to Samuel Kercheval, Jefferson had revised his idea of how long a majority lives. He said: ". . . let us provide in our constitution for its revision at stated periods. What these periods should be, nature herself indicates. By the European tables of mortality, of the adults living at any one moment of time, a majority will be dead in about nineteen years. At the end of that period, then, a new majority is to come into place; or, in other words, a new generation. Each generation is as independent of the one preceding, as that was of all which had gone before." Out of such ideas we have accepted the periodical revision of our state constitutions. The constitution became, in such thinking, the visible social contract; it was to be renewed with each new generation.

[19] A writer whose ideas should not be entirely neglected was Joel Barlow, who in 1792 wrote *Advice to the Privileged Orders in the Several States of Europe.* From being a satirist of popular government in his early years, he became later an ardent defender of the rights of the people, and of the French Revolution. In attacking the system of European aristocracy he supported most of the proposals that made up the Jeffersonian program. Particularly he emphasized the power of education. Men who are taught the principles of equality will not permit either the oppressions of government or the dangers of anarchy. "Aristotle was certainly a great politician; and Claudius Ptolemy was a great geographer; but the latter has said not a word of America, the largest quarter of the globe; nor the former, of representative republics, the resource of afflicted humanity."

It has been said that Taylor's work came after the peak of the Jeffersonian wave had passed; but the defense of the South contained in his work was not finally rendered obsolete by events until the last gun of the Confederate War had been fired. For Taylor was one of the great defenders of the South against the steady encroachment and development of Northern power in the American Union. Specifically, he attacked those instrumentalities and policies of the national government which had been adopted, especially under Hamilton, in order to attain the ends of the Federalists. He was opposed to centralization, as was Jefferson. He argued earnestly against the construction of the Constitution by the Supreme Court during John Marshall's domination; he opposed the protective tariff system inaugurated by Hamilton; he contended that the system of public credit, the paper system of Hamilton, was creating a new aristocracy in the United States that in the end would sweep away those who had pinned their faith to the land.

Taylor has been seen as a prophet of Southern interest who suggested many of the methods by which the South was to defend itself against the North. He was one of the first (1781) to consider the issue of sectionalism, and he viewed the conflict as a struggle between opposing economic systems, capitalist and agrarian; he considered, likewise, the possibility of civil war on the issue of slavery.

> He antedated Edmund Ruffin in agricultural reform [states Mudge]; Calhoun on the tariff question, on the theory of a concurrent majority, and on the theory of indivisible sovereignty to be found in his *Disquisition on Government;* Andrew Jackson on the constitutionality of the Bank of the United States and of the program for internal improvements; Cass and Douglas on the solution of slavery on the basis of popular sovereignty. He developed an argument similar to that used by Upshur and Calhoun against federal judicial supremacy, and he anticipated the majority opinion in the Dred Scott case.[20]

As a defender of the philosophy of the American Revolution, Taylor turned to simplicity and economy in government; he was no lover of extreme nationalism, nor of geographical majorities, such as the North, which had established the legal privilege of the few to plunder the interests of the many. Nor would he accept the urban industrial system that had expressed itself directly in the protective tariff which penalized the whole agricultural interest of the United States. Agrarianism was good morality; its interests accorded with natural law, and with the real intentions of the framers of the Constitution. In calling for political control by the agricultural class, Taylor began the long but losing fight against

[20] E. T. Mudge, *The Social Philosophy of John Taylor of Caroline* (1939), pp. 4–5. By permission of the Columbia University Press.

the development of commercial capitalism in the United States. Perhaps we can see today that in the end any group which sought to prevent this dominance by the commercial capitalists was doomed to defeat; but Taylor did not see it, nor the South in general.

Political property [said Taylor in his *Definition of Parties,* in 1794] is distinguishable from natural property. Land cannot be increased by law—paper money may. Land, being incapable of an artificial multiplication, cannot by increasing its quantity, strengthen its influence—with paper the case is different. Land cannot in interest be at enmity with the public good—paper money is often so. Land cannot be incorporated by law, or by an exclusive interest, into a political junto—paper credit may. Land is permanent, paper fluctuating. [And again he declared:] The majority of a nation is the natural enemy of a paper junto, because the legislative influence of the latter, acts upon, and is an usurpation from, the former. The politics of a junto may therefore be accurately anticipated; indeed its theory and practice in all ages is the same. Standing armies—fleets—increase of taxes—extension of influence and of patronage—in short, whatever will obviate all attempts for a reclamation of political rights, will mark its progress. . . .

The aristocratical interest of paper and patronage, he argued in the *Inquiry* in 1814, expresses itself normally in the heat of party strife. And:

. . . the danger of parties to free governments, arises from the impossibility of controlling them by the restraints of political law; because being constituted upon selfish views, like a set of mountabanks combined to administer drugs for the sake of getting fees, the nature of the poison cannot be foreseen, nor an effectual antidote anticipated. No division of power, no responsibility, no periodical change of leaders, no limitation of "thus far you may go and no farther," stops their careers. In every form, therefore, they contitute the same avaricious or furious species of aristocracy, which would be produced by a form of government in the hands of a self constituted and uncontrolled body of men. They are universally disposed to persecute, plunder, oppress and kill, like all governments unsubjected to political law; and under the title of patriots, are, like fanaticks under the title of saints, ready to perpetrate any crimes to gratify their interests or prejudices. . . . No numerical checks or balances can reach this dreadful party tyranny. It is even able to suspend or destroy those solemnly established by nations, and to make the people themselves the authors of their own ruin. A political analysis alone, composed of moral principles, can reach and tame a beast, from which men flee to monarchy, because it lays waste and devours their rights with a thousand hands and a thousand mouths. This can test party legislation and actions. But freed from the rigid control of good moral principles, the professions of parties are like the flattering sunshine of the morning, and their acts like an evening deluge. In legislation contrary to genuine republican principles, sustained by a dominant party zeal, lies, in my view, the

greatest danger to the free form of government of the United States; nor can I conceive any augmentation of the danger, equivalent to an exercise of the power of distributing wealth by law. If, therefore, these essays should only prove, that it is the office of a republican government to protect, but not to destroy property, they may protract the period during which our government may remain the servant of the nation. For as worldly omnipotence is annexed to a power of dealing out wealth and poverty, nations are universally retributed for the folly and impiety of submitting to this species of human providence, by a divine decree, that it shall unexceptionably convert these servants into masters and tyrants.

We can thus see in Taylor the ultimate denial by the Jeffersonians of the theory of balance in the Constitution, and indeed the roots of Jeffersonian antagonism toward the separation of powers, *e.g.*, the supremacy of the judiciary. John Adams's system of balance of orders evades the sovereignty of the people, while the view of Taylor led, in theory at least, to the sovereignty of the people. Adams overlooked the great division of power, that between the people and the government; the Federalists minimized the division of power between the general and state governments, and the variation in the electoral system which prevents government by a mob. Political misery results from the joining of hereditary orders and factional and artificial interests. To John Taylor, the Hamiltonian and Federalist theory of government was a complete perversion of the American system that stemmed from the ideas of the Declaration of Independence.[21]

Conclusion. In the war between the principles and interests we have examined in this chapter, we have seen emerging the outlines of the battle for rulership in the United States that prevailed until the ink of Appomattox was dry. American liberalism, in its living sense, was a conflict between the Southern agrarians and the Hamiltonian capitalists. Yet even in Taylor's writings we begin to see the South's frustration in the Union; already it seemed that some of its leaders were beginning to see defeat in the future. The South, indeed, was defeated before the beginning of the race. Its defeat, however, was no different, in its ultimate form, than that which has been suffered by all those who have tried to lead to

[21] There is controversy on several points concerning the proper interpretation to be given Taylor's work. All agree that during most of his life he was a proponent of Jeffersonianism. Recently, however, he has been interpreted as an agrarian before anything else; and the extent to which he was a democrat can be seriously questioned. He was not, perhaps, as much of a believer in popular government as were Jefferson, Madison, and Monroe; and his agrarianism leaned to a defense of the "landed gentry." However, his views of democracy must be judged in the light of his times and not wholly in terms of twentieth-century democratic theory.

victory an agrarian interest. The sons of the soil and their leaders have on occasion risen in revolt, but victory has gone with rare exceptions to their opponents. And then, if we consider the times in which the Southern agrarian argument was taking shape, we know that destiny was rich for commerce and capital expansion, but not for the owners of plantations. The Federalists lost the votes of the people by 1800, but they were to win in the end; the Jeffersonians won the vote of the people, but their battle was lost before it was begun. The maturity of American liberalism was the clarification of this conflict, which was to last until the South lay in ruins as the result of military defeat.

Selected Bibliography

Adams, Brooks: *The Emancipation of Massachusetts* (1919).

Adams, R. G.: *Selected Political Essays of James Wilson* (1930).

Barlow, Joel: *The Political Writings of Joel Barlow* (1796).

Beard, Charles A.: *Economic Origins of Jeffersonian Democracy* (1915).

Bowers, Claude G.: *Jefferson and Hamilton* (1925).

Caldwell, L. K.: *The Administrative Theories of Jefferson and Hamilton* (1944).

Carpenter, William S.: *The Development of American Political Thought* (1930).

Chinard, Gilbert: *Thomas Jefferson: The Apostle of Americanism* (1929).

Coker, Francis W.: *Democracy, Liberty and Property* (1942).

Culbertson, W. S.: *Alexander Hamilton* (1916).

Curti, Merle: *The Social Ideas of American Educators* (1935).

Dauer, M. J., and Hans Hammond: "John Taylor: Democrat or Aristocrat?" *The Journal of Politics,* VI (1944), 381*ff.*

Gettell, R. G.: *History of American Political Thought* (1928).

Greene, E. B.: *Religion and the State* (1941).

Hamilton, Alexander: *The Works of Alexander Hamilton,* ed. by H. C. Lodge (9 vols., 1885–1886).

Jacobson, J. M.: *The Development of American Political Thought* (1932).

Jefferson, Thomas: *The Writings of Thomas Jefferson,* coll. and ed. by P. L. Ford (10 vols., 1892–1899).

Koch, G. A.: *Republican Religion: The American Revolution and the Cult of Reason* (1933).

Merriam, Charles E.: *American Political Theories* (1903).

Mims, Edwin: *The Majority of the People* (1941).

Mudge, E. T.: *The Social Philosophy of John Taylor of Caroline* (1939).

Palmer, Paul A.: "Benthamism in England and America," *The American Political Science Review,* XXXV (1941), 855*ff.*

Parrington, V. L.: *Main Currents in American Thought* (3 vols., 1927–1930).

Richardson, James D.: *A Compilation of the Messages and Papers of the Presidents, 1789–1897* (10 vols., 1897).

Schneider, H. W.: *A History of American Philosophy* (1946).

Simms, Henry H.: *Life of John Taylor* (1932).

Washington, George: *The Writings of George Washington,* coll. and ed. by W. C. Ford (14 vols., 1889–1893).

White, Leonard D.: *The Federalists: A Study of Administrative History* (1948).

WILSTACH, PAUL, ed.: *Correspondence of John Adams and Thomas Jefferson, 1812–1826* (1925).

WILSON, JAMES: *The Works of James Wilson,* ed. by J. D. Andrews (2 vols., 1895).

WILTSE, CHARLES M.: *The Jeffersonian Tradition in American Democracy* (1935).

WRIGHT, B. F.: *A Source Book of American Political Theory* (1929).

———: "The Philosopher of Jeffersonian Democracy," *The American Political Science Review,* XXII (1928), 870*ff.*

Chapter 7

THE NEW DEMOCRACY

> Like Moses, and a host of other idealists and reformers, John Quincy Adams had dreamed that, by his interpretation of the divine thought, as manifested in nature, he could covenant with God, and thus regenerate mankind. He knew that he had kept his part of this covenant, even too well. In return, when it came to the test, God had abandoned him and had made Jackson triumph, and to Adams, Jackson was the materialization of the principle of evil. Jackson was, to use Mr. Adams' own words when he was asked to attend at Harvard when the University made Jackson a Doctor of Laws, "a barbarian who could not write a sentence of grammar and hardly could spell his own name." And more than this, Jackson embodied the principle of public plunder, which Adams believed to be fatal to the hopes of posterity as well as those of his own generation.—Henry Adams.[1]

The Democratic Time. The nineteenth century was a period of renewed democratic growth. The United States, as the new colonial nation of the West—not yet a great power, not yet economically or intellectually powerful—participated in this general movement in Western civilization. We may define modern democracy as that existing body of political institutions which has flourished in certain countries since the epoch of the American and French Revolutions. But the justification of the democratic ideal is, in the minds of some, the real substance of democracy. If we recognize the historic Greek–Christian tradition as the basis of our social morality, democracy is a form of government which has tried, however imperfectly, to apply these ideas.

Today, in the crisis of political institutions in the West, we see our democracy as akin to all of the others. But in the last century such was not the case. We were inclined to see ourselves as the missionary progenitors of the democratic idea. We had the manifest destiny of showing to the rest of the world how a political society should be organized. We were, indeed, to be the instructress of the Old World. Of this idea De Tocqueville gives eloquent testimony in his *Democracy in America.* Later Lord Bryce, in *The American Commonwealth,* was to give added explanations of this assumption of the American mind. Such a national-

[1] *The Degradation of the Democratic Dogma,* with an introduction by Brooks Adams (1919), p. 77. Copyright 1919 by The Macmillan Company and used by permission.

istic conception of difference between the United States and Europe demanded explanation. To the popular mind, it might be well simply to assume the superior qualities of Americans; but others used all of the arguments to be drawn from religion, philosophy, and political theory to defend American republicanism and freedom. Some, however, found in environment, in the frontier, an adequate theory. This concept reached its height in the work of Professor F. J. Turner at the turn of the century.[2]

Contemporary theory, which insists on the kinship of democratic institutions throughout the world, does not need the frontier to explain American democracy. The frontier idea was essentially a theory of difference; what is needed in the twentieth century is a concept which accepts the common fundamentals of democracy wherever it may exist. Aside from this, however, "democracy" is a protean notion that has floated through generous minds from the dawn of literate civilization. What is democracy? It does little good to define it simply as all that is good, beautiful, and holy. Most defenses of any body of institutions are predicated on some such idea, and it is always a convenient assumption to make. The defenders of democracy from its beginning in America have insisted, not that all is perfect in the new Zion, but that the potentialities of the democratic system indicate a better future; that is, democracy and the doctrine of progress have been in large measure joined together. The promise of American life has been the promise of democracy. In the nineteenth century, democracy was, in measure, a protest against the European system; it was a system of equality, largely political, striving against the remaining elements of the historic system in Europe that had crystallized in the age of absolutism. It is hardly sufficient to say that democracy is a system in which the largest number have the right to vote, since much depends on the conditions of voting and the things for which people may vote. All good democrats must recognize that the ballot is not the one all-powerful force in society.

What must be accepted, however, is that democracy grew out of the age-old moral values of the West. Like Christianity, liberalism proclaimed the dignity and social worth of each individual. Liberalism succeeded, in the latter part of the eighteenth century, in beginning the process of breaking down a corrupted system of inequalities. The idea of equality was a force working for the freedom of once submerged classes. We have already seen that the framers of the Constitution were vastly concerned with a rule of law guaranteed by a constitution; if they

[2] See F. J. Turner, "Contributions of the West to American Democracy," *Atlantic Monthly*, January, 1903; *The Frontier in American History* (1920).

believed that rights should be assured to all, they did not at the same time consider it socially necessary that all adult males should have the right to vote. Democracy, as a specific expansion of the right to vote and the right to vote for a larger number of officials, was added to the liberal system of the Constitution. The new democracy grew out of the Constitutional system of 1787. From the beginning of our national life, even in the Revolution, certain groups, notably the artisans of the cities, were restive under property restrictions on the right to vote; and naturally on the frontier, where property could be had almost for the asking, men grew accustomed to a general participation of adult males in the electoral and political process. The isolated community must think of government as local government.

Already in these chapters we have sensed the differences between the North and the South. As those differences became clearer with the process of Federal centralization and the increase of Northern power, the frontier was moving westward. The frontier was a changing situation in time and space. As the settlers headed toward the setting sun, departing from the Atlantic seaboard, they mastered the Appalachian mountains; and for a time early in the nineteenth century the frontier was the area between the mountains and the Mississippi River. Then the frontier moved on to the Mississippi, and beyond. The frontier was the Rocky Mountain area; it was the Pacific Coast; and it was the Southwest.[3] North and South alike soon felt that a third factor had entered the political scene in the United States. As new states were admitted, new leaders began to make demands in the theater of national politics. The leaders of the South faced those of the North, and in the end, from Andrew Jackson through Abraham Lincoln, the west was to hold the balance of power in American politics.

The west became a perturbing factor in the political struggles between the leaders of the sections. It can hardly be said that the west had a philosophy; it was a movement that was to express itself in many forms, but finally it sided with the North to bring about the defeat of the sectional interests of the South. Too much has it been said that the west was individualistic, for the western drive in Washington has all too often been an effort to secure help from the nation at large in the development of its territory. If Andrew Jackson was against Secession, he was yet against the growth of power in the national government; he was opposed

[3] While Turner's theory held that the end of the frontier came with the settlement of the best public lands, later students have shown that there was more homesteading after 1890 than before; and Alvin H. Hansen, in *Economic Policy and Full Employment* (1947), contends that the influence of the frontier in American capital formation lasted until the First World War.

to what today we would call Federal centralization. If he was a great and popular leader of the west, he was also a determined exponent of the executive power against the legislative, and against the conservative forces that dominated the judiciary. As he was an opponent of the Southern challenge to national power, so he was antagonistic toward the fiancial power of the East, an issue that will not be put to rest.

Democracy was an international movement in the nineteenth century, for it stirred in England with her defeated Chartists and her Reform Bill of 1832; it was advanced in France as a weapon against the reaction instituted in Europe by Britain and her allies after they had defeated Napoleon at Waterloo. Direct democracy was, indeed, advocated in France in the middle of the century, and in Switzerland experiments toward making the people really sovereign were under way. Karl Marx thought in 1848 that a bourgeois—*i.e.*, democratic—revolution was soon to come in Germany; and even in Russia the principles of reformism were appearing, just as they were in Spain and Italy. Our democratic movement must be placed in this setting. The American North, South, and West all joined in the movement.

The peculiarities of the west must, therefore, be regarded as incidental to the general democratic movement. Historically, we see today that since the elements of aristocratic conservatism had never found root in this country, it was easier for us to make the democratic turn. But this turn was made in all sections of the country. It may well be argued, in fact, that the west was merely imitating the older and established seaboard area in its acceptance of democracy as a broadening of the right to vote. Without the democratic movement of the century, the west would still have pressed, through its leaders, its peculiar interests.

Suffrage in the United States. Before we turn to Andrew Jackson, the great symbol of democracy, let us consider briefly some of the facts in the history of suffrage qualifications in the United States. It is obvious that the right to vote cannot be unlimited; no society, however democratic, has failed to set restrictions on the privilege of selecting the officials who are placed in office by popular vote. Just as the nineteenth-century democratic movement had its American phase, so the changing sentiment on suffrage in England after the revolution in 1688 was reflected, with variations, in the North American colonies. While we have seen that in Massachusetts suffrage was, in earlier times, restricted to church members, in Virginia the right to vote was given to all freemen during the period of 1619 to 1654. At the latter date property qualifications were introduced. In the latter part of the seventeenth century property qualifications generally superseded the religious test; suffrage requirements were changed in all of the colonies save Rhode Island.

Property qualifications varied to some extent through the colonies. First of all, both landed and personal property were a basis for voting, though in Virginia a requirement of ownership of land was maintained. A freehold estate was generally estimated by annual income, while the "capital" value of personal estate could establish the right to vote. In the light of the conditions of the time, it can be argued that the restrictions on the right to vote were mild, especially in comparison with the conditions then existing in England. Likewise, it must be admitted that during the eighteenth century representative institutions flourished in the colonies. While the dispute over the distribution of seats continued unabated (and has continued to the present), the electors reserved to themselves the right to instruct their representatives on such points as they saw fit. The requirement that a representative must reside in the district which he represents was being established by the end of the seventeenth century, and it likewise has continued as a fundamental phase of our system.[4]

At no time in our history, it appears, have all groups in society been contented with the existing restrictions on the right to vote. There has been steady agitation for a broadening of the suffrage base. The history of suffrage in the early nineteenth century is a story in part of the compromises worked out between the conflicting sections of the states. But the principle of sectional compromise within a state is older than the specific frontier phase of American society; the frontier is gone, but sectional compromise, primarily between the urban and rural sections, continues to be a technique of American politics.

The battlefield of change was the state constitutional convention. While there has been only one national convention, that of 1787, there have been scores of state conventions. The battle for manhood or universal suffrage was fought in the East as well as on the frontier. In the records of the state conventions we see reflected the changing values of political thought, and it was there that the great conservatives who fought the advance of democracy spoke their farewells to the old regime, and where the newer leaders of the popular movement also made themselves heard.

The advance of democracy [summarizes Carpenter] was being facilitated in every State by the extension of the franchise. The property qualification for suffrage, which had existed in a majority of the States in 1787, had by 1820 given place to taxpaying qualifications. With the exception of Tennessee, no State out-

[4] See W. S. Carpenter, *The Development of American Political Thought* (1930), pp. 41*ff.*, and literature cited; and Kirk H. Porter, *A History of Suffrage in the United States* (1918).

side the original thirteen ever introduced the property test. The taxpaying qualifications in turn began to be discarded. They were never adopted in the new constitutions framed in the West, and where they were retained in the older States the taxes were so low that little opposition was excited. Gradually the tax requirement was dropped and universal manhood suffrage was introduced.[5]

The Debate in Virginia. The most notable battles over the extension of the suffrage occurred in Virginia, New York, and Massachusetts. In the Virginia convention of 1829–1830 the western and urban population of the state waged war upon the freehold qualification for voting that preserved the control of the tidewater aristocracy. Those who demanded the repeal of the freehold system saw its abolition as the fulfillment of the Revolutionary movement. They regarded the Virginia constitution as a support of pre-Revolutionary aristocratic society that should have been destroyed by that conflict. But just as the freehold system was attacked, so was the equal representation of counties that enabled the weaker counties to exercise an unequal political influence. Conservatives like Upshur might reply that the majority of interests as well as numbers must be represented in government, but the reformers were committed to the majority principle. If the compromises reached by the convention were not permanent, the convention itself was one of the most ably conducted during the century, for among its members were Madison, Marshall, Monroe, Randolph, and Tyler.

In a memorial addressed to the convention by the non-freeholders of the city of Richmond, it was declared:

> Let us concede that the right of suffrage is a social right; that it must of necessity be regulated by society. Still the question recurs, is the existing limitation proper? For obvious reasons, by almost universal consent, women and children, aliens and slaves, are excluded. It were useless to discuss the propriety of a rule that scarcely admits of diversity of opinion. What is concurred in by those who constitute the society, the body politic, must be taken to be right. But the exclusion of these classes for reasons peculiarly applicable to them, is no argument for excluding others to whom no one of those reasons applies. It is said to be *expedient,* however, to exclude non-freeholders also. Who shall judge of this expediency? The society: and does that embrace the proprietors of certain portions of land only? Expedient, for whom? for the freeholders. A harsh appellation would he deserve, who, on the plea of expediency, should take from another

[5] Carpenter, *op. cit.,* p. 153; *cf.* B. F. Wright, *A Source Book of American Political Theory,* p. 368. By permission of the Princeton University Press. The poll tax remains in a number of states; but as the last remaining taxpaying qualification generally used, it is continually under attack. Each state has up to now been able to determine whether it would institute such a test for voting.

his property: what, then, should be said of him who, on that plea, takes from another his rights, upon which the security, not of his property only, but of his life and liberty depends? [6]

The conservative argument for property, order, and security in society was pointedly asserted by John Randolph. Men want property, and they will seek to get it in many ways; hence, the need of laws and institutions to protect it. He admitted that he was opening himself to the charge of not being a friend of the poor.

Whenever I see a man [he replied], especially a rich man, endeavoring to rise and to acquire consequence in society, by standing out as the especial champion of the poor, I am always reminded of an old acquaintance of mine, one Signor Manuel Ordonez, who made a comfortable living, and amassed an opulent fortune by administering the funds of the poor. Among the strange notions which have been broached since I have been on the political theatre, there is one which has lately seized the minds of men, that all things must be done for them by the Government, and that they are to do nothing for themselves: The Government is not only to attend to the great concerns which are its province, but it must step in and ease individuals of their natural and moral obligations. A more pernicious notion cannot prevail. Look at that ragged fellow staggering from the whiskey shop, and see that slattern who has gone there to reclaim him; where are their children? Running about, ragged, idle, ignorant, fit candidates for the penitentiary. Why is all this so? Ask the man and he will tell you, "Oh, the Government has undertaken to educate our children for us. It has given us a premium for idleness, and I now spend in liquor, what I should otherwise be obliged to save to pay for their schooling." [7]

Randolph exhorted his fellow delegates that Virginia should stay with her constitutional blessedness and with her freehold qualification for representation.

The Suffrage in Massachusetts and New York. In Massachusetts in 1820 a taxpaying qualification was adopted in spite of the strong opposition of those who defended the landowning restriction on the right to vote. The real debate arose, however, over the proposal to distribute seats in the state senate according to population. Daniel Webster and Justice Story rose to the defense of property representation in the senate as a check not only on the people but on the lower house. Webster accepted the dictum of Harrington in the *Oceana* that the balance of power follows the balance of property. Within the ideal of a balanced government, Webster urged the function of a senate as representing

[6] *Proceedings and Debates of the Virginia State Convention, of 1829–30* (1830), pp. 30*ff.*

[7] *Ibid.*, 319. While the freehold qualification was revised by this convention, other property restrictions were retained. See *ibid.*, p. 900.

property, since property was the only reasonable basis of differentiation for a body existing as a check on the more popularly chosen representatives of the people. Therefore, he favored the distribution of senators not according to population, but in accordance with the taxes paid by each district. Property must have its due weight in the political arrangements of the state.[8]

In the New York constitutional convention of 1821 the question of the property basis of electing senators was again in the foreground. The conservatives were defeated, as usual, on the question of qualifications for voting for the lower house; and they made a second stand in defense of a conservatively chosen senate, though again they failed in their effort. As New York City was growing, so was the landless city population; and the ancient fear of the conservative of what the city populace would do, were it given political power, was vividly expressed by one of the greatest of American conservatives, Chancellor James Kent, the author of *Commentaries on American Law*. The landed interest was, in fact, the only traditional order that might be benefited by such a conservative stand; it was not as in England, where an historic aristocracy could view its interest in the land simply as an incident of its existence.

> The senate [said Kent] has hitherto been elected by the farmers of the state—by the free and independent lords of the soil, worth at least $250 in freehold estate, over and above all debts charged thereon. The governor has been chosen by the same electors, and we have hitherto elected citizens of elevated rank and character. Our assembly has been chosen by freeholders, possessing a freehold of the value of $50, or by persons renting a tenement of the yearly value of $5, and who have been rated and actually paid taxes to the state. By the report before us, we propose to annihilate, at one stroke, all those property distinctions and to bow before the idol of universal suffrage. That extreme democratic principle, when applied to the legislative and executive departments of government, has been regarded with terror, by the wise men of every age, because in every European republic, ancient and modern, in which it has been tried, it has terminated disastrously, and been productive of corruption, injustice, violence, and tyranny. And dare we flatter ourselves that we are a peculiar people, who can run the career of history, exempted from the passions which have disturbed and corrupted the rest of mankind?

Coming more directly to the point, Kent declared:

> Now, sir, I wish to preserve our senate as the representative of the landed interest. I wish those who have an interest in the soil, to retain the exclusive possession of a branch in the legislature, as a strong hold in which they may find

[8] Carpenter, *op. cit.*, pp. 135–136; and *Journal of Debates and Proceedings in the Convention of Delegates Chosen to Revise the Constitution of Massachusetts* (1821), pp. 141(241)*ff.*; 136*ff.*

safety through all the vicissitudes which the state may be destined, in the course of Providence, to experience. I wish them to be always enabled to say that their freeholds cannot be taxed without their consent. The men of no property, together with the crowds of dependents connected with great manufacturing and commercial establishments, and the motley and undefinable population of crowded ports, may, perhaps, at some future day, under skilful management, predominate in the assembly, and yet we should be perfectly safe if no laws could pass without the free consent of the owners of the soil. That security we at present enjoy; and it is that security which I wish to retain. . . . The tendency of universal suffrage, is to jeopardize the rights of property, and the principles of liberty. . . . We are fast becoming a great nation, with great commerce, manufactures, population, wealth, luxuries, and with the vices and miseries that they engender. One seventh of the population of the city of Paris at this day subsists on charity, and one third of the inhabitants of that city die in the hospitals; what would become of such a city with universal suffrage?

Further, in connection with New York City, he asserted:

It is rapidly swelling into the unwieldly population, and with the burdensome pauperism, of an European metropolis. New York is destined to become the future London of America; and in less than a century, that city with the operation of universal suffrage, and under skilful direction, will govern this state.[9]

We have already suggested that the democratic movement in the early nineteenth century was a protest against the European system of government, combined with a belief in the trustworthiness of the individual citizen, however unprosperous he might be.

I agree that in a monarchical government [noted General Root], where little liberty is left to the people, it is necessary to have such checks as gentlemen have described. In such governments there are different *orders*, as lords and commons in England; different *estates*, as in the diets of Sweden, Denmark, and Germany. But the necessity in those governments bears no analogy to ours.—We have no different estates, having different interests, necessary to be guarded from encroachment by the watchful eye of jealousy.—We are all of the same estate—all commoners; nor, until we have privileged orders, and aristocratic estates to defend, can this argument apply.[10]

Livingston suggested that all American citizens were friends of property, and that the landed interest itself, in common with others, had demanded the broadening of the right of suffrage. He noted the blessings of the French Revolution in the wider distribution of land. The patriotic Lafayette exulted, he declared, in the fact that now he had only a thou-

[9] *Reports of the Proceedings and Debates of the Convention of 1821* (1821), pp. 219–221.

[10] *Ibid.*, p. 223.

sand acres, instead of his vast holdings before the Revolution. It is not wealth alone, but labor also, which builds churches, schools, colleges, hospitals. Character, indeed, as a proper basis for the right to vote, inheres in all classes of society; poverty and vice are not identical.[11] Cramer supposed:

> . . . that the great fundamental principle, that all men were equal in their rights, was settled, and forever settled, in this country. . . . In fact, but two states in the union, with the exception of this state, have any freehold distinctions as to electors; which are Virginia and North-Carolina; and the constitutions of those states were adopted at an early period of the revolutionary war, when the rights of man were little understood, and the blessings of a free government had not been realized. And when in opposition to these we find that all the different constitutions which have been formed or amended within the last thirty years, have discarded this odious, this aristocratical, this worse than useless, feature, from their political charts, will any gentleman of this committee say that all this affords no evidence to his mind, of the impropriety of retaining this freehold distinction?

Common men, he went on, may be trusted to "handle their muskets, bayonets, powder and balls; but, say the gentlemen, it will not answer to trust them with tickets at the ballot boxes. . . . Let us grant universal suffrage, for after all, it is upon the virtue and intelligence of the people that the stability of your government must rest." [12]

Jacksonian Democracy. The democratic movement in the United States, however, was not alone a battle for the extension of the right to vote. It can be seen that the right merely to vote is not sufficient to establish what the extreme democrat might call the sovereignty of the people. The vote depends for its effectiveness upon other devices of government, such as the range of persons voted for, the frequency of elections, and the policies which the leaders of the more popular party support. Jacksonian democracy itself was, however, a matter of certain public policies as well as support for the participation of the masses in political life. It captured and expressed the idealism of the time. That idealism assumed that it was inevitable that the common man should rule, and that there should be extended to him the social benefits of liberty. But it would reach this result mainly by destroying privilege such as was represented by the Bank of the United States, and the special projects, such as the tariff and public improvements, that had been advanced by Whig nationalism. James Fenimore Cooper accepted the transition to Jacksonian democracy by denying that property should be represented, and by affirm-

[11] *Ibid.*, pp. 224–225.
[12] *Ibid.*, pp. 235–239.

ing the value and strength of popular government.[13] George Bancroft became an ardent Jacksonian, defending with energy the sovereignty of the people and the rights of labor; O. A. Brownson saw the only hope of progress in the working classes; and both William Cullen Bryant and Walt Whitman gave Jacksonian democracy a hearty defense. For Whitman, the beauty of democracy lay in its power to prevent government from doing harm to the people. The Jacksonians believed in the inevitable and natural progress of the American people; they created the spirit and idea of democratic nationalism.[14]

Andrew Jackson was born in 1767, the son of an Irish immigrant. In 1788 he began the practice of law in Nashville, Tennessee. He assisted in framing the constitution of Tennessee in 1796, and was sent to the United States Congress in the same year; in the following year he became a United States Senator. From 1798 to 1804 he was a judge of the Supreme Court of Tennessee. As a major-general of the militia he offered his services in the War of 1812, and was ordered with his volunteers to New Orleans. In 1813 he was in the field against the Creek Indians, the result of which brought him great personal popularity; in 1814 he became a major-general in the regular army, being sent to the Gulf region to oppose the British invasion. After having seized Pensacola, he moved his army to New Orleans, and there in 1815 he won his famous victory against the British. Later he fought the Seminoles in Florida, and became governor of Florida in 1821. In 1823 he was again elected United States Senator, and was nominated by the legislature of Tennessee for the Presidency of the United States in 1824. The election was thrown into the House of Representatives as a result of the split in the electoral vote, and John Quincy Adams was chosen President. However, in 1828 Jackson was elected President, heavily defeating Adams, and in 1832 he defeated Henry Clay. He retired to private life in 1837, coming to his end in 1845.

If one seeks for a systematic statement of political ideas in Jackson's published remains, he must face disappointment. Jackson represented the spirit of both the radicalism of the eastern working classes and that of the west and South. His leadership helped to establish the position of the west in the councils of the nation, and his democracy was a defense of the common man. To many of the educated people, Jackson signified the rule of "King Mob," but in the long perspective this judgment must be rejected. The Jacksonian movement crystallized the growth of party organization, which led to the nomination of Presidential candidates by

[13] James Fenimore Cooper, *Notions of the Americans: Picked Up by a Travelling Bachelor* (1828).

[14] See H. W. Schneider, *A History of American Philosophy* (1946), pp. 115*ff*.

national party conventions; as a leader of the people Jackson asserted the equality of the executive with the legislative branch of the national government, and in the states the earlier restrictions on executive leadership were removed. As a party leader, he continued the older practice of appointing men he thought should serve in public office; he had no confidence in the "permanent civil service," and under him the spoils system became a normal aspect of political victories. If John Adams provided the theory of the veto in our Constitutional system, it was Jackson who, as an interpreter of the Constitution, made such use of his power that we have accepted it as an ordinary aspect of Presidential government. Along with the extension of the right to vote, more and more offices were placed in the hands of the people for choice by popular election, and the idea of rotation in office, rather than long terms, came to be accepted as the most democratic manner of operating a government. Likewise, the movement for the popular election of judges matured, owing to the hostility of the democratic movement toward the judges who were checking popular determination of public policy. New state constitutions were submitted, as a matter of principle, to the people for acceptance or rejection. The Jacksonian era was, indeed, the culmination of the first period of democratic reform in the history of the United States.

Jackson was never tired of reminding public officials that all power comes from the people. Even if his was a democracy in which the executive had large powers of leadership, he did not believe that power should be held for long. In his First Annual Message to Congress, we may find the following passage:

> In a country where offices are created solely for the benefit of the people no one man has any more intrinsic right to official station than another. Offices were not established to give support to particular men at the public expense. No individual wrong is, therefore, done by removal, since neither appointment to nor continuance in office is matter of right. The incumbent became an officer with a view to public benefits, and when these require his removal they are not to be sacrificed to private interests. . . . He who is removed has the same means of obtaining a living that are enjoyed by the millions who never held offices.

Much the same view was held by Jackson concerning the President. He was concerned with the intervention of Congress in the choice of a President; the President should come directly from the people without any intermediate agency such as the electoral college. An amendment to the Constitution should be adopted to inaugurate such a system.

> In connection with such an amendment it would seem advisable to limit the service of the Chief Magistrate to a single term of either four or six years. If,

however, it should not be adopted, it is worthy of consideration whether a provision disqualifying for office the Representatives in Congress on whom such an election may have devolved would not be proper.[15]

As President, Jackson was continuously involved in political controversy. He defended the integrity of the Union against the principle of nullification of national laws, which was advocated particularly by South Carolina in opposition to national tariff policy; he struggled against the centralization of function in the officers of the national government, and in this he was a staunch defender of the rights and sovereignty of the states; he denied the constitutionality of the national bank, even though the Supreme Court had asserted that it was constitutional; he resolutely sought to reduce the public debt; and, likewise, he did not shrink from attacking the Senate of the United States in the controversies arising out of his appointments.

Conservatism in the Democratic Period. Against the Jacksonian democratic sweep, American conservatism was hard pressed to find a rock of defense. The suffrage had been made universal; officers long appointed were now elected by the people; the appeal of executive authority to the masses had been discovered; and under men like Henry Clay the west was making increasing demands on the national government for internal improvements as the population drifted westward.[16] The conservatives of the South were turning to sectionalism with increasing passion, and the nullification controversy foreshadowed the final struggle over the place of the states in the Union. On the other hand, as a continuation from the days of the Federalist Presidents, the conservatives of the North looked to the judiciary for the protection of their rights. American conservatism, already inclined to be legalistic in tone, now found that its one sure means of defense was the right of the judges to declare laws unconstitutional when they contravened the limits imposed by the Constitution. John Marshall, as Chief Justice of the Supreme

[15] See *A Compilation of the Messages and Papers of the Presidents, 1789–1897*, by J. D. Richardson (1899), Vol. II, pp. 442*ff*.

[16] Internal improvements were advocated as a national necessity almost from the beginning of our independence. Early in life, George Washington thought of connecting the East with the west by a canal joining the Ohio and the Potomac Rivers. Events prevented him from realizing this scheme, which would have enabled Virginia quite early to become an industrial area. Internal-improvement schemes were no monopoly of the west; yet the west obviously gave the most vigorous leadership in demanding such improvements as would encourage communications between the different sections of the country. Such ideas involved, of course, the principle of government intervention in community development. See Henry Adams, *The Degradation of the Democratic Dogma*, with an introduction by Brooks Adams (1919), pp. 13*ff*.

Court, all but survived the public life of Andrew Jackson, even though he had been appointed Chief Justice by John Adams, just after the victory of Thomas Jefferson and his Republican Democrats over the Federalist Party.

Ours is a balanced democracy. It has not been the theory of democracy in the United States that the majority may do whatever it wishes to do, without regard to the rights of minorities. We have insisted that one of the chief aims of liberal equality before the law is to protect the property and other rights of the minority, or more particularly of the individual, against the rest of society. As the democratic movement broke down the restrictions on the right to vote, and as the idea gradually became formulated that the might of the majority was the standard of public right, the liberals of the older school who were antidemocratic in tone had to develop other lines of defense. While the democrats were reducing natural rights to the one natural right of the majority to control, the conservative liberals insisted on a series of rights that should be protected. But since they could go neither to the executive nor the legislative branches of the government for help, they turned to the courts. Likewise, since the democratic movement was in large measure an expression of state politics, they turned naturally also to the Constitution and the national courts for assistance. The conservatives became nationalists in their resistance to the trends of state politics. The work of these conservatives has become, in time, an essential part of the nineteenth century democratic system.

Two aspects of the conservative movement should particularly be noted. In the first place, the historic common law of Great Britain was read into the American system, and the guarantees of property rights involved therein became fundamental in the evolution of the American Constitution. In the second place, the national court system was matured to such a point that it was able to control not only the entire system of state governments, but also the executive and legislative branches of the national government. The principle of judicial review became firmly embedded in the American political system. While all thinkers would admit that ultimately all power came from the people, power was expressed by the people through a written Constitution which could not be changed by casual majorities in elections or in legislative bodies. American democracy has, therefore, glorified the written Constitution as the fundamental law; and in this it has been expressive of the conservative theories of the last century.

If we examine the first proposition, it will be found that great uncertainty prevailed in our early history as to what the law was. Each state court exercised a large degree of independence in the selection of legal

materials, though all of the judges were in some measure respectful of the great Blackstone, whose *Commentaries on the Laws of England,* published in 1765, had become the vade mecum—nay, almost the library—of the average American lawyer. All were agreed that the law must be certain; all judges desired to have a body of precedents upon which they might fall back when faced with difficult legal problems. Under the circumstances, also, it might be presumed that what the lawyers and judges needed most of all was some leadership in accepting the law of England; this leadership, of course, could be best provided by a system of reports of court decisions. The Federalists early emphasized English tradition in the law, whereas the Democrats looked more to American originality —though they had no objection to foreign jurists, especially if they were French. Indeed, in the New York court at one time there was a strong inclination toward French law.[17]

One may readily understand that opposition to English law was a phase of the antagonism to all things English which had been generated by the Revolution. In addition, the French Revolution, regarded as democratic in character, had added to the enthusiasm for French institutions among those who were democratic in their philosophy. Praise of the French Revolution was common among the democrats of the early days of American democracy. Not the least of the objections to English law, as used in the United States, was the control over the press it placed in the hands of judges and the restrictions it authorized on freedom of speech.

James Kent. James Kent, Chief Justice of the Supreme Court and Chancellor of the State of New York, was the chief agent in introducing and fixing English law as the standard of American jurisprudence. The New York Federalists, under the leadership of John Jay and James Kent, swung the courts of the entire United States within their orbit. It was not alone the brilliance of Kent in adapting admiralty, equity, and common law jurisdictions to American needs, but also because Kent's decisions were widely reported and read throughout the United States and even in England. In his old age Kent worked and reworked his *Commentaries,* but his great work had already been achieved while deciding cases on the New York bench. If Kent lost his fight against the liberalization of the suffrage, he did not fail in establishing the conservative doctrines of the common law as the basis of property rights. From his time on, every judge had a body of law to which he could appeal in deciding

[17] See J. T. Horton, *James Kent: A Study in Conservatism, 1763–1847* (1939), pp. 139*ff*. Pound observes that the Republicans asked for a reception of French law. —Roscoe Pound, *The Spirit of the Common Law* (1921), p. 116.

not only the ordinary disputes between individuals over their rights, but also the constitutionality of legislative measures. The common law became an amorphous and changing, but real, part of the Constitution of the United States and of the constitutions of the several states. But these rights under the law of England protected the rich and the well born; there has been in American history no more stubborn defender of the rights of property against the opposition of the democratic masses than Kent.

If Kent looked upon Alexander Hamilton as the great American leader and agreed with him when Hamilton urged that the time had come to cease baiting the Tories,[18] Kent turned likewise to the great sources of conservatism, such as Adam Smith, Blackstone, Vattel, and others. These, with the vast body of English precedents and commentators, were the sources of his political philosophy, while the French liberal and radical thought of the time was the inspiration of those who were his antagonists.

But the Federalists had other than commercial motives for liking the common law [notes Horton]; and with those motives Chief Justice Kent heartily sympathized. The attitude of the law and the attitude of the party toward certain large questions of social policy were in well nigh complete accord. For the Federalists, as they often reminded themselves, sprang from the wealthy, the well born and the able, a class which nature destines to remain select and small in any society. Such a class, however, compensates for its good fortune by arousing the envy of the less-favored multitude. The social antagonism thus engendered leads inevitably to political collisions in which wealth, gentility and individual competence incur the danger of being overborne by the oppressive weight of majorities. From so calamitous an issue those ancient English liberties enshrined in the common law, and from that stock engrafted into the American constitutions, seemed to furnish a dependable hope of escape. It was natural therefore that a party always apprehensive of democratic oppression should affect to cherish those liberties with devotion.[19]

[18] Horton, *op. cit.*, p. 56.

[19] Horton, *op. cit.*, p. 161. If Kent was no friend of universal suffrage, he likewise had no faith in general education. Education (and that meant classical education such as Kent received at Yale) was not for the masses. Nor did he favor what we would today call vocational education. Practical education for the masses would "only enlarge their capacity for mischief and add a fresh stimulus to delinquencies and to novelties, to change and revolution and contempt for the ordinary restraints of law, morality and religion." (Cited in Horton, *op. cit.*, p. 321, note.) One of Kent's contemporaries, Fisher Ames, an active New England Federalist, fought also against the rising democratic movement. While Ames's fears of the consequences of democracy were unfounded, they show how many conservatives of the early nineteenth century felt. His "The Dangers of American Liberty," written in 1805, is a diatribe against the excesses of the Jeffersonians. "The people, as a body, cannot

The election of Thomas Jefferson in 1800 symbolized the end of Federalist control of the Presidency and in the national legislative body. Federalists were gentlemen and they believed that gentlemen should rule; but as they saw themselves being forced from power, they made a last-minute and successful effort to bring the judicial branch of the national government under their control. In this they were conservative nationalists; since if that control was to mean anything, the Supreme Court of the United States must be a check on both state governments and the popularly chosen branches of the national government. While there have been repeated assaults on the independence of the Supreme Court, and while it has passed through times of public disesteem, it has survived and colored deeply our democratic system. If other countries have copied our Federal system and our principle of the written Constitution, they have not imitated extensively our principle of judicial supremacy. American democracy cannot be studied without considering the control of the courts over all other agencies of government. The Supreme Court became, therefore, one of the mightiest symbols of the supremacy of the Union over the states. The nationalism of the judiciary has been a nationalism of rights, a means whereby the central government has been able to insist on the observance of social principles read into the Constitution. It has resisted the attacks of the strongest and most antagonistic Presidents, such as Thomas Jefferson, Andrew Jackson, Abraham Lincoln, and the two Roosevelts. And strangely enough, in periods of judicial crisis the American people have never really turned away from the Supreme Court—that body of men, frequently old, who have had it in their power to declare invalid the most enthusiastically supported popular measures.

John Marshall. John Marshall, the great Virginia Federalist, was the architect of judicial nationalism. He was appointed Chief Justice of the Supreme Court by President John Adams in the closing days of his administration. From then on until his death, he waged relentless war against the invasion of the rights of property by state legislatures and courts, and he did not hesitate to invalidate even Congressional action. While others were talking of the rights of the states, of state sovereignty, Marshall—aided by Kent, Justice Story, and such leaders as Daniel

---

deliberate," he said. "Nevertheless, they will feel an irresistible impulse to act and their resolutions will be dictated to them by their demagogues. The consciousness, or the opinion, that they possess the supreme power, will inspire inordinate passions; and the violent men, who are the most forward to gratify those passions, will be their favorites." See *The Works of Fisher Ames*, ed. by Seth Ames (2 vols., 1854). The quotations from Horton are used with the permission of Appleton-Century-Crofts, Inc.

Webster—was insisting on the supremacy of the Constitution. But that supremacy meant that the Constitution, as law, must be interpreted by the courts. Andrew Jackson might insist that the President has just as much right as the Supreme Court to say what the law of the Constitution is; but in the end American democracy accepted the principle that only the courts, save in certain political questions, can say what the Constitution as law means for the entire American nation. The first great centralization of political power in the United States was instituted by the courts; but no system of courts could guarantee that such a centralization would not later be used by the political branches of the government, even to overcome the power of the Supreme Court itself, as in the 1937 attack on the Court led by Franklin D. Roosevelt.

The technique of John Marshall was judicial review. By judicial review the social principles of conservative nationalism could be read into the Constitution, thereby checking the democratic tendencies of other institutions of political control. Judicial review was established nationally in 1803 by the famous case of *Marbury v. Madison,* in which the Chief Justice read a reprimand to the Jeffersonians into the law of the land. In that case, Marshall urged that the function of the Supreme Court was to determine what the law is; only the courts finally can do this. But the Constitution of the United States is law, or so that instrument declares. Hence it is the function of the courts to interpret the Constitution, to say what it means.[20] But if the function of the Supreme Court is to interpret the Constitution, what of that document itself? It is declared that the Constitution is the supreme law of the land, as well as treaties and laws made in pursuance of it. Therefore, the adjudication by the Supreme Court of the meaning of the Constitution is the final word as to interpretative legality, in the formal sense, in the whole political system of the United States. It must be borne in mind, of course, that all courts have the right to say what the law is within their jurisdiction, subject only to reversal by a court of higher or appellate jurisdiction. Through judicial review the bench and the bar became, for generations, the real aristocrats of the United States. But just as the businessman, who rose to great esteem in the decades after the Confederate War, is falling in public confidence, so it may be that the masses of the American people may have little patience with the judges in the future.

On the basis of the technique of judicial review, Federalist or Marshal-

[20] See Edward S. Corwin, *The Twilight of the Supreme Court* (1934), for a short but comprehensive history of Constitutional principle as stated by the Supreme Court. For a criticism of Marshall's reasoning, see the opinion of Mr. Justice Gibson in *Eakin v. Raub,* 12 Sergeant and Rawle (Pennsylvania Supreme Court) 330 (1825).

lian social principles pervaded our system in spite of whatever might be done in opposition. The judges and their philosophy survived at least until 1937, and the future remains unclear. But the doctrines of the Supreme Court have been the cement of the legal conservatism of the American political system. A principle laid down by the Court can be enforced in other and significant cases; the principle is defended by the judges on the theory of the binding force of judicial precedent. In this respect judicial principles are more secure than those ideas which must be maintained by the willingness of people to vote for them in recurring elections. If judges forget no principles, the ordinary voter perhaps does not understand them well to begin with, and leadership may shift his attention at the propitious moment. The difficulty the judges have faced, however, is that with changes in the social theory of the judges, legitimately divergent views may be taken—all in the name of the most sacred legal tradition.

Marshall labored to extend over the actions of state governments the jurisdiction of the national court. The most effective instrument for his purposes was the system of restraints the Constitution placed on the states. What Marshall wished above all to prevent, as his decisions tend to show, was legislative tampering with the rights of property. The only national statute his Court declared unconstitutional was a section of the Judiciary Act of 1789 in the case of *Marbury v. Madison;* but in defending the rights of property he had frequent occasion to strike down the action of state governments, especially in situations in which it was alleged that a state had impaired the obligations of contract. The defense of property is, in no small measure, the defense of the right of contract. If contracts cannot be enforced, the rights of property are gradually whittled away, for the property system can be regarded as a dynamic, ever-changing network of contractual obligations. In one of his famous cases, *Fletcher v. Peck,* Marshall was called upon to consider whether a grant of land by the Georgia legislature in 1795 was a contract covered by the prohibition in the Constitution. It was generally admitted that fraud and bribery had been used in securing this grant, but Marshall held that a grant such as the one involved was a contract falling under the protection of the Constitution. In addition, he held that a law repealing the grant, once made, was an impairment of the rights acquired by land purchasers under the original grant of the legislature. Or again, in *Dartmouth College v. Woodward,* Marshall and his Court were called upon to consider whether the royal charter granted to Dartmouth College was a contract under the meaning of the term in the Constitution, and whether legislative alteration of that charter constituted a violation of rights protected by the Constitution. As in the previously mentioned

case, and under the influence of the eloquence of Daniel Webster, the Court decided that the acts of the New Hampshire legislature were in violation of the Constitution and therefore null and void and of no effect. A later Court under Chief Justice Taney was to admit the principle that all contracts are subject to implicit restrictions where the public interest is involved, but that expanded doctrine of the police power was beyond the stern, conservative view of John Marshall. It may be added, of course, that Marshall's view on property rights has not prevailed in its entirety, since the Courts under popular pressure were gradually forced to recognize an increasing number of limitations on contracts and on the rights of property owners in general.

We have observed already the effort of Hamilton to expand the powers of the national government through a doctrine of implied powers, and we have seen how Jefferson's view of "strict construction" was rejected. But it was not until 1819, in the case of *McCulloch v. Maryland,* that implied powers were to be placed firmly within the ambit of constitutionality. The case arose from an attempt of the State of Maryland to tax the note issue of other banks than those chartered by the state. Two issues arose that were of great importance. The first was whether the government of the United States might charter the Bank of the United States, since it was primarily at this bank that the Maryland tax was aimed; the second question was whether, if the United States Bank might be established, the State of Maryland—or any state, for that matter—might tax such an instrumentality of the national government. The first question involved the problem of implied powers, and the second the relation of state powers to those given to the national government under the Constitution.

It was readily admitted that the power to establish a bank was not among the enumerated powers of the national government under the Constitution, but Marshall argued that the establishment of a bank was necessary and proper for carrying into execution the enumerated powers of the government. "Let the end be legitimate," declared Marshall, "let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the Constitution, are constitutional." The impact of such a view on the development of our system can hardly be exaggerated. The Court had come to the assistance of those who wished to see national supremacy established as a fundamental aspect of Constitutional law; and out of this decision it was accepted as a permanent fact that our Constitution was a flexible instrument, one that might be changed as circumstances alter in meeting the new contingencies of politics. But the principle of national supremacy, the supremacy of

the powers given to the national government over those reserved to the states, led to a clear answer to the second problem in the case. The power to create a national bank implies a power to preserve such an agency of Washington; whereas a power to destroy the bank, as through taxation, is incompatible with the supremacy of the Constitution. Here Marshall propounded one of the most famous of the dicta of the Court: The power to tax involves the power to destroy, and such a power may render useless the power to establish the bank. When such a contradiction in purpose, or such a repugnancy, exists, the authority which is supreme must control. Finally, therefore, a tax on the operation of the bank is a tax on the operation of an instrumentality of the national government in carrying into execution its powers, and is unconstitutional.

In a similar vein Marshall sustained the supremacy of the national power in regulating interstate commerce in the case of *Gibbons v. Ogden.* A New York statute had granted exclusive rights for a period of years to navigate steamboats in the waters of the state, and in carrying out the grant navigation between New York and New Jersey became involved. The conflict arose because Gibbons was operating two steamboats between New York and New Jersey that were licensed under an Act of Congress. Chief Justice James Kent in New York had supported the property rights of Fulton and Livingston in the steam navigation of New York waters, and he insisted that there was no conflict between these grants in New York and the power of Congress to regulate interstate commerce. However, such a view was not accepted by John Marshall. He urged that the national government must not be crippled by a strict construction of the meaning of commerce between the states. Commerce is not only traffic, buying and selling; it is intercourse, and as such comprehends every species of commerce between the several states and foreign nations. But the power of Congress may also be exercised within the territorial jurisdiction of the states, when the commerce involved is interstate in character. Regulation is likewise a broad term, and there are no limitations placed on the powers of Congress in regulating interstate and foreign commerce. The Act of Congress licensing the coasting trade must be held superior to any contradictory regulations issued by the states.

Other cases might be mentioned, but enough has been said to show the elements of Marshall's conservative nationalism. While the Supreme Court under Chief Justice Roger B. Taney after 1836 broke many of the restrictions placed on the states, it cannot be said that the principle of national supremacy was seriously jeopardized by the Court or that the protection of the rights of property was vitally damaged. The work of Marshall was, in its general outlines, destined to endure the ravages

of political and social conflict, though specific judicial doctrines were naturally modified by succeeding judges. Sitting on the Taney Court was Justice Story, one of Marshall's great admirers. As he watched the new Court admit limitations on the right of contract and saw the new police power of the states grow at the expense of established right, he felt that the great traditions of Marshall's era were being thrown lightly aside. In 1845 he wrote: "I am the last member now living, of the old Court, and I cannot consent to remain where I can no longer hope to see those doctrines recognized and enforced. For the future I must be a dead minority of the Court, with the painful alternative of either expressing an open dissent from the opinions of the Court, or, by my silence, seeming to acquiese in them. . . . I am persuaded that by remaining on the Bench I could accomplish no good, either for myself or for my country." [21] And thus the Court's doctrines changed as the prevailing views of the ruling group in executive, administrative, and legislative positions changed. But the Court changed slowly and reluctantly. The judges of outmoded philosophies of polities were forced to the side. Then as now, Justices whose views no longer had any effect on the political and social destiny of the state felt that their usefulness had passed. The jurisprudence of the Supreme Court has never been an impersonal force operating in a political vacuum; it has been a phase of the democratic struggles of this and other generations; it has been on many occasions the conservative hitching post of an impatient democracy.

The Mission of Democracy. Away from the quiet halls where the might of social theory was expressed in obiter dicta, the life of American democracy during the forty years from 1820 to 1860 was singularly vital and contradictory. In these years the "American" in democracy was born; in these years the vision of democratic progress was given some scraps of realization. It was in these years that a humanitarian, sentimental faith in ourselves, in men as individuals, and in the destiny of service to humanity was characteristic of much American thought. It was a time of great intellectual awakening, and in particular New England became a center of thought, religion, and philosophy. But also it was a time of individualism; for in these years when the democratic faith was sweeping on to the chartered future, it was the divine individual which attracted the commendations of the articulate and literate members of our community. Beneath all of this the forces leading to in-

[21] W. W. Story, ed., *Life and Letters of Joseph Story* (1851), Vol. II, pp. 527–528. See A. J. Beveridge, *The Life of John Marshall* (4 vols., 1916–1919); E. S. Corwin, *John Marshall and the Constitution* (1919); Bernard C. Steiner, *The Life of Roger Brooke Taney* (1922); Carl B. Swisher, *Roger B. Taney* (1935).

cluctable conflict and the war with the South were at work, but generous minds hoped that these conflicts could be avoided. In this they had some reason, for there was great change in our national situation, and there were many other problems than sectionalism to call for the attention of the average citizen.

Our sense of mission was great; but it was part of a democratic philosophy, and its tenet was the equality of men and the establishment of freedom for all.[22] Our republic was advancing in the flush of a theory that "manifest destiny" had smiled upon us, and that in acquiring territory from other states we were adding to the domain of republicanism and democracy. Whenever our flag embraced new lands, such as those ceded by Mexico after the war with that country, it symbolized the march of freedom—this time to the Pacific Ocean. But, give individuals a chance and they would embrace the same ideas of justice as we had; other men were not like us simply because of the despotism of the Old World system, political or religious, under which they lived.[23]

But if this was politics at the height during the impact of the democratic vision, other movements were taking place. We were still, before the great sectional conflict, the haven for political refugees from Europe, and we believed that all would become good American citizens, once they had tasted of the liberty which was ours. It was not until the middle of the century that people began to grumble against the flood of divergent cultural strains, and by 1924 we had fairly effectively dammed the gates against unwelcome types of immigrants. But the years before the Confederate War were also the time of great religious movements, and the itinerant preachers, by tearful appeal, were bringing thousands into the folds of the growing denominations. If the Mormons were dying for their faith, the Methodists, Baptists, and the followers of other sects were also rising to the stature of influential and reasonably wealthy denominations. It was the era of the camp meeting and the revivalist. These religious movements were thoroughly democratic and popular in their tone and in the structures which grew out of the preaching of the word.

In this era the abolitionists began to preach against the evils of slavery, and in isolated spots abolitionists met their doom as martyrs with sublime confidence in the justice of their cause. The Declaration of Independence came back into the thought of the humanitarian democrat, and if it said

[22] See T. V. Smith, *The American Philosophy of Equality* (1927); R. H. Gabriel, *The Course of American Democratic Thought* (1940).

[23] See Albert K. Weinberg, *Manifest Destiny: A Study of Nationalist Expansion in American History* (1935).

all men were equal, it included in the category of men the faraway, romanticized slave on the Southern plantation. William Lloyd Garrison declared that he would be heard, come what may; and so in truth he was heard. Women, strange in their ideas, began to demand equal rights for women, and their first congress was held in 1839. This was the doctrine of equality also; but it seemed foolish to most democrats that women should demand equal civil and political rights. (It was not until after the First World War, in 1920, that women were given nationally the right to vote.) In these days, too, it was gradually accepted as axiomatic that a democracy must foster education. The school system began to flower amazingly under the nutriment of public funds, and colleges began to dot the hilltops of many states, though the period of the great publicly supported state universities was to come in the period after the conflict between the North and South. Free schools were becoming the first foundation stone of the democratic system; but they were schools which would teach and develop individuals, and thereby develop society as a whole. The discordant note of workers seeking to organize themselves into unions to bargain equally with employers was passed by; abolitionism was a humanitarian and moral problem; it was in no sense a phase of the equality of those who labor with those who employ workers.

Western Land. The democratic movement had other aspects. There were the public lands, unoccupied, yet belonging to the nation. Much of the democratic thought in the United States has accepted the agricultural basis of society. We have seen how Jeffersonian democracy, as expounded by John Taylor, looked upon agriculture as the primary interest of the country. In the South, indeed, political thought retained until after Reconstruction its belief in the agricultural way of life. But as the population spread to the west, purchasing land for nominal prices—prices which gave profits to many speculators in large blocks of land—the leaders of agriculture itself were divided; no longer could Southern thought represent the whole of the country in its defense of the plantation and slave system. For labor in the west was free, and under the restrictions imposed by Congressional action in the Missouri Compromise of 1820, the slave system was separated from the free-labor system in the west. The frontier moved on toward the exhaustion of the best of the public lands by the end of the century; and as it moved, new states were created and new leaders for the middle western and far western agricultural interests arose to contest the claims of Southern and Northern groups. Likewise, emerging conflict in the industrial sections of the country between the workers and the employers suggested the solution of migration to the west.

If the spread of labor to the free lands of the west was considered by some to be a solution of industrial conflict, it was also a phase of the democratic vision, since free, individualistic farmers were moving into uncultivated areas and subduing the land to the uses of the plow. The families moving down the Ohio and Mississippi Rivers and then on across the plains had, no doubt, a minimum standard of living; but what they wanted was cheap or free land when they reached the end of their journey. Western democracy could be romanticized by those who loved the legend of the frontier, or by those who saw the solution of the social questions of the East in the march to the west. The farmers, in turn, were not unwilling to regard themselves as the backbone of the state. Increasingly as population moved west, there was a demand for cheaper public land: the public land was a great domain belonging to the people of the nation, but the demand was not to be quelled until this land was given in fact to Americans who would settle upon it.

In 1860 President James Buchanan vetoed a Homestead Act which would allow heads of families to settle on 160 acres of land and, after a period of five years, to pay the government twenty-five cents an acre. There were numerous reasons assigned by him for vetoing the law, one section of which proposed to give away certain unsold lands. Buchanan did not believe that Congress had the Constitutional power to give the land away to individuals or to states. Again, the law was unjust to older settlers who had paid the government $1.25 an acre, and it would reduce in value land warrants given to former soldiers. Buchanan did not like the act because it was a boon to farmers and discriminated against artisans and laborers. The mechanic must either become a farmer or suffer severe disadvantage. The statute would likewise sharpen the difference in benefit derived by the older and the new states from the sale of public lands; the older states would have their population drained away on the offer of free farms. The loss of public revenue was obvious, but Buchanan also felt that an admirable public-land system would be abolished by the statute, and that it would deprive us of a resource "to which we can resort in the hour of difficulty and danger." The price of land being reduced to $1.25 an acre is fair and brings to the public treasury a revenue of $10,000,000 a year. The poor man, declared the President, "desires no charity, either from the Government or from his neighbors. This bill, which proposed to give him land at an almost nominal price out of the property of the Government, will go far to demoralize the people and repress this noble spirit of independence. It may introduce among us those pernicious social theories which have proved so disastrous in other countries." [24]

[24] Richardson, *Messages and Papers*, Vol. V, pp. 608–614.

But the agrarian creed could not be stopped by the warning of conservatism. There was poverty, and in the free land there was a hope of liberty.

> And when the Republicans in their platform of 1860 offered free land to the workingmen of the world, in exchange for a protective tariff, the way was already prepared for a tumultuous response. When in the midst of the Civil War [1862] the Republicans fulfilled their pledge by beginning to fling the land to the clamoring multitude, the economic revolution was begun. If labor could continue its process of organization to win higher wages, there was little for the socialists of the period to do except haul down the red flag.[25]

New England Idealism. American democracy owes much to the transcendental theorists of the New England renaissance of the first half of the nineteenth century. Before the philosophical life of New England sank into the genteel respectability of Brahminism, it had issued its challenge to those who denied the divine principle of the rational and moral creature we call man. If the story of the exploitation of the west is grim in its revelation of the hungry forces at work behind the scenes of politics, and if the story of the workingman in the rising industrial sections of the East makes a no better reading, the idealists, the utopians, the founders of Brook Farm might attempt to demonstrate the height to which human beings could ascend, had they but the will and the opportunity. Unitarianism, for example, under the guidance of William Ellery Channing, stood for the intellectual ideal of service to humanity. Perfectionism stirred the New England soul, and abolitionism aroused its conscience. Whittier, the poet, aided for a time the abolitionist Garrison, and Harriet Beecher Stowe in her writings added the conscience of the writer to that of the theologian. All this was in the vibrant hope of New England democracy. That hope is now simply a chapter in the history of American letters, but surely a brilliant chapter, even if it could not be understood by ordinary mortals like southerners, westerners, workers, and farmers.

The many-sided Ralph Waldo Emerson was a transcendentalist, and in that belief he included the liberty of the individual. He had little faith in what government might do, and his strictures on politics are not light. His was a philosophy of democratic individualism, just as was the case with Henry David Thoreau. There is little doubt that Thoreau stands almost completely by the wayside of American life, but we may ask: To what extent did Emerson express the feelings of the generality of American democrats? For this is what he attempted. Individualism

[25] Charles A. Beard and Mary R. Beard, *The Rise of American Civilization* (1927), Vol. I, p. 649. Copyright 1927, 1930, and 1933 by The Macmillan Company and used by permission.

was deeply rooted in the thought of the time, and the conservative was beginning to see its value in the face of a hundred different schemes for remarking the world. In political speculation Emerson was a lonely figure, trying to resolve in his own mind the reasons for the gap between the real and the ideal. Emerson blamed institutions, as romantics had done before him, for the sad condition of human affairs. The mind, the individual mind, must be liberated, he thought, and herein lay his task as a critic; he was calling to the noble and rejecting the ignoble, which composed so much of ordinary existence. But his transcendental, or ideal, theory of politics was closely akin to philosophical anarchism. In his ideal republic there would be no rulership of gentlemen of property. Americans liked better then than now to be called to the ideal, the eternal principles of social living.

In this country [said Emerson in his famous essay on *Politics*] we are very vain of our political institutions, which are singular in this, that they sprung, within the memory of living men, from the character and condition of the people, which they still express with sufficient fidelity—and we ostentatiously prefer them to any other in history. They are not better, but only fitter for us. We may be wise in asserting the advantage in modern times of the democratic form, but to other states of society, in which religion consecrated the monarchical, that and not this was expedient. Democracy is better for us, because the religious sentiment of the present time accords better with it. Born democrats, we are nowise qualified to judge of monarchy, which, to our fathers living in the monarchical idea, was also relatively right. But our institutions, though in coincidence with the spirit of the age, have not any exemption from the practical defects which have discredited other forms. Every actual State is corrupt. Good men must not obey the laws too well. What satire on government can equal the severity of censure conveyed in the word *politic,* which now for ages has signified *cunning,* intimating that the State is a trick?

Referring more directly to the politics of his time, Emerson notes:

Of the two great parties, which at this hour, almost share the nation between them, I should say, that one has the best cause, and the other contains the best men. The philosopher, the poet, or the religious man, will, of course, wish to cast his vote with the democrat, for free-trade, for wide suffrage, for the abolition of legal cruelties in the penal code, and for facilitating in every manner the access of the young and the poor to the sources of wealth and power. But he can rarely accept the persons whom the so-called popular party propose to him as representatives of these liberalities. They have not at heart the ends which give to the name of democracy what hope and virtue are in it. The spirit of our American radicalism is destructive and aimless: it is not loving; it has no ulterior and divine ends; but is destructive only out of hatred and selfishness. On the other side, the conservative party, composed of the most moderate, able, and cultivated part of the population, is timid, and merely defensive of property. It

vindicates no right, it aspires to no real good, it brands no crime, it proposes no generous policy, it does not build, nor write, nor cherish the arts, nor foster religion, nor establish schools, nor encourage science, nor emancipate slaves, nor befriend the poor, or the Indian, or the immigrant. From neither party, when in power, has the world any benefit to expect in science, art, or humanity, at all commensurate with the resources of the nation.

Hence [concludes Emerson], the less government we have, the better—the fewer laws, and the less confided power. The antidote to this abuse of formal government is, the influence of private character, the growth of the Individual; the appearance of the principal to supersede the proxy; the appearance of the wise man, of whom the existing government is, it must be owned, but a shabby imitation. That which all things tend to educe, which freedom, cultivation, intercourse, revolutions, go to form and deliver, is character; that is the end of Nature, to reach unto this coronation of her king. To educate the wise man, the State exists; and with the appearance of the wise man, the State expires. The appearance of character makes the State unnecessary. The wise man is the State. He needs no army, fort, or navy—he loves men too well; no bribe, or feast, or palace to draw friends to him; no vantage ground, no favorable circumstance. He needs no library, for he has not done thinking; no church, for he is a prophet; no statute book, for he has the law-giver; no money, for he is value; no road, for he is at home where he is; no experience, for the life of the creator shoots through him, and looks from his eyes. He has no personal friends, for he who has the spell to draw the prayer and piety of all men unto him, needs not husband and educate a few to share with him a select and poetic life. His relation to men is angelic; his memory is myrrh to them; his presence, frankincense and flowers.

Thus Emerson's dream of the Individual, free in the free democracy, is a city laid up in Heaven, as was the just city of Plato's *Republic*. It is no doubt well that some should be dreamers, to call all men for moments away from the unlovely tasks of rulership or from the duty to accept the governance of others. But Emerson and Thoreau, even Walt Whitman, had little relationship to the specific motivations and behavior of politics. To call men back to Israel is not to bridge, in the world of experience, the dichotomy between the real and the ideal in politics. New England transcendentalism at its flower was Kantian and not Hegelian, and it therefore could not cross from the rational to the real; it could not adjust itself to the facts of political life; it was doomed to be a passing phase in the drama of the American political mind.[26]

[26] Even less connected with the political life of his time was Thoreau. Thoreau's challenge of philosophical anarchism is simply a lonely voice, sufficient for Thoreau alone. His ideas in *Civil Disobedience* are like those in William Godwin's *Political Justice*. In his opposition to slavery protected by the Constitution, he carried his principle of resistance to the extreme of philosophical anarchism. In the work cited, in 1849, he declared that the state is simply power, and that the only place for

Conclusion. During the generation before the outbreak of the War Between the States, American citizens met on the Fourth of July to commemorate the greatness of the principles of the Declaration of Independence. This was true from one end of the Union to the other, even though some began to question whether all men were equal. The speakers on these solemn occasions of civic worship would praise the Divine guidance which had enabled our political forefathers to state the lasting truths of just government. In the depth of the religious sentiments of the American people an identification had been reached between the wisdom of Providence and the statement of the democratic principles upon which our republic was founded. Our great democratic period was one of religious faith and religious confidence in the future of the American society. But behind that faith the drums of discord were rolling, and as the years passed the noise of impending conflict reached crescendo. To preach a democracy of unity did little good, though all sections, even those in conflict, could return to the basic principles of the founding fathers, as they saw them, for their defense and guidance. The time was to come when men were to realize that politics was more than ideal principles; they were to see that the question was more like, What groups should dominate our society? The leaders of the great interests girded themselves for battle, but they themselves hardly knew the course that these forces were to take. Men were to find in the United States that the interests at stake had their own destiny, which was to be solved not by compromise, but by battle and by the annihilation of political influence.

SELECTED BIBLIOGRAPHY

ADAMS, JOHN QUINCY: *The Writings of John Quincy Adams*, ed. by W. C. Ford (7 vols., 1913–1917).
BEARD, CHARLES A., and MARY R. BEARD: *The American Spirit* (1942).
———: *The Rise of American Civilization* (2 vols., 1927–1930).
BENTON, THOMAS H.: *Thirty Years' View* (2 vols., 1854–1856).
BEVERIDGE, A. J.: *Life of John Marshall* (4 vols., 1916–1919).
BILLINGTON, R. A.: *The Protestant Crusade, 1800–1860* (1938).
BLAU, J. L., ed.: *American Philosophic Addresses, 1700–1900* (1946).
———: *Social Theories of Jacksonian Democracy* (1947).
BROOKS, VAN WYCK: *The Flowering of New England* (1936).
———: *The World of Washington Irving* (1944).
CARPENTER, WILLIAM S.: *The Development of American Political Thought* (1930).
COKER, FRANCIS W.: *Democracy, Liberty and Property* (1942).

---

the really free citizens of Massachusetts is in her prisons. "There will never be a really free and enlightened State, until the State comes to recognize the individual as a higher and independent power, from which all its own power and authority are derived, and treats him accordingly." Henry David Thoreau, *Miscellanies* (Riverside Ed., 1893), pp. 168, 131*ff*.

COMMAGER, H. S.: *Theodore Parker* (1936).
COOLEY, THOMAS N.: *A Treatise on the Constitutional Limitations Which Rest Upon the Legislative Power of the States of the American Union* (1868).
CORWIN, EDWARD S.: *John Marshall and the Constitution* (1919).
CRESSON, W. P.: *James Monroe* (1946).
CURTI, MERLE: *The Growth of American Thought* (1943).
———: "The Great Mr. Locke: America's Philosopher, 1783–1861," *The Huntington Library Bulletin*, No. XI (Apr., 1937), pp. 107–151.
———: *The Social Ideas of American Educators* (1935).
DORFMAN, JOSEPH: *The Economic Mind in American Civilization, 1606–1865* (1946).
DURHAM, G. H.: *Joseph Smith: Prophet–Statesman* (1944).
EKIRCH, A. A.: *The Idea of Progress in America, 1815–1860* (1945).
EMERSON, RALPH WALDO: *Emerson's Complete Works* (11 vols., 1844).
FISH, C. R.: *The Rise of the Common Man* (1927).
GABRIEL, RALPH H.: *The Course of American Democratic Thought* (1940).
GETTELL, R. G.: *History of American Political Thought* (1928).
HALL, L. S.: *Hawthorne: Critic of Society* (1944).
HALLOWELL, A. D.: *James and Lucretia Mott* (1884).
HILDRETH, RICHARD: *Theory of Politics* (1853).
HORTON, JOHN T.: *James Kent: A Study in Conservatism* (1939).
JACOBSON, J. M.: *The Development of American Political Thought* (1932).
KENT, JAMES: *Commentaries on American Law*, ed by O. W. Holmes, Jr. (1873).
LUDLUM, D. M.: *Social Ferment in Vermont, 1791–1850* (1939).
MACDONALD, WILLIAM: *Jacksonian Democracy* (1906).
MAYO, BERNARD: *Henry Clay: Spokesman of the New West* (1937).
MERRIAM, CHARLES E.: *American Political Theories* (1903).
MIMS, EDWIN: *The Majority of the People* (1941).
NYE, R. B.: *George Bancroft: Brahmin Rebel* (1944).
PALMER, PAUL A.: "Benthamism in England and America," *The American Political Science Review*, XXXV (1941), 855*ff*.
PARRINGTON, V. L.: *Main Currents in American Thought* (3 vols., 1927–1930).
PIERSON, GEORGE W.: *Tocqueville and Beaumont in America* (1938).
PORTER, KIRK H.: *A History of Suffrage in the United States* (1918).
RICHARDSON, JAMES D.: *A Compilation of the Messages and Papers of the Presidents, 1789–1897* (10 vols., 1897).
SCHLESINGER, ARTHUR M., JR.: *The Age of Jackson* (1945).
SCHNEIDER, H. W.: *A History of American Philosophy* (1946).
SPILLER, R. E.: *Fenimore Cooper: Critic of His Times* (1931).
STORY, JOSEPH: *Commentaries on the Constitution of the United States* (3 vols., 1833).
STORY, W. W., ed.: *Life and Letters of Joseph Story* (2 vols., 1851).
THOREAU, HENRY D.: *The Writings of Henry David Thoreau* (20 vols., 1906).
TOCQUEVILLE, ALEXIS DE: *Democracy in America*, ed. by Phillips Bradley (1945).
TURNER, F. J.: *The Frontier in American History* (1920).
TYLER, A. F.: *Freedom's Ferment: Phrases of American Social History to 1860* (1944).
WEBB, W. P.: *The Great Plains* (1931).
WILTSE, C. M.: *John C. Calhoun, Nationalist: 1782–1828* (1944).
WRIGHT, B. F.: *A Source Book of American Political Theory* (1929).

Chapter 8

THE SOUTH AS A CONSCIOUS MINORITY

Died for State rights guaranteed under the Constitution. The people of the South, animated by the spirit of 1776, to preserve their rights, withdrew from the federal compact in 1861. The North resorted to coercion. The South, against overwhelming numbers and resources, fought until exhausted. During the war, there were twenty two hundred and fifty seven engagements; in eighteen hundred and eighty two of these, at least one regiment took part. Number of men enlisted: Confederate armies, 600,000; Federal armies, 2,859,132. Losses from all causes: Confederate, 437,000; Federal, 435,216.—Inscription, Confederate Monument, Austin, Texas.

The Southern Minority under the Constitution. If the Stars and Bars of the Confederacy is no longer seen in the South except on certain ceremonial occasions, the South remains, on certain issues, one of the great minorities of the American people. From the days of the struggle over the ratification of the Federal Constitution, the South has fallen short in its effort to defend itself. When the last gun of the War Between the States was fired and the last bushwhacker had been hanged, the South faced the fact of the extinction of its claims to nationhood. Henceforward, it became a loyal part of the larger unity of the modern national state, and the South, indeed, is the only section of our country that has known genuine military defeat.

What meaning, what significance shall we assign today to the lost struggle for Southern independence? Or shall we not say, as Professor Jesse T. Carpenter has suggested in *The South as a Conscious Minority*, that state rights was but an incident in the broader effort to protect the sectional interests of the South? Such a view conforms better to the facts, for the final implication of the rights of the states, the Southern stroke for independence, came only when all other means had failed. Professor Charles A. Beard urges that the war, as a conflict of sectional interest, was fought neither to get rid of slavery nor as a defense of state rights; for all sides in the sectional struggle in the United States had appealed to and defended the Constitution, though it was the function of the South to point repeatedly to the fact that the Constitution extended its shelter and protection to the institution of slavery. Some may say that the South had the better of the historical or past argument, and others that

the North had the industrial and technological future on its side; and still others deny that the South's claims had any Constitutional or historical validity.

In the light of contemporary social science we must regard the struggle between the old North and its ally the west against the South as a conflict of social forces that could not be composed by the process of political compromise. The period of war and Reconstruction ushered in the primacy of the forces making the United States a great industrial nation, but that same period saw the destruction of the leadership of the South, a group that was animated by the agricultural interpretation of society. And in this sense the Confederate War settled little, for it could hardly have diverted the industrial and technological revolution of modern society, whatever the outcome on the field of battle.

Had the South won the war, or been left alone to go its way, it would still have faced the uncertainties of the world market for agricultural products; its agricultural crisis today would have been acute, though as an independent state it might have developed greater industrial power. Slavery, itself an increasingly uneconomical institution, would no doubt have passed. Nor could the South have avoided the use of Northern capital, any more than the United States itself could have avoided the influx of European investment if it wished to attain a rapid industrial progress. Independent, the South would still have been a minority nation in relation to the industrial powers of the world. And internally the South, buffeted by the economic forces of the modern world, could hardly have avoided the tendency toward centralization within its domain.

If much of the mind of the South remains, it is yet true that the four years of war destroyed the accumulated capital of generations and drove from power, both in the states and on the national scene, its accustomed leaders; and like any war-torn country, it faced after Reconstruction the task of healing the prolonged dislocations of war. A modernized and liberalized South may yet be preparing for a day when it shall have in national affairs the power it lost as a result of the war, though up to the present its regional influence has been felt primarily in Congress. Because it has been surely Democratic in its politics, Southerners have had no chance at the Presidency. But it is in the legislative branch of a government that any minority can make itself most effectively felt.[1]

Techniques of Minority Protection. For seventy years the leaders of the old South attempted to formulate a philosophy of protection for its minority interests in the American Union. During this time they felt that the burdens of the Union bore most heavily on the South, particu-

[1] See Pierre de Lanux, *Sud* (Paris, 1932), pp. 262*ff*.

larly because of the Hamiltonian system, which benefited the manufacturers and shippers of the North. Increasingly the South was driven together by common bonds—social, institutional, economic, and political; from this was developed the distinct Southern nationality of which we have spoken. Southern opinion was crystallized by the sense of the minority position the South occupied in the Union.

In the seven decades of union that preceded the Civil War [declares Professor Carpenter], there evolved in the South four major sources of minority protection which succeeded each other in general chronological order. The first source was that of the principle of local self-government, advanced and defended in the Union from the establishment of the government on April 30, 1789, to the enactment of the Missouri Compromise on March 6, 1820. The second was the principle of the concurrent voice, chiefly relied upon by the South during the middle decades—the twenties, the thirties, and the forties. The third source of protection was the principle of constitutional guarantees, in which the South placed its confidence from the admission of California into the Union on September 9, 1850, to the election of Abraham Lincoln to the presidency on November 6, 1860. And finally there came the principle of independence intensively advanced from the election of Lincoln until the outbreak of the Civil War on April 12, 1861. In the closing months of the Ante-bellum Period, Southern political philosophy found adequate opportunity of expression in the provisions of the Confederate Constitution drafted at Montgomery, Alabama.[2]

Local Self-government. We live today in an atmosphere in which the deep passion for local self-government no longer exists; citizens in the age of centralization look with mild curiosity on those who believed that a liberal and democratic government must be one in which wide powers are reserved to the component parts of the political community. The South from the outset feared centralization, and those who objected to the ratification of the Constitution on the ground that it would destroy local government have been vindicated by time; but the appeal of their arguments has been annihilated by the same force. The Tenth Amendment to the Constitution was, to the Southern mind, the foundation of that instrument as a protector of local government. "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." With each expansion of Federal power, Southern leaders protested, whether such increases in power involved the tariff, the bank, the fiscal policies of the government, or the growing control of the Supreme Court over the court and governmental system of the states. Men like Spencer Roane and John Taylor in Virginia waged ceaseless but futile war against

[2] See Jesse T. Carpenter, *The South as a Conscious Minority, 1789–1861* (1930), Ch. I, p. 5. By permission of the New York University Press.

the growth of Federal power. But it was the expansion of the "necessary and proper" clause which most aroused the Southern ire. We have already seen how Jefferson, the Southerner and strict-constructionist, fought Hamilton over the bank when they were in Washington's Cabinet, and we have seen how Marshall introduced into the Constitutional law of the country the principles espoused by the Hamiltonian argument.

When on March 3, 1817, President James Madison vetoed the internal improvements bill, he stated clearly the Southern principle of the division of powers between a national government, for the general purposes of protection, and local governments, whose powers were not lightly to be invaded.

I am not unaware [he said] of the great importance of roads and canals and the improved navigation of water courses, and that a power in the National Legislature to provide for them might be exercised with signal advantage to the general prosperity. But seeing that such a power is not expressly given by the Constitution, and believing that it can not be deduced from any part of it without an inadmissible latitude of construction and a reliance on insufficient precedents; believing also that the permanent success of the Constitution depends on a definite partition of powers between the General and the State Governments, and that no adequate landmarks would be left by the constructive extension of the powers of Congress as proposed in the bill, I have no option but to withhold my signature from it, and to cherishing the hope that its beneficial objects may be attained by a resort for the necessary powers to the same wisdom and virtue in the nation which established the Constitution in its actual form and providently marked out in the instrument itself a safe and practicable mode of improving it as experience might suggest.[3]

Yet it is to be observed that even though the South held the executive power for many Presidential terms and had its full representation in Congress, the respect for the reserved powers of local government declined. In 1825 Thomas Jefferson wrote to a friend:

I see, as you, and with the deepest affliction, the rapid strides with which the federal branch of our government is advancing towards the usurpation of all the rights reserved to the States, and the consolidation in itself of all powers, foreign and domestic; and that, too, by constructions which, if legitimate, leave no limits to their power. Take together the decisions of the federal court, the doctrines of the President, and the misconstructions of the constitutional compact acted on by the legislature of the federal branch, and it is but too evident that the three ruling branches of that department are in combination to strip their colleagues, the State authorities, of the powers reserved to them, and to exercise themselves all functions foreign and domestic.[4]

[3] James D. Richardson, *A Compilation of the Messages and Papers of the Presidents, 1789–1897* (10 vols., 1897), Vol. I, p. 585.

[4] Jefferson, *Writings*, ed. by P. L. Ford, Vol. X, pp. 354–355.

The Concurrent Voice. As the principle of local government waned, the South turned to the principle of the concurrent voice in national affairs. We shall consider soon the elaborate rationalization of the concurrent theory of government stated by John C. Calhoun, but here we must examine the reliance placed by the South on the Constitution for the establishment of a balanced government—a government of three departments, any one of which might check the other. We have already indicated that in American theory the founders sought means to prevent a majority from running away with the national establishment, and the voice of *The Federalist* has been quoted in this connection. But as the Northern conservatives sought more and more to use the government for their interests, it was the South which inherited the theory of balance in the Constitution as a means of protecting its peculiar interests. In the twenties, thirties, and forties the South sought to use balance in the Constitution to prevent the Northern majority from dictating the whole of the policy of the Union. Jefferson attacked the judiciary in measure because he felt that it was seeking to dominate the other branches of the government, and during the reign of "King" Andrew Jackson the rise of the executive provoked attacks on that power.

Admitting that the North would have a majority in the House of Representatives, the South was forced gradually to look upon the Senate as the branch of the government most suited to its protective needs. Behind it all was the theory that the Constitution did not establish a government to be controlled by majorities; it established a government that was to reflect the divergent interests of the American community. In the South, with its minority-consciousness, men leaned heavily upon the Constitution. It was felt that the North, or North and West combined were seeking to undo the work of the framers and to rework the Constitution so that the majority might enact whatever policies it might desire. Whatever means could be used by the South were adopted, as in 1848 when Jefferson Davis praised the veto power of the President as a device for checking irresponsible majorities and protecting the rights of the minority in the Union. Other Southerners saw little hope for a succession of Presidents who would be sympathetic with the South; the same forces that would give a Northern majority in the House of Representatives would establish control of the Presidential office. In the light of such views, it was easy for Southern leaders to accept the idea that a plural executive, representing the sections, might be the best solution of the executive problem. Calhoun thus proposed that there should be two Presidents, very much as there were in the Roman Republic two consuls. And on the eve of Secession there were desperate attempts of other Southern leaders to secure such a representative character in the executive

department of the national government. At the same time there were proposals for a sectional division of the judges on the Supreme Court—last straws before the outbreak of the war.

In the legislative branch of the government, the South saw, as a source of protection, requirements for more than ordinary majorities. The South could point, for example, to the requirement that the veto could be overridden only by an extraordinary majority. This meant the concurrent voice: the control of a majority by a minority. The fact that the power of the South in the Senate was greater than in the House meant, likewise, that one section had its greatest voice in one house as against the other section in the other house. Sectional equilibrium was established in the Senate as a result of the Missouri Compromise of 1820, and that year marks the transition from a dependence on local self-government to a dependence on concurrent power as a source of protection for the South.[5] Southern leaders tried to maintain the principle that slave and free states should be admitted in pairs in order not to disturb the sectional balance of forces. With the admission of California in 1850 as a free state, however, the South knew that its power of defense was waning rapidly. The North, it was argued, was now dominant in all branches of the national government; the South had no hope of recovering its influence in any department of that government. Because state or sectional political parties would make the continuance of a free union impossible, the South continuously opposed the formation of political parties that were purely sectional. Up until the end of the ante-bellum South, the party system was able to avoid the sharper implications of sectional struggle.

Constitutional Guarantees. In the fifties, however, the South turned more and more toward a reliance on the guarantees given in the Constitution for its protection. In this time its adherence to the Constitution, symbolized in part by the work of Taney on the Supreme Court, was almost fanatical. If the guarantees implicit in that document could be maintained, the Union itself would last without bloodshed and without a resort to the principle of secession or of revolution (as Southern leaders variously regarded it). Viewing the amending clause of the Constitution, it was seen that no mere majority of the states might sweep away Constitutional restrictions deemed useful to any fraction of more than a fourth of the states. Once this principle was accepted, it is easy to see also that the South would favor a strict construction of the Constitution, since a flexible construction would render ineffective the barrier in the amending clause against majority action. The opposition to the doctrines

[5] Carpenter, *op. cit.*, p. 104.

of Marshall in the South, led by Spencer Roane and others, is one phase of reliance on the provisions of the Constitution itself for the protection of minorities. Thus Calhoun, Davis, and other leaders reverted to the idea that the power that created the Constitution—*i.e.*, the states—must be the power that will preserve it. The states, rather than the Court, must be given some effective means of saying what the Constitution means. Senator Felix Grundy, of Tennessee, declared in 1830 that if a state convention declares that Congress has gone beyond its power, the act of Congress shall not operate in the state until the power claimed has been submitted as an amendment to the Constitution; if three-fourths of the states do not concur, Congress then must abandon the exercise of the power.[6] Calhoun's theory of nullification was, in his mind, a logical deduction from the amending clause of the Constitution itself. Other Southerners saw, however, in the fifties that with the increasing Northern attack on slavery, nullification might be turned against the South, if the North should use it to negate the laws for the return of fugitive slaves.

The main basis for the reliance of the South on the Constitution, however, was that Southerners saw in the document provisions for the protection of the institution of slavery. On numerous occasions Congress had taken the position that it had no authority to interfere with slavery in the states. It was traditionally recognized that slavery was an institution within the power of the people of the states. Likewise, the laws requiring the return of fugitive slaves implicitly agreed that slavery was under the Constitution, a legitimate institution. When the South lost its concurrent voice in the Senate, it received in return a more drastic law for the return of runaway slaves. Moreover, the courts of the states and of the Federal government had sustained the principle that slaves must be returned, thus recognizing the validity of slavery under the Constitution. The argument then turned to the protection of slavery in the territories; when the North refused to abide by the Missouri Compromise, the states were, according to Alexander H. Stephens, thrown back upon their rights under the Constitution. If slaves were a legitimate form of property, the national government had no right to exclude slaves from the territories which are held by the people of the United States in their totality. We know, of course, that the South failed in its territorial platform; yet it would seem also that, since Southerners did not believe slavery could be used in all of the territories, they believed that such a demand was a test case to determine if they could rely upon the guarantees of the Constitution.

Meanwhile, in the North men like Abraham Lincoln and William H

[6] Cited, *ibid.*, p. 137.

Seward were, in the Southern view, going beyond the Constitution. They were suggesting that an irrepressible conflict was impending, that the nation must become entirely free or entirely slave, and that there was a higher law to which men might appeal in the coming conflict. The South, naturally, replied to these suggestions by asserting again the principle of Constitutionalism, and the rights of the states under that instrument. In the midst of the last years before Secession, the South turned against the principles of the higher morality of Northern leaders to the decisions of the Supreme Court itself. If the Constitution is to be preserved, let the North obey the judgments of that high court. But the view of the North was that the Court was dominated, under Taney, by Southern views, and that the decisions it had rendered should be changed. In spite of all the laws and Court decisions it could muster, the South saw its Constitutional protection become more and more illusory each day. It was the North, Southern leaders such as Toombs, Reagan, Yancey, Davis, Calhoun, and others believed, that had deserted the Constitution. While some Southern leaders contemplated retaliations against citizens of the Northern states and new Constitutional amendments were proposed, the end of the period of Constitutionalism was at hand. The new Republican party stood in effect for the abolition of slavery, and the South realized that as soon as the North could muster three-fourths of the states to its banner, the end of its system must come.

The Principle of Independence. Finally, the South turned to the principle of an independent Southern nationality. At the outset of the Federal Constitution, many Southerners believed the South would dominate the Union. Indeed, it may be argued that the sectional controversy was simply a struggle for power in the American Union, and that both the North and the South used slavery as a symbol of conflict. The North turned to abolition, while the South turned to the protection of slavery as the essential question in the compromise and unity of the sections. But within the South itself it was necessary to develop the idea of Southern unity, of a united South. The proponents of this idea had little patience with the slow-moving demands for Constitutional protection, but it was not until the end of the ante-bellum period that the defenders of Southern independence gained the day. The election of Lincoln in the autumn of 1860 moved large blocs of Southern opinion toward the principle of independence for the South. State rights, as slavery, may be regarded as symbolic of the movement rather than its core, for the effort for independence, the principle of secession, was a sectional principle and one used to assist in the organization of the Southern Confederacy. When Lincoln's election was verified, Secession moved swiftly forward. To the Southern mind it could be justified either as an act of

revolution or as an insistence on the rights of the sovereign states within the Union; the latter was, of course, the more persuasive argument to the masses of the South. But behind whatever legal technicalities were used either by the North in suppressing Secession or by the South in defending it, the modern historian and student must be inclined to view the ideologies adopted as clues or symbols of the deeper social forces that at last had reached and passed the point of last compromise.

There were equally vigorous Southern assertions of the two theories of secession. One might suggest that it was an act of revolution and admit there was no Constitutional power of secession; another would assert that if he believed secession was revolution he would not support it, but that the states did have a right under the Constitution itself to sever the bond that had held them together. Others asserted that there was no inconsistency between a right of secession by the state under the Constitution and right of revolution by the people. The one might be a civil right resting on the Constitution, while the other would be a natural right resting on the law of God. William L. Yancey and Jefferson Davis, for example, in part of their argument turned to the truths of the Declaration of Independence, wherein the ultimate right of revolution is stated with undoubted clarity. In one statement Alexander H. Stephens agreed with Seward that there was a higher law, and that the Constitution must be subordinate to the law of God. On the other hand, the "strict Secessionists" held the forefront both in the public forum and in the study of the writers; they might look back to the Virginia and Kentucky resolutions, to the long story of the defense of state sovereignty to be found in the writings of Roane and John Taylor, and in 1860 the idea of the right of secession was expressed by hundreds of writers and speakers. And at that time the Constitution might be either a treaty or a compact between the states, but the right of withdrawing from the Union was justified in either case. All arguments rested on the idea that the states were sovereign communities, rejecting thereby the supremacy of any common arbiter between them.[7]

[7] For example, in 1851 Daniel Webster said in an address: "How absurd it is to suppose that, when different parties enter into a compact for certain purposes, either can disregard any one provision, and expect, nevertheless, the other to observe the rest. . . . I have not hesitated to say, and I repeat, that, if the Northern States refuse, willfully and deliberately, to carry into effect that part of the Constitution which respects the restoration of fugitive slaves, and Congress provide no remedy, the South would no longer be bound to observe the compact. A bargain can not be broken on one side, and still bind the other side." Cited in J. T. Carpenter, *op. cit.*, 211, from Jefferson Davis, *The Rise and Fall of the Confederate Government* (1887), Vol. I, pp. 166–177.

It was urged, likewise, that the state ratifying conventions had reserved to themselves the right to resume the powers delegated to the national government at the time of ratification, and that the Tenth Amendment to the Constitution was in effect a guarantee of the right to withdraw from the Union. Finally, the South denied the right of the Federal government to use coercion against the seceded states; President Buchanan had taken this view, for there was no delegation of authority in the Constitution permitting the national government to do this. The framers of the Constitution were quoted at length; but when Abraham Lincoln decided that no such delegation was necessary, the Confederate Cabinet made the fateful decision to resist; the first shot was fired at Sumter.

The Confederate Constitution. When the delegates of the seceding states met in Montgomery, Alabama, to form a new government, the model taken was the old Union. If the South believed that a right of secession was preserved under the Constitution of 1787, it was natural that the original principles of American Constitutionalism should be accepted. On the other hand, the Confederate Constitution does not specifically recognize the right of secession from the Confederacy, though numerous proposals were made both at Montgomery and in state conventions to this effect. The Confederacy was, however, founded upon a recognition of the sovereignty of the several states, and if a right of secession existed in the Confederacy, it must be presumed from the fact of this sovereignty. Strong practical reasons may be suggested as well for the use of the Federal Constitution as a model for that of the new Confederacy. The change in government would be less striking to the citizens of the states, and there was the hope that additional states would withdraw from the Union. It was clear, moreover, that the new union was a confederacy and not a consolidated union, though some Southerners, animated more by their sectional feeling than by constitutional theory, favored such a union of the South. Yet it would have been clearly impossible under the circumstances for Southern leaders to have accepted such a principle, in the light of the long discussion which had preceded the movement for Southern independence. However, minority protection was a fundamental principle of the Confederate Constitution, chiefly through constitutional guarantees of local government and through limitations embodied in the document on the Confederate government itself.

The preamble to the Confederate Constitution declares: "We, the People of the Confederate States, each State acting in its sovereign and independent character, in order to form a permanent Federal Government, establish justice, insure domestic tranquility, and secure the blessings of liberty to ourselves and our posterity—invoking the favor and

guidance of Almighty God—do ordain and establish this Constitution for the Confederate States of America." Implicit in this statement is the fundamental right of the state in the new union, yet as we have said, the right to secede from the Confederacy was not stated. If the old "necessary and proper" clause found its way into the Constitution, it must be remembered that the Southern leaders felt that its construction would not violate the rights of the states, and there was, moreover, a prohibition (with exceptions) of the principle of internal improvements under the direction of the central government. Section I of Article V provided a more positive guarantee to the minority rights of states in the Confederacy.

> Upon the demand of any three States, legally assembled in their several conventions, the Congress shall summon a convention of all the States, to take into consideration such amendments to the Constitution as the said States shall concur in suggesting at the time when the said demand is made; and should any of the proposed amendments to the Constitution be agreed on by the said convention—voting by States—and the same be ratified by the legislatures of two-thirds of the several States, or by conventions in two-thirds thereof—as the one or the other mode of ratification be proposed by the general convention—they shall thenceforward form a part of this Constitution. But no State shall, without its consent, be deprived of its equal representation in the Senate.

Other provisions to protect the minority are found in requirements for an extra-majority in the determination of particular matters, such as the admission of new states, and that all appropriations must be made by a two-thirds vote of both houses. In certain other matters the reserved powers of the states were broadened, the effect of which was calculated to give reality to the principle of the concurrent voice in the determination of Confederate policy.

While the Confederacy did not require that all states in it should be slaveholding societies, the Constitution did attempt to give ample protection to the institution of slavery. Some of the Confederate fathers wished to allow Congress to determine whether the importation of Negroes for purposes of slavery should be allowed, but in the end the Constitution provided that "the importation of negroes of the African race, from any foreign country other than the slaveholding States or Territories of the United States of America, is hereby forbidden; and Congress is required to pass such laws as shall effectually prevent the same." Another provision attempts to make the return of fugitive slaves effective, as it had not been under the old Union. While the Constitution protected slavery, the regulation of the institution itself was left to the individual states of the Confederacy. On the other hand, the protection of slavery

within any territory acquired by the Confederacy was explicitly stated in the Constitution.

On December 20, 1860, South Carolina adopted the Ordinance of Secession, simple in its language and political conception, but now a voice from the period of decentralization in American society.

> We, the people of the State of South Carolina in convention assembled, do declare and ordain, and it is hereby declared and ordained, that the ordinance adopted by us in convention on the twenty-third day of May, in the year of our Lord one thousand seven hundred and eighty-eight, whereby the Constitution of the United States was ratified, and also all acts and parts of acts of the general assembly of this State ratifying amendments of the said Constitution, are hereby repealed; and that the union now subsisting between South Carolina and other States, under the name of "the United States of America" is hereby dissolved.

Such in brief is the political story of the South as a conscious minority up to the time of its defeat in war. But during the years of struggle that finally ended in battle, writers and thinkers were busy with the attack upon, and the defense of, the Union. Some of the more outstanding of the supporters of the South must be discussed in this chapter, though it must be admitted that John C. Calhoun was the greatest. It was he, more than any other, who developed a theory of society compatible with the interests of the South. The battle over the nature of the Union continued, however, long after the guns were silenced and the hates of Reconstruction were at white heat.

Alexander H. Stephens. Alexander H. Stephens, Vice-President of the Confederacy, published in 1868 and 1870 a work entitled *A Constitutional View of the Late War Between the States.* He was trying to show, on strictly Constitutional grounds, the legitimacy of the Southern claims under the Constitution. First of all, he insisted on the sovereignty of the states on historical and theoretical grounds. Nothing is good against a sovereign, by implication, and it was upon implications that the North wished to deny sovereignty to the component parts of the Union. "Can any proposition within the domain of reason be clearer, from all these facts, than that the Sovereignty of the States, that great Paramount authority which can rightfully make and unmake Constitutions, resides still with the States?" But could the states withdraw from the Union?

> Now as to the *rightfulness* of the State's thus resuming her Sovereign powers! In doing it she seceded from that Union, to which in the language of Mr. Jefferson, as well as General Washington, she had *acceded* as a Sovereign State. She [Georgia] repealed her ordinance by which she ratified and agreed to the Constitution and became a party to the Compact under it. She declared herself

no longer bound by that Compact, and dissolved her alliance with the other parties to it. The Constitution of the United States, and the laws passed in pursuance of it, were no longer the supreme law of the people of Georgia, any more than the treaty with France was the supreme law of both countries, after its abrogation, in 1798, by the same rightful authority which had made it in the beginning.

But the seceding states did not breach the Federal compact, since the Northern states, by refusing to return fugitive slaves, had refused to honor their obligations under the Constitution. When a contract is broken by one or more of the parties, urged Stephens, it is no longer binding on the others, according to international law and the law of nature.[8]

Jefferson Davis. Today we are not really concerned with what the founders of the American republic believed they were doing, yet it was necessary that the Southern defense of the lost cause should go back unceasingly to the historical and legal argument. Indeed, the historical and legal arguments can hardly be separated, since the law of the American Constitution arises from its history, and is a phase or facet of its history. In his declining years Jefferson Davis—of whom Yancey said, in presenting him to the people in 1861 in Montgomery, "the man and the hour have met"—wrote the apologia of his faith in the South. *The Rise and Fall of the Confederate Government,* published in 1881, states much the same argument as is presented by Stephens and the others. In Part II, Chapter X, he declares:

> Looking back for a moment at the ground over which we have gone, I think it may be fairly asserted that the following propositions have been clearly and fully established:
>
> 1. That the States of which the American Union was formed, from the moment when they emerged from their colonial or provincial condition, became severally sovereign, free, and independent States—not one State, or nation.
>
> 2. That the union formed under the Articles of Confederation was a compact between the States, in which these attributes of "sovereignty, freedom, and independence," were expressly asserted and guaranteed.
>
> 3. That, in forming the "more perfect union" of the Constitution, afterward adopted, the same contracting powers formed an *amended compact*, without any surrender of these attributes of sovereignty, freedom, and independence, either expressed or implied: on the contrary, that, by the tenth amendment to the Constitution, limiting the power of the Government to its express grants, they distinctly guarded against the presumption of a surrender of anything by implication.
>
> 4. That political sovereignty resides, neither in individual citizens, nor in unorganized masses, nor in fractional subdivisions of a community, but in the people of an organized political body.

[8] See Colloquy XI, pp. 491, 495–496

5. That no "republican form of government," in the sense in which that expression is used in the Constitution, and was generally understood by the founders of the Union—whether it be the government of a State or of a confederation of States—is possessed of any sovereignty whatever, but merely exercises certain powers delegated by the sovereign authority of the people and subject to recall and reassumption by the same authority that conferred them.

6. That the "people" who organized the first confederation, the people who dissolved it, the people who ordained and established the Constitution which succeeded it, the only people, in fine, known or referred to in the phraseology of that period—whether the term was used collectively or distributively—were the people of the respective States, each acting separately and with absolute independence of the others.

7. That, in forming and adopting the Constitution, the States, or the people of the States—terms which, when used with reference to acts performed in a sovereign capacity, are precisely equivalent to each other—formed a new Government, but no new people; and that, consequently, no new sovereignty was created—for sovereignty in an American republic can belong only to a people, never to a government—and that the Federal Government is entitled to exercise only the powers delegated to it by the people of the respective States.

8. That the term "people" in the preamble to the Constitution and in the tenth amendment, is used distributively; that the only "people of the United States" known to the Constitution are the people of each State in the Union; that no such political community or corporate unit as one people of the United States then existed, has ever been organized, or yet exists; and that no political action by the people of the United States in the aggregate has ever taken place, or ever can take place, under the Constitution.

Like Calhoun, Davis argued that the state ratifying conventions which brought the Constitution into being were explicit as to the right of the states to give powers to the central government and also, by a sovereign act, to resume these powers should the occasion arise. The declarations of the ratifying conventions of Virginia, Rhode Island, and New York particularly are cited in proof of such an assertion. Such statements, said Davis, are not mere obiter dicta, for they constitute the heart of the existing validity of the powers of the national government.

Upshur's Federalism. To return to the ante-bellum period of the controversy, Justice Story's work on the Constitution (which we note later), denying that the Constitution is a compact between the states and asserting the supremacy of the Constitution as interpreted by the Federal courts, evoked a reply by Abel P. Upshur, a prominent figure in Virginia politics and a member of the Cabinet under President Tyler. He wrote in 1840 *A Brief Enquiry into the True Nature and Character of Our Federal Government: Being a Review of Judge Story's Commentaries on the Constitution of the United States.* Upshur's argument is

almost entirely legal. On the basis of an analysis of our system of government, he asserted that it was a compact between the states; that the supremacy of the Constitution is drawn from the fact that the states have so established the Constitution itself. The power that can make a law can also abrogate it. The United States has, he insisted, a federative and not a consolidated government under the control of the national institutions of government. The proof of his argument is largely a meticulous examination of the complicated structure of the government itself.

The President, the Congress, and the judicial branch of the national government all partake of the federative character. The members of the House of Representatives are chosen by the people within the states; the Senate is based on equal representation between the states; the President is chosen by an electoral college grounded entirely in the Federal principle; and the President and the Senate together choose the Federal judges, thus giving them likewise the federative rather than the consolidated stamp of character. Likewise, the power to amend the Constitution goes directly back to the power of the states; the states themselves may, with the additional action of Congress, amend the Constitution. And no state may be deprived of its equal representation in the Senate without its consent, a recognition of the ultimately sovereign character of the states.

The Constitution, he urged, is a compact, and the parties to it are the states. The Federal government itself is not a party to the compact, but is the mere creature of agreement between the states. The true sovereignty of the United States is, therefore, in the state and not in the Federal government. In pursuing his thesis, Upshur insisted that the objects of the state governments are of greater importance than those of the Federal government, and that there would be no need of a central government were it not for the states in relation to each other and to foreign governments. The Federal government facilitates and secures the operations of the state governments. If the state governments were taken away, the powers given to the central authority would be incomplete and meaningless. A strict construction of the Constitution gives to the Federal government all the power it can usefully exercise, and there is no need to steal by implication the beneficent authority of the states. There is, however, another advantage of the system of American government; it prevents the growth of those dangers of consolidation which undermine the liberty of the people. By federalism or decentralization the people may not follow blindly a demagogue into the fatal errors leading to popular enslavement, as has been the case in other countries in the past. If federative government is slow, it

gives time for passions to subside and excitement to pass. The people look to the state governments for protection and security under our system, and thereby under the federative system they are more free. Our own government will become absolute and irresponsible only in proportion as the state governments are thrown down and cease to be a healthy check on the growth of the Federal abuse of power.

John C. Calhoun. Whatever may be the final historical verdict on the Southern defense against the North, those who wish to study the political theory of the minority in relation to the preponderant majority must return to Southern ideas as an integral part of such theory. But of those who developed most carefully the principle of the protection of the minority as part of democratic doctrine, John C. Calhoun stands out as the greatest; he is perhaps one of the greatest of American political thinkers. If today there are numerous ways in which the minority voice is heard in government—such as in the electoral college, equal representation in the Senate, and requirements for extra-majorities in certain matters—it must be remembered that had Calhoun's theory been accepted, the minority would have had a much greater protection under our democracy than it does. Today, in the full tide of the great Western age of centralization, we have little sympathy for such views; but in the end the liberal has believed that a humane and orderly government must be one in which the minority receives its full measure of security.

In 1848 and 1849 Calhoun wrote two works that were left unpublished at his death in 1850; however, in the following year they were published, and they constitute the great contribution he made to American thought. These works came at the end of a long political career, which had veered finally from an early nationalism to the rigorous defense of the South in the Union. His work constitutes more than just a defense of the South; it is a theory of society developed in order better to explain the minority interests of the South. In the following chapter we will consider Calhoun's defense of slavery, but here we will be concerned with a brief statement of the principles he considered essential in a constitutional society, that is, a society in which the minority receives assurance that its interests will not be disregarded by the more powerful sections of that society. It may be urged, of course, that the interests Calhoun defended were sectional, while minorities today are functional interests that extend throughout society. Hence, Calhoun's theory has little contemporary application. In reply, it can be stated that the territorial minority principle, while less important, is still significant in politics, and certainly in American politics. Again, while the functional minority has come to the foreground with the industrial and financial age, it yet must seek means of protection, and the general theory of

Calhoun as to the nature of society may still apply, though the means of protection would need to be altered to suit the changed character of the minority itself.

The Constitutional Society. In *A Disquisition on Government,* Calhoun inquires into the general nature of society. What is the constitution or law of our nature which must be respected in the organization of government? Calhoun, like many other Southern thinkers, returned to the political principles of the Greeks, particularly of Aristotle. Man is a social being, and only in the state can he raise himself to a full development of his intellectual and moral faculties. The higher society cannot exist without government, and the universal experience of man testifies to this fact. In spite of the necessity of social existence, however, man feels more strongly concerning those things which affect him directly; this feeling, it would seem, is connected with the principle of self-preservation which pervades the whole of the animal kingdom. Conflict arises out of the clash of individual interests, and it is the function of government to control and direct the energies of men away from the chaos that would result from mere individual struggle. Government rests upon both the social, or sympathetic, feelings of men and their impulses as individuals, which are in conflict. Society is primary and government is secondary, yet government is necessary for the preservation of society; both are essential to the well-being of the race and both are blessed by divine ordination.

On the other hand, within government as in individuals, there is a tendency to disorder.

> The powers which it is necessary for government to possess, in order to repress violence and preserve order, cannot execute themselves. They must be administered by men in whom, like others, the individual are stronger than the social feelings. And hence, the powers vested in them to prevent injustice and oppression on the part of others, will, if left unguarded, be by them converted into instruments to oppress the rest of the community. That, by which this is prevented, by whatever name called, is what is meant by CONSTITUTION, in its most comprehensive sense, when applied to GOVERNMENT.[9]

Constitutions stand to governments as governments stand to society. While it is easy to form a government, it is one of the most difficult of human tasks to establish a constitution in the proper sense of the word. How can such a constitution be formed? How can the powers of government be organized so that they will not become instruments of oppression, but rather will be used to preserve and protect society? It is here that Calhoun diverges from the traditional principles of American theory,

[9] See *The Works of John C. Calhoun,* ed. by R. K. Crallé (1851), Vol. I, p. 7.

since he urged that mere limitations on the powers of government will not be sufficient to attain the constitutional purpose. Whatever checking power there is must be administered by men, and if strong enough it will likewise enfeeble government so that it will not serve the necessary purposes of organized society. Thus government must have power, sufficient power, as the case may be, to defend society against dangerous external enemies and also to prevent internal disorders. Self-preservation is the supreme law of communities as well as of individuals.

Previous attempts to check the abuse of power have failed. Calhoun proposes "to explain on what principles government must be formed, in order to resist, by its own interior structure,—or, to use a single term, *organism*,—the tendency to abuse of power. This structure, or organism, is what is meant by constitution, in its strict and more usual sense; and it is this which distinguishes, what are called, constitutional governments from absolute. It is in this strict and more usual sense that I propose to use the term hereafter." [10] It is clear Calhoun was making an attempt to advance from earlier American constitutional theory, since Madison had argued in *The Federalist*, for example, that a mere paper separation of powers was insufficient. The separation must be within the constitution, so that the different branches of the government may defend themselves by their own constitutional powers. Calhoun and the Southern thinkers had urged that the balance of the Constitution had been destroyed, and they all agreed that something more was needed in order to provide suitable minority protection. Power, said Calhoun, can only be resisted by power; the constitutional organism must provide a means whereby the ruled may successfully resist the tendency of those in power to abuse their power.

The suffrage is the primary foundation of the right of the ruled peaceably to resist, but it would be erroneous to suppose that the mere right to vote is sufficient to prevent the development of constitutional disorder. At best the right to vote will give control over those who are elected to those who elected them, though Calhoun seems not to have had a very realistic appreciation of the oligarchical influence of those who are elected. He speaks of the power of government being transferred, in effect, to the mass of the community, but there is in this condition still nothing to prevent the abuse of power. Had all members of the community the same interest, and were the impact of the laws alike in all cases, there would be no further need of a check on government. But one cannot assume that the interests of all citizens or groups are the same, and "nothing is more difficult than to equalize the action

[10] *Ibid.*, p. 11.

of the government, in reference to the various and diversified interests of the community; and nothing more easy than to pervert its powers into instruments to aggrandize and enrich one or more interests by oppressing and impoverishing the others. . . ."[11] Diverse interests will struggle against each other, and a majority will be formed of certain interests to enhance their own power. There will then be a majority and a minority of interests, the latter being sacrificed to the abusive authority of the former. The community becomes divided into taxpayers and tax-consumers; and Calhoun, speaking for the South, asserted that his section had become the taxpaying section for the benefit of the tax-consuming North. The North had risen to wealth on the poverty of the South.

Other provisions in constitutional government are necessary. What are they? There is but one certain mode by which one interest or combination of interests can be prevented from destroying the minority interest:

> . . . that is, by taking the sense of each interest or portion of the community, which may be unequally and injuriously affected by the action of the government, separately, through its own majority, or in some other way by which its voice may be fairly expressed; and to require the consent of each interest, either to put or to keep the government in action. This too, can be accomplished only in one way,—and that is, by such an organism of the government,—and, if necessary for the purpose, of the community also,—as will, by dividing and distributing the powers of government, give to each division or interest, through its appropriate organ, either a concurrent voice in making and executing the law, or a veto on their execution.[12]

In Calhoun's mind the right of suffrage was not invalidated by such a scheme, but made the more effective; indeed, it would be perfected only by some such device for obtaining an effective concurrent voice in government. The numerical majority must not be identified with the people as a whole, for it is only a part of the people.

Calhoun then turned to a consideration of other devices which were believed to effect suitable restraints on the abuse of power. Many believed, for instance, that a written constitution, containing let us say a bill of rights, was a sufficient guarantee against the excessive development of power. But a constitution is administered, and it grows through the ideas of those who administer it. The predominant political party itself would not need the constitution, for it would need only the ballot box to gain its ends. Accordingly, in time the majority comes to regard the limitations in the constitution as obnoxious, and it uses every device

[11] *Ibid.*, p. 15.
[12] *Ibid.*, p. 25.

to elude their restraint. Likewise, the separation of powers, or the check-and-balance system, will do nothing to restrain the majority, since the majority will control all of the branches of the government and will use them to the same purpose, for the exploitation of the minority interests in the community. To the South it was plain that a Northern combination of interests had secured control of the Union and was using it to its own advantage. Constitutional restraints, political parties included, had failed to check the abuse of power against which the Southern leaders deemed themselves to be struggling. The broad distinction between governments, said Calhoun, is not that of the one, the few, and the many, but between the constitutional and the absolute—and that of the United States is rapidly ceasing, if not already, to be constitutional in any realistic sense. Absolute governments rely on force, while constitutional systems are based on compromise. Calhoun meant, however, compromise between interests in the community and not merely compromise between members of the majority or predominant interest in society.[13] "It would, perhaps be more strictly correct to trace the conservative principle of constitutional governments to the necessity which compels the different interests, or portions, or orders, to compromise,—as the only way to promote their respective prosperity, and to avoid anarchy,—rather than to the compromise itself." [14]

In viewing the nature of party struggle, Calhoun saw that political parties, in their efforts to get the honors and emoluments of government, tend to concentrate authority in an oligarchy within the parties; and government becomes, in effect, the control of the majority leaders of the majority party. Government becomes an oligarchy, a minority of not much more than one-fourth of the whole community. But concentration goes much further, until government rests really in the hands of the small group of leaders of the majority party. At this stage the corruption of the electorate takes place, since principles and policies cease to have influence in elections, and with falsehood and deception the appeal of politics is turned to the lowest and most worthless portions of the community. Beyond the falsified electoral process lie disorder and the appeal to force—and to what today we might call the rise of tyranny, or dictatorship, upon the ruins of a corrupted people.

[13] The principle of compromise advocated in recent years by T. V. Smith, for instance, in *The Promise of American Politics* (2d ed., 1936), is thus clearly different from the principle stressed by Calhoun. Smith is discussing compromise among the elements of a dominant group, and more particularly the function of the politician in reaching that compromise. Calhoun is speaking of a constitutional system which enables the leaders of the minority to force a compromise.

[14] Calhoun, *Works*, ed. by R. K. Crallé, Vol. I, p. 38.

On the other hand, when there is a government of the concurrent majority, rather than the numerical, a wider extension of the right of suffrage is socially more safe than is otherwise the case. A wide suffrage under the principle of numerical majority places the state under the control of the leaders of the more ignorant and dependent members of society.

For, as the community becomes populous, wealthy, refined, and highly civilized, the difference between the rich and the poor will become more strongly marked; and the number of the ignorant and dependent greater in proportion to the rest of the community. With the increase of this difference, the tendency to conflict between them will become stronger; and, as the poor and dependent become more numerous in proportion, there will be, in governments of the numerical majority, no want of leaders among the wealthy and ambitious, to excite and direct them in their efforts to obtain the control.[15]

Under the concurrent principle, Calhoun believed the situation quite different, since the wealthy and intelligent unite with the poor and ignorant in their respective portions or interests of the community, becoming their leaders and protectors. The tendency of the numerical majority is, therefore, to divide the community into conflicting groups, while that of the concurrent majority is to bring about a greater social unification.

Liberty and Equality. Like other Southern thinkers, Calhoun was not a believer in the contract theory of the origin of society (though he was in that of the Federal government); and because of this he was not too much bemused by the words of the Declaration of Independence. However, among the rank and file of Southern people it cannot be said that the attraction of the Declaration was ever lost, except as it applied to the institution of slavery. On the other hand, the leaders of the South saw clearly the ultimate implications of a doctrine of liberty and equality which might be derived from that instrument. In view of this, the leaders of the South felt called upon to examine again, in their conservative theory of government, the function of liberty in the state. On this issue, Calhoun's statement is the ablest in Southern literature.

Liberty and power, he said, must be assigned their proper spheres in society. If forced upon a people unfit for it, liberty is a curse rather than a blessing. No people can enjoy, for long, more liberty than their situation, intelligence, and morals entitle them.

Liberty, indeed, though among the greatest of blessings, is not so great as that of protection; inasmuch, as the end of the former is the progress and improvement of the race,—while that of the latter is its preservation and perpetuation. And hence, when the two come into conflict, liberty must and ever ought, to

[15] *Ibid.*, p. 46.

yield to protection; as the existence of the race is of greater moment than its improvement. It follows, from what has been stated, that it is a great and dangerous error to suppose that all people are equally entitled to liberty. It is a reward to be earned, not a blessing to be gratuitously lavished on all alike; —a reward reserved for the intelligent, the patriotic, the virtuous and deserving; —and not a boon to be bestowed on a people too ignorant, degraded and vicious, to be capable either of appreciating or of enjoying it. Nor is it any disparagement to liberty, that such is and ought to be the case. On the contrary, its greatest praise,—its proudest distinction is, that an all-wise Providence has reserved it, as the noblest and highest reward for the development of our faculties, moral and intellectual.[16]

It is an error, moreover, to assert that liberty and equality are so intimately associated that perfect liberty cannot exist without a perfect equality. To grant equality to citizens in the eyes of the law is necessary to liberty in a popular government, but to assert that there must be equality of condition would destroy both liberty and progress. Inequality of condition is a necessary consequence of liberty. Progress itself comes from the strong desire of individuals to better their condition, and the strongest impulse that can be given it, said Calhoun, is to leave individuals free to exert themselves in the manner they think best for the purpose, so long as their effort is consistent with the ends of government. But as individuals differ greatly in their personal qualities, the result is inequality in the results of their effort. To impose restrictions on the able destroys liberty, and to deprive them of the fruits of their labor is to rob them of incentive to self-advancement. Like Aristotle, Calhoun urged that equality consists in treating equals equally, but since all are not equal, unequals must be treated accordingly.

These great and dangerous errors have their origin in the prevalent opinion that all men are born free and equal;—than which nothing can be more unfounded and false. It rests upon the assumption of a fact, which is contrary to universal observation, in whatever light it may be regarded. It is, indeed, difficult to explain how an opinion so destitute of all sound reason ever could have been so extensively entertained, unless we regard it as being confounded with another, which has some semblance of truth;—but which, when properly understood, is not less false and dangerous. I refer to the assertion, that all men are equal in the state of nature; meaning, by a state of nature, a state of individuality, supposed to have existed prior to the social and political state; and in which men lived apart and independent of each other. If such a state ever did exist, all men would have been, indeed, free and equal in it; that is, free to do as they pleased, and exempt from the authority or control of others—as, by supposition, it existed anterior to society and government. But such a state is purely hypothetical. It never did, nor can exist; as it is inconsistent

[16] *Ibid.*, p. 55.

with the preservation and perpetuation of the race. It is, therefore, a great misnomer to call it *the state of nature*. Instead of being the natural state of man, it is, of all conceivable states, the most opposed to his nature—most repugnant to his feelings, and most incompatible with his wants. His natural state is, the social and political—the one for which his Creator made him, and the only one in which he can preserve and perfect his race. As, then, there never was such a state as the, so called, state of nature, and never can be, it follows, that men, instead of being born in it, are born in the social and political state; and of course, instead of being free and equal, are born subject, not only to parental authority, but to the laws and institutions of the country where born, and under whose protection they draw their first breath.[17]

A government of the concurrent majority, resumed Calhoun, is most suited to the development of true liberty. Indeed, he goes so far as to say that liberty is really a mere name under any other type of government than that which he calls constitutional. The liberty both of individuals and of sections of the community is preserved by this means alone. Calhoun observed that among the objections to the theory of the concurrent voice, two stand out; one asserts that such a government is extremely difficult to organize, and the other that it is impracticable to obtain the concurrence of widely diversified groups in the community. Speaking of this second objection, Calhoun insisted that when there is a real necessity of action, the members of a community come together and agree on what ought to be done. He cited approvingly the example of unanimous agreement obtained in juries when they decide upon the guilt or innocence of persons charged with crime. In governments of the concurrent majority, necessity will bring the needed compromise. But this is not so remarkable as might be believed, for in such a government any interest, to advance itself, must respect the interests of others, and thereby promote the common interests of society. By the constitutional organism, individual feelings are brought to see the social advantage of common action rather than their own selfish purposes. And such a government, resting on necessity and agreement, is stronger than those supported primarily by force.

Turning to history, Calhoun found a few examples that supported his view. One was Poland during the period of the *liberum veto*, in which each representative was in fact an estate of the realm. During this time many of the greatest achievements of Polish history were attained. During the time of the kingdom, for example, she protected Christendom against the Turks beneath the walls of Vienna. It was, said Calhoun, external intrigue that weakened the government by manipulating the election of the Polish kings. But the two centuries of Polish

[17] *Ibid.*, pp. 58–59.

government under such a system show that it is not impracticable. Again, the Confederacy of the Six Nations in New York State is an example of the concurrent-majority principle in government. The Six Nations were the most powerful of all the Indian tribes, and they had, admittedly, the best system of government among the Indians in the United States.

Furthermore, Calhoun felt called upon to answer the argument that a free press will preserve the liberty of a free people without the concurrent principle in the organization of government. While a free press is of vast importance in an advanced society, it is not sufficient to counteract the necessity to have a constitutional system to prevent the abuse of power. Education and knowledge are not powerful enough to overcome the tendencies inherent in human nature. However, the free press is similar to the right of suffrage. Both the press and the right to vote are organs of public opinion, and the press, no more than voting, can prevent the tendency of the numerical majority to abuse its power. Public opinion, indeed, is usually simply the voice of the strongest interest or combination of interests in the community.[18]

Calhoun's View of the Union. The second important work by Calhoun was *A Discourse on the Constitution and Government of the United States,* published in 1851. The argument he advanced is similar in its general outline to that offered by other Southern thinkers whom we have considered. It is an historical defense of the sovereignty of the states, though there are added suggestions as to how the American government should be reorganized in order to protect the interests of the Southern minority. With careful logic, Calhoun approached the abstract idea of sovereignty. It is true the national government has delegated powers, powers delegated by the states; but what annoyed him was the conventional idea that the states could be partly sovereign and partly not sovereign. The older idea of divided sovereignty as the basis of the Federal union seemed particularly illogical and unsound to him. Powers pertaining to sovereignty may be divided, but sovereignty itself is an attribute of the political community or it is not. It is the supreme power, and as such and by definition it cannot be divided. But assuming sovereignty was transferred from the states by the formation of the Union, to whom was it given? To the national government? To the nation in its entirety? Here reason is supported by the wording of the Preamble to the Constitution and the Tenth Amendment in denying either possibility. If

[18] It may be added that Calhoun saw in the governments of Republican Rome and of Great Britain effective means whereby the total sense of the community could be taken, and the effect of a pure numerical majority counteracted.

the supreme power were not so transferred, then it remains where it was at the outset—with the states. Moreover, in case of a conflict between the national government with delegated powers and the states with the whole body of residuary power, the presumption must run in favor of the states and not the Federal government. Calhoun argued that in case of amendments to the Constitution the state must either acquiesce or secede from the Union, and in the latter case the state would stand in relation to the Union as to any foreign state. He proposed, however, that the right of initiating amendments should be accorded to the states, as a step toward the restoration of the Federal character of the Union. The equilibrium of the Constitution was gone in his opinion, and the conflict between the two great sections of the United States required basic changes in the system in order to bring about its preservation.

Therefore he proposed, for example, that the executive power be vested in two Presidents instead of one, to be selected in such way that they would represent the North and the South and exercise a mutual check on each other. One President might be charged with foreign relations and the other with domestic matters, the selection of function to be determined by lot. Sparta and Rome had dual executives and their governments showed great durability, while in England the chief executive, the King, had to be shorn of his power to avoid its becoming absolute; in turn, the executive power in England is exercised by a cabinet, a plurality of executive officials. Calhoun believed such a division of the executive authority would strengthen rather than weaken the bonds of Union. As constituted, the Presidential office was a source of discord between the sections, while if there were two Presidents, each faithfully representing his section, a basis of compromise and balance in the central government would be established and the North and the South would both feel secure under the Constitution. The veto power of each President would protect the section he represented, while the necessity of a two-thirds vote to overcome a veto would enable the South still to hold the balance, to some degree, in the government. But that would be true only if the South were sure of the veto in its share of the executive authority.

Conclusion. The desperate struggles on the battlefields of the Confederate War determined that the South should lose its argument. The new economic revolution developed a set of legal values, attached, to be sure, to the old Constitution, but nevertheless it became a new Constitution of a new order. Little more remained to be said of the prewar arguments over the position of the Southern minority in the Union, since the Northern numerical majority had won, and it did not propose to make concessions to the Southern claim to minority rights. The

supremacy of the Union was guaranteed from then on, but the South, though beaten, did not relinquish its desire to protect Southern interests. After the Northern troops were withdrawn from the South and Reconstruction was over, Southern members of Congress and the Senate began again, in milder form, to fight the old battle. By the solidity of the Democratic party in the South, by a tradition of long service in the national government, and by virtue of the seniority principle in positions of Congressional influence, the South has managed to have a greater degree of power in national politics than its numerical strength would indicate.

It should be remembered that even though the South lost the war, much has remained of the Constitutional protection of minorities; the Constitution still is in many senses a document which prevents the majority from having its way. The Supreme Court may declare state and national laws, approved by heavy majorities, unconstitutional; the electoral college gives the smaller states and weaker sections a power in the choice of a President they otherwise would not have; the equal representation of the Senate gives sectional interests a control, frequently, over what the country as a whole may want; and the necessity of a two-thirds vote in Congress and three-fourths of the states in the ratification of amendments still flavors of the idea of the concurrent majority. Extra-majorities in certain types of legislative action likewise give to the weaker sections an influence of great importance in the course of national affairs. Our democracy was not before the war, nor is it now, simply a question of the numerical majority, though to the ante-bellum mind what remains is far short of what would be a true application of the concurrent voice in government.

But if the Southern minority has been driven by force of arms to live with the rest of the Union and to surrender its dream of nationhood, there will be other minorities in the future that may turn again to the theory of minority protection. The barriers of the Constitution might be implemented by such devices as functional and proportional representation, the effect of which would be to strengthen the limitations on majority power already in our system. It is unlikely, of course, that the states as such could ever become again the spearhead of the battle line in defense of minority groups. There will be always groups in society who feel that a liberal and genuinely democratic government is one in which the existing minorities are offered generous protection; and those minorities can never acquiesce in the totalitarian theory that accepts either the domination of one class, such as the proletariat, or the unrestricted rulership of an irresponsible political oligarchy—whatever may be its name, its slogans, or its perfervid promises of the better day.

There may be, however, prophetic lessons in the defeat of the South as a conscious minority. Aristotle was unimpressed by the dazzling brilliance of the achievements of Alexander the Great; he turned away from its vista of profound historical consequence to the futile labor of trying to restore to its glory the exhausted city-states of Greece; Dante and Aquinas labored to restore and preserve an empire and a church of universal claims, and neither saw the true implications of the disorder around them and the force of the rising kingdoms; Bartolus of Sassoferrato could read the law of Justinian and apply it to the Holy Roman Empire, alive only in the thought of civilians, theologians, and poets. Swiss cantons in the nineteenth century that fought the process of centralization were defeated; and national unity, through blood and iron, was achieved in the United States, Germany, and Italy at nearly the same time. Calhoun and the other Southern thinkers failed to see the implications of social tides in their time. If they saw to what end their course was to lead, they, like Aristotle, struggled against forces that were greater than their tongues, their pens, or their Minié balls.

Selected Bibliography

Calhoun, John C.: *The Works of John C. Calhoun*, ed. by R. K. Crallé (6 vols., 1854–1860).

Carpenter, Jesse T.: *The South as a Conscious Minority, 1789–1861* (1930).

Carpenter, William S.: *The Development of American Political Thought* (1928).

Cash, W. J.: *The Mind of the South* (1941).

Coker, Francis W.: *Democracy, Liberty and Property* (1942).

Cole, A. C.: *The Irrepressible Conflict, 1850–1865* (1934).

Craven, A. O.: *The Coming of the Civil War* (1942).

Crenshaw, Ollinger: *The Slave States in the Presidential Election of 1860* (1945).

Davis, Jefferson: *The Rise and Fall of the Confederate Government* (2 vols., 1881).

Freeman, D. S.: *R. E. Lee: A Biography* (4 vols., 1934–1935).

Gabriel, Ralph H.: *The Course of American Democratic Thought* (1940).

Gettell, R. G.: *History of American Political Thought* (1928).

Irish, Marian D.: "The Southern One-Party System and National Politics," *The Journal of Politics*, IV (1942), 80*ff*.

Jacobson, J. M.: *The Development of American Political Thought* (1932).

Macdonald, William: *Select Documents Illustrative of the History of the United States, 1776–1861* (1897).

McElroy, Robert: *Jefferson Davis: The Unreal and the Real* (2 vols., 1937).

Merriam, Charles E.: *American Political Theories* (1903).

Parrington, V. L.: *Main Currents in American Thought* (3 vols., 1927–1930).

Patrick, R. W.: *Jefferson Davis and His Cabinet* (1944).

Randall, James G.: *The Civil War and Reconstruction* (1937).

Richardson, James D.: *A Compilation of the Messages and Papers of the Presidents, 1789–1897* (10 vols., 1897).

STEPHENS, ALEXANDER H.: *A Constitutional View of the Late War Between the States* (2 vols., 1868–1870).

STORY, JOSEPH: *Commentaries on the Constitution of the United States* (3 vols., 1833).

TUCKER, HENRY ST. GEORGE: *Commentaries on Blackstone* (1803).

UPSHUR, A. P.: *A Brief Inquiry into the True Nature and Character of Our Federal Government* (1840).

WILTSE, C. M.: *John C. Calhoun, Nationalist, 1782–1828* (1944).

WRIGHT, B. F.: *A Source Book of American Political Theory* (1929).

Chapter 9

THE EQUALITY OF RACES: THE SLAVERY QUESTION

> Slavery must fall, because it stands in direct hostility to all the grand movements, principles, and reforms of our age, because it stands in the way of an advancing world. One great idea stands out amidst the discoveries and improvements of modern times. It is, that man is not to exercise arbitrary, irresponsible power, over man.—William E. Channing.[1]

Race in American Politics. Much of the Southern insistence on its minority claims grew out of its defense of slavery and the treatment of the Negro in the South, just as in the North the sentiment of nationality was fanned by opposition to that Southern institution. No other argument between the sections so forced the intelligent to examine the fundamentals of political and social thought. Yet the discussion of slavery is the great intellectual tragedy of the South, for the argument advanced by the South was untenable and contrary to the evolution of modern life toward freedom and democracy. The South was completely out of step with the spirit of the age, and its writers labored in futility against the moral tradition of the West since the rise of the Stoic belief in equality, the Christian principle of brotherhood, and the modern statements of natural law and rights. The Southern case for racial inequality and slavery denied the whole development of the conscience of the West.

Broadly, we may assert that the slave issue was, with the Indian problem, the first attempt of the American people to face squarely the issue of race in political discussion. Many Americans held that the Indians were better dead than alive, and most of them likewise agreed that the Indians had to be moved from their lands east of the Mississippi to other areas in which they might lead the kind of life for which they were suited. Most agreed that the Indian was inferior to the white man; and until the energetic days of Reconstruction, it was generally held that the Negro was also inferior to the dominant race. The principle of equality extended, in practical politics, to the white races from Europe, and our immigration policy from the earliest days was predicated on such a community of equality. But race has always been a factor in American

[1] "Remarks on the Slavery Question, in a Letter to Jonathan Phillips, Esq." (1839).

politics, and it still is; we exclude orientals, except the Chinese, from the United States by denying them the right to become naturalized; we admit Europeans under a quota system that favors northern Europe against the southern Latin and Slavic nations; we favor Mexicans in our immigration policy, and also Canadians. Laws have been passed limiting the rights of orientals in Pacific Coast states, while many in the South seek to uphold part of the historic policy of restrictions against the Negro.

While Southern thinkers were denying the principle of equality in the Declaration of Independence, the North, before and during the war, was coming more and more to a strict affirmation of its ideas. Lincoln, it has been said, was one of the most influential of the leaders who revived the principles of 1776, and the Declaration was, indeed, the cornerstone of his political philosophy. The period of Reconstruction was in part an attempt to state in statutory and Constitutional terms the principles of racial equality that the triumphant North was willing to accept. Yet it must be borne in mind that even while slavery continued, the problem of the Negro in American life existed in the South as it does today; and in Northern states, where a process of gradual emancipation had been carried through, the contemporary problem of the Negro was taking shape. The abolition of slavery changed simply one aspect of that problem, and the Reconstruction amendments did not effectively grant to the Negro social and political equality. Emancipation made the Negro a national issue, with variant aspects in different sections of the country. With the migration of larger numbers of Negroes to the North, the active discussion of the rights of the Negro has devolved upon Negro leaders and progressive critics of inequality in American society.

The Thirteenth, Fourteenth, and Fifteenth Amendments to the Constitution, ratified in 1865, 1868, and 1870 respectively, constitute, with various congressional acts, the code designed to protect the Negro from social or political discrimination. While slavery has been abolished, there still remain conditions of labor in both the North and the South which, at least to left-wing minds, are little short of slavery. Though the civil and political rights of the Negro come under the protection of the Fourteenth Amendment, which assures them full American citizenship, that amendment has been of use frequently in the protection of the rights of corporate persons.

Phases of the Debate on Slavery. In the discussion of slavery there were significantly divergent levels of opinion. Those who were leaders in politics saw the problem in a different way from those who were merely philosophical or humanitarian in their thought. The political leaders of both North and South saw that the problem was not simply a

question of abolishing at one stroke the institution; the reformers, such as the abolitionists, were naturally perfectionist in theory. Philosophical minds, in turn, could see the advantages of a system of gradual emancipation that had worked successfully in the North. The North moved slowly but surely toward a revolutionary attitude on the return of slaves, and the people of the South gradually were convinced that they should go their own way. Therefore, a clear distinction must be made between what leaders in both the North and the South might have been willing to accept and what the people of the two sections would accept.

If the criticism of slavery led in the North to the development of humanitarian sentiments, such was not the case in the South. For in the South the defenders of slavery saw the problem as one phase of the whole issue of labor in modern society. One phase of the slavery argument was a comparison of the condition of slave and free labor, a comparison to which the humanitarian could see no point. In this respect, Southern arguments must be compared with other conservative arguments of the nineteenth century. For in that century in Europe there were heroic efforts on the part of conservative leaders to formulate a broad theory of society suitable to the preservation of as much as possible of the older social system. Curiously also, in both Europe and the United States the conservative effort lasted to about the same time. There is no evidence that Southern thinkers like Calhoun had any contact with contemporary conservatives in Europe, but their trend of thought, their rejection of the rising tide of liberal, social criticism, and their fear of socialism are much the same. In many ways Calhoun is like Burke, Hegel, and Stahl; there is little doubt that Southern thought would have been conservative without the institution of slavery, but having it, slavery colored and determined in large degree the course of its conservatism. The old order was a minority in both Europe and America, though it succeeded better in preserving itself in such countries as England and Germany than in France and the United States.[2]

Following this line of thought, it is appropriate to note that in the South the aristocratic and feudal theory of society came closer to realization than in any other social group in American history. In the South the aristocracy was a successful ruling class until the debacle of the war. The system of slavery which that ruling class defended established many of the same relationships which the defenders of European aristocracy praised in the declining feudal order. While there were no titles of nobility in Southern society, there was the substance of aristocratic power,

[2] See Gunnar Heckscher, "Calhoun's Idea of 'Concurrent Majority' and the Constitutional Theory of Hegel," *The American Political Science Review,* XXXIII (1939), 585*ff.*

at least in relation to the Negro directly, and indirectly in the influence of Southern leaders on the rest of their community.[3]

Economic Aspects of Slavery. It is argued that slavery itself was becoming increasingly uneconomical. Southern leaders admitted, for example, that there were many parts of the new territories of the United States in which slavery would not prove profitable. It was admitted that only under certain agricultural conditions could slavery be used with profit. This situation was not entirely due to the fact that the importation of slaves was prohibited and slaves were increasing in cost (the illicit slave trade itself continued down into the war period); the situation arose from the fact that free labor was really cheaper—*i.e.*, it could be exploited with less responsibility to the employer. An expensive slave, for instance, could not be used in dangerous occupations; whereas a free laborer, should he be killed or be sick, was no loss to the employer. It was cheaper to pay the wages by the day or the hour, and then let the worker go his way. In urging their own generosity, the Southern defenders pointed to the fact that the Northern manufacturers and those in England in the nineteenth century had made this discovery. Indeed, the immigration of cheap labor from Europe was much more profitable than owning Negroes. Likewise, since slaves involved a considerable investment in agricultural capital, it was natural that every effort should be made to get a return on the investment in as short a time as possible.

The South is the oldest agricultural section of the country; but aside from the normal depletion of the soil, it is probable that the slave system hastened the process by which the South's agricultural difficulties have become chronic. Yet even after the war the necessity of cash crops, owing to the poverty of the reconstructed South, has brought about a continuation of the same problem. Had the South won the war, there is little doubt that it would have had a serious agricultural problem just as it does today.[4] Richard Hildreth, a New England Federalist, wrote in 1854, a book called *Despotism in America: An Inquiry into the Nature, Results, and Legal Basis of the Slave-holding System in the United States.* This volume looks sanctimoniously on the exploitation of free labor, but it examines with more certain eye the economics of slavery.

> In free communities [Hildreth observed] where the laborers have their own labor at their own disposal, and where in consequence, they are ready to sell it, either by the day, the year, or the hour, in any quantities, that is, in which it may be needed, beside the fixed capital invested in lands, workshops, tools, ships,

[3] *Cf.* Werner Sombart, *The Quintessence of Capitalism,* trans. from the German (1915), p. 83.

[4] See *Report to the President on the Economic Condition of the South,* prepared by the National Emergency Council (1938).

steamboats, &c., there are required two separate portions of floating capital, one to be invested in the stock to be operated upon, and the other to be employed in paying the wages of labor. But no more labor need be paid for than is actually employed. Whenever a smaller quantity will answer, a portion of the laborers may be dismissed; whenever more is needed, more laborers may be employed.

But in a slave-holding community, in addition to these three portions of capital, another and a very large portion is required, in order to commence any industrious enterprise whatever; for though in such a community there is no payment of wages, yet a corresponding quantity of capital is necessary to furnish food, clothing, and medicines for the slaves. A fourth and additional portion of capital is also required, to be invested in *the purchase of laborers themselves,*—a necessity which constitutes a great obstacle in the way of all industrious enterprises.[5]

It is clear that Hildreth believed that any considerable use of capital in relation to labor would be a deterrent to industrial development; society is progressive if labor pays for it in low wages and time spent in unemployment. Turning to agriculture proper, Hildreth saw, from Southern sources, what was happening to the lands of the South.

If we may believe John Taylor of Caroline, the author of *Arator* [he observed], or Mr. Ruffin, the ingenious editor of the *Virginia Farmer's Register*, the best agricultural periodical ever published in the United States, agriculture in the South does not consist so much in cultivating land, as in killing it. The process is as follows.

A quantity of virgin soil, in those of the slave states in which any such soil is yet to be found, is cleared up every winter. The trees are cut down and burnt, or merely girdled, and left to decay and fall with the lapse of time. When tobacco is the crop, this fresh land is planted with tobacco each successive year till its fertility is exhausted. When it will no longer produce tobacco, it is planted with corn or wheat, till it will not afford a crop worth gathering. It is then *turned out,* that is, left unfenced and uncultivated, to grow up with thickets of sassafras or persimmon bushes, or with forests of the short-leaved pine,—a majestic tree in appearance, but the timber of which is subject to so rapid a decay as to be of little or no value.

In the cotton-growing states, corn and cotton are planted alternately, till the land is completely worn out. When its original fertility is exhausted, no further attempt is made at its cultivation. It is turned out, and the labor of the plantation is applied to new fields, which presently undergo a similar fate. Thus, every year, a certain quantity of land is given over as worthless, and new inroads are made upon the original forest. Agriculture becomes a continual process of opening new fields, and abandoning the old.[6]

[5] *Ibid.*, p. 119.

[6] *Ibid.*, p. 123. See Hinton R. Helper, *The Impending Crisis of the South* (1857), for a similar and savage attack on the South by a North Carolinian.

The conclusion is not difficult to reach that slavery would have disappeared in time, though the Negro problem would still have plagued the American people had there been a gradual emancipation of the slaves in the South.

The Place of the Bible. One other problem must be considered in relation to the general position of slavery and the Negro in the South. It has been customary to discuss the slave question from the standpoint of the more refined and forceful works written by intellectual leaders in both the North and the South. It may be surmised that only a portion of the population read such works, however important they may have been to the members of the ruling orders themselves. No one can deny the importance of the religious or Biblical interpretation of social problems during the period of the slavery debate; it was the time of the great religious revivals in the western sections of the country, and likewise the era of philosophical speculation of a religious nature in New England. To the Southern mind the passages in the Bible supporting the institution of slavery assumed a position of vast importance; it was the kind of an argument that any individual would understand and appreciate. But to accept such a view meant a belief in the literal wording of the Bible. Some have suggested that one of the reasons for the prevalence of religious fundamentalism in the South was the habit during the slave debate of quoting the words of the Bible in support of slavery.

Equally, it might be argued that the strong tendency of Northern religious leaders toward a figurative interpretation of the Scriptures arose from the necessity of avoiding the passages in the Bible which specifically supported the slaveholding argument. In the North religious philosophy turned toward a general interpretation of the spirit of Christianity, while in the South the habit grew of insisting upon the literal meaning of the Biblical passage. Such a general trend in religious thought would give immense support to the political and economic leaders, and it would assure the nonslave owner that the owners of slaves were justified in their position.

Even if the Southern farmer had no slaves, he was still faced with the problem of race relations, and he, no more than the slave owner, desired to admit that Negroes should be treated as equals of the whites. Hence, because of the assumption of race superiority he was compelled to support the slave institution and resist all attempts to alter materially the social system of the South. Southern Christians did not see any conflict between their race policy and the right of all persons, including the Negroes, to be saved. Indeed, one of the defenses of slavery was that the Negroes brought from Africa and made slaves in this country were in-

doctrinated with the Christian faith, and not a few slave owners made it a point to preach the Gospel to their Negroes.

The Development of Southern Thought on Slavery. Before we enter into an examination of the arguments supporting slavery and those condemning the institution, we should summarize a matter of no little importance. The Southern mind varied in its interpretation of slavery; the whole dispute on slavery developed in intensity during the nineteenth century until there was no meeting of minds between the slaveholding and nonslave states. During the first years of the nineteenth century proslave sentiment was inactive. There was a feeling that the question had been settled in the Constitutional Convention, and in the few instances in which the issue was raised on the floor of Congress the South was content to deny the jurisdiction of the national government over such a matter internal to the states. It should be observed, likewise, that the defense of slavery was in these times one of apology; a no inconsiderable volume of Southern opinion looked toward the abolition of the institution. Before the apologetic tone in relation to slavery could disappear, a greater agreement of slave-state opinion had to be reached. Part of the Southern apology was that Great Britain had introduced slavery into the colonies, and the states had inherited the problem. The colonies, they said, had been prevented from checking the growth of slavery when they desired to.

With some force Southern defenders in the early stages of the argument pointed to the profits made by the Northern states from the slave trade, and claimed that the North had not become critical of Southern policies until it was no longer able to make money out of the slave system. The South must be given time, it was asserted, in which to work out its own problem. Southern thinkers also urged that the climate and the character of Southern agriculture made slavery a necessity; the white man was not fitted for field work under the conditions of southern climate, whereas the Negro did not suffer under such circumstances. Without slavery the South could not have been developed. Furthermore, the Negroes are an inferior race. In order to avoid conflict between the superior and inferior races, the Negro had to be definitely subordinated to the white man, the institution of slavery being the most suitable way of achieving this end. Southerners also insisted that the slave question was a local issue which concerned no one but the slaveholder himself.

During the twenties, as Jenkins points out, the positive defense of slavery took shape. The primary type of argument at this time was that the Bible sanctioned slavery; if the Scripture approved, how could the institution be a moral evil? Turning to history, the Southerners found that slavery had existed immemorially, and the South, therefore, was

doing nothing not sanctioned by enduring and widespread historical precedent. Likewise, what we today would call a sociological argument began to develop in connection with studies of communities where the Negro had been emancipated, as in the West Indies; in studies of the place of the free Negro in society; and in studies showing that the condition of free labor in industrial society was not as good as Negro labor under the slave system. Slavery was, therefore, a positive good, which must not be sacrificed because of Northern misunderstanding and meddling.

The thirties brought a changed atmosphere, for in this time the abolitionist movement was launched and the uncompromising critics of slavery were becoming an increasing force in Northern politics—let us say in spite of the resistance of the majority of the people, who seemed to have little desire to discuss the troubling question of the justice or injustice of slavery. Abolitionists became martyrs at the hands of the people of the North, and abolitionism was thoroughly disreputable. But this was the time of the systematic development of the proslave case. Churches were led to formulate the principles of moral philosophy in accordance with slavery, and scientists endeavored to show that the Negro should occupy an inferior position in society. In addition, economists and sociologists began to describe the functional aspects of slavery, both in domestic and world economy. But the development of the defense of slavery produced a strong wish to perpetuate the institution, and an attempt to expand the territory in which slavery was legally established. "The course of pro-slavery theory takes us from the apologist of the early period to the propagandist of slavery, from an attitude of passivity to one of militancy, from toleration to glorification of the institution." [7]

If there was a changing emphasis in the long debate on slavery in the United States, it is also true that from colonial days the outlines of the debate were made quite clear. Among the eighteenth-century Puritans there were those who felt the injustice of slavery, although others defended it as a beneficial institution. The Quakers developed more rapidly than others the religious opposition to slavery, feeling that the "Golden Rule" was inconsistent with the institution; although they condemned slavery early, they were slower in insisting that no Quaker could be an owner of slaves. It is easy to forget, likewise, that the leaders and thinkers of the Revolutionary era were quite cognizant of the problem raised by the principle of equality in the Declaration of Independence. Jefferson wished to insert in that document, as one of the crimes of the

[7] William Sumner Jenkins, *Pro-slavery Thought in the Old South* (1935), p. 106; see pp. 104–106. By permission of the University of North Carolina Press. Copyright, 1935, by the University of North Carolina Press.

King of England, that he had supported the slave trade; Jefferson's early abolitionism was not soon forgotten by slavery supporters in the South, and in 1800 many were opposed to him on this ground. Jefferson, they said, had become a victim of French speculative ideas and was a theorist dangerous to the South. On the other hand, as early as 1792 the doctrine of the state of nature had asserted the social nature of human beings. During the Revolution the Tories taunted the rebels with holding slaves while at the same time they asserted the equality of men and the existence of the rights of nature. Although Southern leaders were extremely sensitive to attacks on slavery, they did not assert that it was a positive good; it was not until 1829 that Congressman Weems of Maryland, a slaveholder, told of his belief in the justice of the institution.[8] The later argument had simply to present in more systematic form the defense of slavery and develop new techniques for its protection under the American system.

The Institutional Character of Slavery. One important aspect of the debate on slavery was the nature of the institution. On the one hand, the opponents of slavery pictured it as an arbitrary despotism over the blacks, while to the Southern defender it was simply a system under which the slave gave to his master his entire labor, in return for which he was sustained throughout life. Like most serious debates bearing on politics, it was impossible for the opposing sides to agree on a statement of the nature of slavery. In the Southern mind, the master had certain property rights in the labor or services of the slave. Other rights associated with life, marriage, and religion the slave retained, so far as they were consistent with his duties to the master; but the master himself was deemed to be under obligations to respect the rights of the slave over which he had no legal control. Such an argument was, of course, of particular value in the discussion of the religion of the slave, since the institution was held not to interfere with the salvation of his soul. Nor was it necessary to argue that the slave had consented to the relation or status of being a slave.

At least in the earlier years of slavery it was clearly recognized that there was a reciprocal bond between the master and the slave, since the master had duties toward the slave as well as the slave toward the master. The slave relation could be either compared with a contractual relation or with a status occupied by the Negro. Yet the relation of submission was characteristic of all civil society, and some defenders of slavery held that the institution was implied in the very structure of all civil government. But if slavery inheres, as a principle of order, in civil government,

[8] *Ibid.*, p. 79.

thinkers might reject the pure consent theory of the state and return to the organic concept of the Greeks. Or they might try, alternatively, to reconcile slavery with natural law, returning in fact to the Romans and the early fathers of international law, such as Grotius. Most Southerners, indeed, felt it better to reject the theory of natural rights presented by the abolitionists, for asserting the naturalness of the social tie is easier than trying to meet the vaguer argument that all men have certain rights in society, against which that society is estopped from moving.

If, to the Southern mind, slavery was an essential institution of government, sanctioned either by a reasonable philosophy of the state or by the older doctrines of natural law as related to international law, there was still opportunity for wide diversity of thought in stating the relation of slavery to government. It might be urged, for example, that slavery was an institution, the details of which were regulated by statutory law; but this was an argument which fell rather completely into the view of the emancipators and the abolitionists. Hence, it was a more plausible position to urge that the national government, for instance, had a positive obligation to protect the institution in its national aspects, while the states defined the obligations of the Negro under their own statutes. However, the proslave argument was broader than the provisions of the Constitution and their interpretation. If the North began to consider slavery inconsistent with republican government guaranteed to the states under the Constitution, the South in turn insisted that the best type of republican government was that of the slave system. Not only did such a system make the white people really equal in society, but it was also a conservative influence against the rising tide of "isms" drifting in from Europe.

The Christian Argument. For us the moral argument on the nature of slavery is more important, since we recognize that political policies and provisions in constitutions change their meaning and that the old meaning or significance can hardly be restored. The first defense of slavery on moral grounds was taken from the Bible, and as we have suggested, it was probably the most important of all the arguments advanced on its behalf. Not only were the passages in the Old Testament which supported slavery cited and discussed, but those passages in the New Testament, particularly the Pauline approval of slavery, were used repeatedly. St. Paul admonishes the bondmen to be obedient to their masters, not only because of fear but also because of conscience. For example, in the Epistle to Titus (II: 9–10) St. Paul declares: "Exhort servants to be obedient unto their own masters, and to please them well in all things; not answering again; not purloining but shewing all good fidelity; that they may adorn the doctrine of God our saviour in all things." Southern writ-

ers particularly discussed the Epistle to Philemon, a noble citizen of Colossa, whose slave Onesimus had robbed him and run away. The slave came in contact with St. Paul, who converted him to Christianity and, with his epistle, returned him to his master, asking that mercy be shown him. Southern churchmen came to the view that it was not the function of Christianity to abolish the slave institution; rather, it had specific duties to instruct the master in his obligations to the slave and the slave himself in the path of salvation.

On the other side of the Biblical argument, the Northern thinkers, such as Wayland and Channing (whom we shall consider shortly), denied that "servant" in the New Testament means slave, meaning rather simply a hired servant. Polygamy was tied with slavery in the argument, and it was argued that if polygamy, once approved by God, no longer had any validity in Christianity, slavery did not either. The South replied that polygamy was condemned in the New Testament while slavery was not. But the chief problem centered on the general spirit of Christianity, for the Northern moralists urged that we could not do unto others as we would have them do unto us without denying the principle of slavery; one could not love his neighbor as himself and support the slave institution. From the spirit of Christianity the moral rights of each personality were deduced, and these were urged as in contradiction with the rights of the master that are necessary if the institution of slavery is to exist.

Ethnology: Science and Religion. Somewhat at odds with the Christian–moralist defense of slavery was the ethnological argument. It was assumed by the slaveholder from the outset of American history that the Negro was inferior; he belonged to an inferior race, and his condition of slavery was in accordance with his inferiority. The study of races and their development was, therefore, an effort to document the proposition that the Negro is inferior. Such men as Jefferson believed the Negro inferior and incapable of the higher levels of civilization. What historical data was available, the South contended, showed that the Negro had always occupied a position of inferiority; and when freed, as in Haiti and Santo Domingo, Negroes had lapsed into a state of barbarism. The free Negroes in the United States, according to Dew, were the most indolent and worthless elements of the population. Likewise, an effort was made to show by physiological differences that the Negro was inferior, or that he could stand the Southern heat better than the white man because of his physical construction.[9] The natural suitableness of the Negro for slavery was accepted throughout slaveholder society; it was believed

[9] See Jenkins, *op. cit.*, p. 250.

that nature had decreed that the Negro should occupy such a position.

But Christians who believed the Negro inferior were faced with the problem of the Biblical account of the origin of races, which traces man back to Adam and Eve and their descendants. The human race would seem to be of a single origin. Thus the theologians attempted to explain the divergence of the human race into different types, some claiming the Negro to be a special work of God, while others saw the origin of races in the three sons of Noah. In the meantime, scientific or empirical work on the races of mankind had been progressing, and Southern thinkers took up the evidence for a plural origin of the human genus. The science of ethnology was little concerned with the Biblical account of the origin of man. Dr. Josiah Clark Nott, a physician who had practiced medicine among the Negroes in Alabama, came to the conclusion that the Negro was a separate species from the white men. At first such views were bitterly criticized by the theologians, but by 1850 the ethnological argument began to have its effect generally throughout the more educated sections of the South. Darwin published his work, *The Origin of Species,* too late to be of use in the proslave argument, yet the first reaction of Dr. Nott was to reject Darwin, since he did not affirm the permanence of racial types. Finally, he concluded that even if Darwin and others were correct, the length of time required for the change of basic types was so long that it would not seriously modify his analysis of the Negro race.

In the slavery discussion of the South the conflict between science and religion had, therefore, appeared. Churchmen felt that the authority of the Bible and the work of the Church were endangered by those who asserted that the human race has a diverse origin and that the different types of men remain the same. Religious thinkers were inclined to urge the advance the Negro had made under slavery, while the ethnologists countered by denying that any progress had been made. What standards should be used in establishing the morality of slavery? Should the revealed law be used? or should it be asserted that there is no conflict between the morality of the Bible and the standards deduced from a scientific investigation of the nature of races?

Mud-sill and Aristocracy. When the defenders of slavery turned to the structure of society, they were faced with another series of problems. In the first place, they approved of a distinction between classes such as was represented by the institution of slavery. The whites were the upper class, while the menial tasks of society were performed by those best suited for them. Equality existed between the whites, though it was not denied that distinctions were to be found. As Governor Hammond expressed it in the United States Senate in 1848:

In all social systems there must be a class to do the menial duties, to perform the drudgery of life. That is, a class requiring but a low order of intellect and but little skill. Its requisites are vigor, docility, fidelity. Such a class you must have or you would not have that other class which leads progress, civilization, and refinement. It constitutes the very mud-sill of society and of political government; and you might as well attempt to build a house in the air, as to build either the one or the other, except on this mud-sill. Fortunately, for the South, she found a race adapted to that purpose to her hand. . . . We use them for our purpose and call them slaves.[10]

But such an aristocratic division of society as between the free class and the slave class did not destroy the possibility of liberty, for the spirit of liberty was born in republics where the slave system prevailed, notably in Greece and Rome. One basic reason for the spirit of liberty in such a society was that all members felt a common interest in the security of property, and jealousy between the rich and the poor among the whites was eliminated. To so identify the elements of the white population made it proper that the suffrage should be widely extended, since the propertyless whites would not seek to confiscate the wealth held by others in society.

Beyond this, however, Southern thought proceeded to a justification of slavery upon an analysis of the relation of capital and labor. In slave society, it was believed, there was a perfect reconciliation between the otherwise conflicting elements of labor and capital. To the South, the slave system was a labor system, a fact which was steadily denied by opponents in the North, especially when Southerners insisted on comparing the condition of free labor in industrial society with the condition of the slaves in the South. If slavery established a perfect coordination between the factors of production, it also gave to the slave many advantages that the free laborer did not have. The slave had what today we would call "social security," while the worker, with his hands to sell in whatever market presented itself, was always the victim of the uncertainties of a defective relationship between the factors in production.

The South was particularly proud of the fact that it did not have the radical movements which, in the middle of the nineteenth century, began to disturb the Northern conservatives. It was during this time that the socialistic idea, fermented in the revolutionary movement in France and other European countries, began to invade the United States. Utopian socialism, for example, found advocates among leading Northern thinkers. The South was free of these reform theories, which were regarded as

[10] *Congressional Globe,* 35th Congress, 1st Session, Appendix, p. 71. Cited in Jenkins, *op. cit.,* p. 286.

dangerous to the institution of property and the orderly conduct of government. The South was free of the isms which might, in free society, bring about the overthrow of the whole social system. Yet slavery did away with free competition, one of the aims of the socialists; however, in socialism no provision was made for a controlling force in the association of labor for the common good. To Jefferson Davis, the European socialists corresponded to the abolitionists, for they had a common attitude toward property. The abolitionists would destroy one form of property, while the European radicals would destroy another. But should the attack on the property of the South be carried to its logical conclusion, the property of the North would be equally endangered.[11]

Thomas R. Dew. We must now turn to a more specific examination of certain writers on the slavery question. One of the earliest discussions in defense of the mature slave system was by Professor Thomas R. Dew of William and Mary College, who wrote in 1832 a *Review of the Debates in the Virginia Legislature of 1831 and 1832.* Much of the system of argument that was to come into general use was presented in this discussion. Let us meet the abolitionist argument, said Dew, without fear, for the truth is on our side. He noted that slavery was sanctioned by God among his chosen people, and that God even permitted his chosen people to be carried off in bondage. In fact, as soon as private property is established slavery begins, and with the institution of slavery the cruelty of war begins to diminish. Dew returned to Grotius and other writers on the law of nations in support of his contention that slavery is just. Prisoners might be killed in war, but by slavery their lives are spared; Pufendorf, for example, came to the conclusion that slavery had been established "by the free consent of the opposing parties."

However, on a higher plane our author suggested that the work of God is shown in the history and institutions of man, and that what one may

[11] In discussing the influence of Carlyle on the South, Jenkins remarks: "The influence of Carlyle became pronounced upon the thought of Southern people from the time of earliest edition of *Sartor Resartus* (1833). Later his *Past and Present* (1843) and his *Latter Day Pamphlets* (1850) had a widespread influence upon the slaveholder. His essay on the West India emancipation, *Occasional Discourse on the Nigger Question,* published in *Frazer's Magazine* (December, 1849), did most to establish him in the Southern mind as an advocate of their form of society. Beverley Tucker was so impressed with the likeness between Carlyle's ideas and his own that he sent him a copy of his *Lectures,* which led to a brief correspondence and a consequent interchange of political ideas between them. Fitzhugh thought that Aristotle's *Politics* and 'the *Latter Day Pamphlets* of Mr. Carlyle, furnish the best refutations of socialism and abolition. They should both be text books in all our colleges.'" Jenkins, *Pro-slavery Thought in the Old South* (1935), p. 305. By permission of the University of North Carolina Press. Copyright, 1935, by the University of North Carolina Press.

observe of his work indicates the benevolence of his design and his desire for the happiness of men. Let us inquire, he said, into the design of God in permitting the establishment of slavery, and what useful purpose it may serve in the history of man. Dew affirmed without hesitation that slavery had been one of the principal causes impelling mankind toward civilization; without slavery, society would have remained in barbarism and wretchedness. If one inquires into the past history of liberty, he will find that the spirit of liberty was fiercest in the republics of Greece and Rome, and in these societies there were more slaves than freemen. Liberty also in modern times has been most ardently desired in slaveholding communities; the Southern states have been more attached to liberty than the North. As Burke declared: "These people of southern [American] colonies are much more strongly, and with a higher and more stubborn spirit, attached to liberty, than those of the northward." But one of the most significant causes of this spirit is the perfect equality which exists among the whites in the South. All whites have been brought as nearly as can be desired to a common level, and since the blacks perform the menial tasks of society the greatest cause of distinction has been removed by the institution of slavery.

John C. Calhoun. John C. Calhoun was one of the ablest of the defenders of slavery. He asserted that slavery was in no sense an evil; it was a positive good, both for the Negroes and for the whites. Before the United States Senate in 1837 he proclaimed that never had the black race attained to so high a level of civilization as under slavery; physically, morally, and intellectually the Negroes were better off. Nor were the white people of the South less worthy than their brethren of the North; the one phase of life in which the South was behind was in the art of making money, and there Calhoun admitted the inequality of the South with the North.

> But I take higher ground [said Calhoun]. I hold that in the present state of civilization, where two races of different origin, and distinguished by color, and other physical differences, as well as intellectual, are brought together, the relation now existing in the slaveholding States between the two, is, instead of an evil, a good—a positive good. . . . I hold then, that there never has yet existed a wealthy and civilized society in which one portion of the community did not, in point of fact, live on the labor of the other. . . . This is not the proper occasion, but if it were, it would not be difficult to trace the various devices by which the wealth of all civilized communities has been so unequally divided, and to show by what means so small a share has been allotted to those by whose labor it was produced, and so large a share given to the nonproducing classes. The devices are almost innumerable, from the brute force and gross superstition of ancient times, to the subtle and artful fiscal contrivances of

modern. I might well challenge a comparison between them and the more direct, simple, and patriarchal mode by which the labor of the African race, is, among us, commanded by the European. I may say with truth, that in few countries so much is left to the share of the laborer, and so little exacted from him, or where there is more kind attention paid to him in sickness or infirmities of age. Compare his condition with the tenants of the poor houses in the more civilized portions of Europe—look at the sick, and the old and infirm slave, on one hand, in the midst of his family and friends, under the kind superintending care of his master and mistress, and compare it with the forlorn and wretched condition of the pauper in the poor house. But I will not dwell on this aspect of the question; I turn to the political; and here I fearlessly assert that the existing relation between the two races in the South, against which these blind fanatics [the abolitionists] are waging war, forms the most solid and durable foundation on which to rear free and stable political institutions. It is useless to disguise the fact. There is and always has been in an advanced stage of wealth and civilization, a conflict between labor and capital. The condition of society in the South exempts us from the disorders and dangers resulting from this conflict; and which explains why it is that the political condition of the slaveholding States has been so much more stable and quiet than that of the North. The advantages of the former, in this respect, will become more and more manifest if left undisturbed by interference from without, as the country advances in wealth and numbers. . . . Be assured that emancipation itself would not satisfy these fanatics:—that gained, the next step would be to raise the negroes to a social and political equality with the whites; and that being effected, we would soon find the present condition of the two races reversed. They and their northern allies would be the masters, and we the slaves; the condition of the white race in the British West India Islands, bad as it is, would be happiness to ours. There the mother country is interested in sustaining the supremacy of the European race. It is true that the authority of the former master is destroyed, but the African will there still be a slave, not to individuals but to the community,—forced to labor, not by the authority of the overseer, but by the bayonet of the soldiery and the rod of the civil magistrate.[12]

In the following year Calhoun returned to the same arguments, insisting that the South was becoming the great conservative influence in the political system of the United States. This conservative position, he urged, was the natural condition of the South, and it will long continue to preserve the free institutions of the United States.

But what Calhoun perhaps did not see was that even with the abolition of slavery the race situation in the South would continue to be a source of Southern conservatism, enabling the Southern mind to resist longer the infiltration of the ideologies that were feared even before the end of slavery. However, Calhoun did envisage the Negro on two levels. He saw slavery as a solution of the relation of capital and labor, and

[12] Calhoun, *Works*, ed. by R. K. Crallé, Vol. II, pp. 630*ff*.

as an answer to the race question in politics, whatever might be the system of labor. If the South did not save the institution of slavery, it did resist effectively the attempt on the part of the North to establish a social equality between the white and the black. And that still is one of the smoldering issues of American politics.

We have already seen that Southern thought returned to the Greek conception of an organic state, a society which was superior to individuals and which defined their liberty in the interest of the common good.[13] Deep in the core of Southern thought, therefore, there was a denial of the rising principle of *laissez faire,* and of the idea of free competition. It can hardly be said that the South generally worked out this set of implications of its defense of slave society, but certain writers saw the problem in rather well-rounded contours. What Southern writers predicted was the failure of the new capitalism that was coming to dominate the North.

George Fitzhugh. One such Southern writer was George Fitzhugh, a Virginian, who wrote in 1854 a volume called *Sociology for the South: or, The Failure of Free Society.* This work was followed in 1857 by *Cannibals All! or, Slaves Without Masters.* In rejecting the social-contract theory, he declared that man is born a member of society. Whatever rights a man has are subordinate to the good of the whole. Government comes from the consent of society, but society is instead a work of nature, and government a creature of society for its regulation. In free society the principle of competition is accepted, the system of war and conflict; but in slave society competition is rejected for peace and fraternity. In free society the worker is denied sufficient means to maintain himself and his family; the competitive principle imposes harsh burdens on the poorer classes. However, under slavery the slave is relieved of the multitude of cares oppressing the free worker; slavery is, indeed, the very best form of socialism.

Squarely facing the axioms of liberal economics, Fitzhugh denied that "the world is too much governed." As wealth is produced and enlightenment is attained, there is an increasing need for government; as civilization advances, liberty recedes. The world needs government and plenty of it, not liberty. Under the free system, as in England, the classes face each other antagonistically, while slavery identifies the interests of rich and poor. In the North the constant arrival of immigrants makes the

[13] Speaking of Aristotle, Fitzhugh said: "To our surprise, we found that our theory of the origin of society was identical with his, and that we had employed not only the same illustrations, but the very same words. We saw at once that the true vindication of slavery must be founded on his theory of man's social nature, as opposed to Locke's theory of the social contract." George Fitzhugh, *Cannibals All! or, Slaves Without Masters* (1857), p. 21.

condition of labor precarious, and thus socialism and every other heresy is invoked to make war on existing institutions. Some form of slavery alone can give the worker security, and it is toward slavery the North and all Western Europe are unconsciously marching. The master evil they all complain of is free competition—which is another name for liberty. Let them remove that evil, and they will find themselves slaves, with all the advantages and disadvantages of slavery. They will have attained association of labor, for slavery produces association of labor, and is one of the ends all communists and socialists desire. Fitzhugh declared that his only quarrel with socialism is that it will not admit that it owes its recent revival to the failure of universal liberty, to the flight from freedom.[14]

A point of no little importance in the argument we are considering is that Fitzhugh could not admit any economic limitation on slavery as a social institution. He had, logically, to extend the principle of slave labor to manufacturing; he suggested that, but for the interference of the abolitionists, the condition of the South economically would have been greatly improved. The South has had too much agriculture; it should diversify its economic pursuits and make itself independent of the North; but with the slave system it should be easily organized. He suggested some of the implications of present-day theories of planned society. In the planned society men would have to do the things they are told to do; there would be no economic freedom save as the state allowed it.

Fitzhugh felt no compunctions about denying the validity of the Declaration of Independene and the Virginia bill of rights. These documents speak the sophistry of political philosophy so common in the eighteenth century. To him the a priori reasoning of the minds of such men as More, Locke, Jefferson, and others could not compare with the political value of institutions established for lengthy periods of time. With the wisdom of the twentieth-century political scientist, Fitzhugh argues that a constitution is not a written document, but the *modus operandi* of institutions which arises from political experience. In the United States we are moving toward a time in which the a priori constitution will be unobserved, while the real constitution [the present unwritten constitution] will be the practical operation of our institutions. The abstract doctrines of nullification and secession, the general principles laid down in the Declaration of Independence, the Bill of Rights, and the Constitution of the United States afford no protection of rights, no valid limitations of power, no security to state rights. The power to

[14] In addition, he argued, abolitionism denied government and property, and ultimately became a defense of free love.

construe them is the power to nullify them. Mere paper guarantees, like the constitutions of Abbé Sieyès, are as worthless as the paper on which they are written.[15]

The Condemnation of Slavery. Let us turn to the argument against slavery. It is the argument which, in form at least, triumphed with the defeat of the South in 1865. It is an argument which became part of our national theory of democracy, and which played a role of no little importance in stimulating the American feeling of nationalism. The argument against slavery was pitched in three keys. There were those who felt that the slave question was more important than any other, and who demanded at all costs the immediate destruction of slavery. These thinkers, without too much distinction as to shades of thought, may be called the abolitionists. Then there were the political leaders, like Lincoln, who wanted to avoid the difficult issue as long as possible, and who because of their practical experience in governing saw the issue as extremely complex, not simply as a moral issue. The intellectuals, like Channing, on the other hand, had some appreciation of the broad problems presented by a continuing governing order, and although they opposed slavery, they were, in general, willing to accept the fact that sudden and absolute emancipation might create social problems outside of the vision of the abolitionists.

William Lloyd Garrison. William Lloyd Garrison was the most passionate of the radical abolitionists. The establishment of the *Liberator* marked the real commencement of the antislavery crusade that came just as the slave system was reaching its limit of territorial expansion and political and social maturity. In his declaration of principles Garrison stated on January 1, 1831:

> Assenting to the "self-evident" truths maintained in the American Declaration of Independence, "that all men are created equal, and endowed by their Creator with certain inalienable rights—among which are, life, liberty, and the pursuit of happiness," I shall strenuously contend for the immediate enfranchisement of our slave population. In Park Street Church, on the Fourth of July, 1829, in an address on slavery, I unreflectingly assented to the popular but pernicious doctrine of gradual abolition. I seize this opportunity to make a full and unequivocal recantation, and thus publicly to ask pardon of my God, of my country, and of my brethren, the poor slaves, for having uttered a sentiment so full of timidity, injustice and absurdity. A similar recantation, from my pen, was published in the "Genius of Universal Emancipation," at Baltimore, in September, 1829. My conscience is now satisfied.[16]

[15] See also Albert T. Bledsoe, *An Essay on Liberty and Slavery* (1856).

[16] See *Selections from the Writings and Speeches of William Lloyd Garrison* (1852), pp. 62*ff*.

In 1833 another memorable document of the abolitionist crusade appeared in the "Declaration of Sentiments of the American Anti-slavery Convention." This document presents the arguments for the immediate freeing of the slaves. The Philadelphia meeting reaffirmed the ideas of the American Declaration of Independence, believing apparently that emancipation would complete the application of those principles in American life. Theirs, they said, was the potency of truth against error; of moral purity against moral corruption.

> Hence, we maintain—that, in view of the civil and religious privileges of this nation, the guilt of its oppression is unequalled by any other on the face of the earth; and, therefore, that it is bound to repent instantly, to undo the heavy burdens, and to let the oppressed go free. . . . That all those laws which are now in force, admitting the right of slavery, are therefore, before God, utterly null and void; being an audacious usurpation of the Divine prerogative, a daring infringement on the law of nature, a base overthrow of the foundations of the social compact, a complete extinction of all the relations, endearments and obligations of mankind, and a presumptuous transgression of all the holy commandments; and that therefore they ought instantly to be abrogated. . . . We maintain that no compensation should be given to the planters emancipating their slaves. . . . We fully and unanimously recognise the sovereignty of each State, to legislate exclusively on the subject of the slavery which is tolerated within its limits; we concede that Congress, under the present national compact, has no right to interfere with any of the slave States, in relation to this momentous subject: But we maintain that Congress has a right, and is solemnly bound, to suppress the domestic slave trade between the several States, and to abolish slavery in those portions of our territory which the Constitution has placed under its exclusive jurisdiction.[17]

On the other hand, the abolitionists called upon the people to use the means provided in the Constitution for the destruction of slavery, presumably referring to the possibility of a Constitutional amendment.

Abraham Lincoln. The views of Abraham Lincoln come as close as any to expressing the views of Northern political leaders on the question of slavery. Early in life Lincoln was opposed to slavery, but he was never an abolitionist. He did, however, desire to see slavery confined to the existing slave states. In other words, he did not want slavery extended to the territories, and he had little sympathy for the slaveholders who adopted imperialistic views in order to extend the domain of slavery. Like the abolitionists, he would use the power of Congress over the territories in order that they might remain free soil. No doubt, behind much of the free-soil sentiment was the fear that free labor could not compete

[17] *Ibid.*, pp. 66*ff*.

with slave enterprises, thus reversing a fear of some of the Southerners that the slave system could not compete in the territories with the free system.

When Southern people tell us [said Lincoln at Peoria in 1854] they are no more responsible for the origin of slavery than we are, I acknowledge the fact. When it is said that the institution exists and that it is very difficult to get rid of it in any satisfactory way, I can understand and appreciate the saying. I surely will not blame them for not doing what I should not know how to do myself. If all earthly power were given me, I should not know what to do as to the existing institution. My first impulse would be to free all the slaves, and send them to Liberia, to their own native land. But a moment's reflection would convince me that whatever of high hope (as I think there is) there may be in this in the long run, its sudden execution is impossible. If they were all landed there in a day, they would all perish in the next ten days; and there are not surplus shipping and surplus money enough to carry them there in many times ten days. What then? Free them all, and keep them among us as underlings? Is it quite certain that this betters their condition? I think I would not hold one in slavery at any rate, yet the point is not clear enough for me to denounce people upon. What next? Free them, and make them politically and socially our equals? My own feelings will not admit of this, and if mine would, we well know that those of the great mass of whites will not. Whether this feeling accords with justice and sound judgment is not the sole question, if indeed it is any part of it. A universal feeling, whether well or ill founded, cannot be safely disregarded. We cannot then make them equals. It does seem to me that systems of gradual emancipation might be adopted, but for their tardiness in this I will not undertake to judge our brethren of the South.[18]

But all of this, pursued Lincoln, does not justify the extension of slavery to the territories, nor the reopening of the African slave trade. In reply to Senator Douglas, Lincoln urged that local self-government was not an appropriate argument when it concerned slavery in a territory, or more specifically the problem of Nebraska. The doctrine of self-government is eternally right, but it has no application here; to permit the introduction of slavery is to deny the principle of self-government itself. "What I do say," said Lincoln, "is that no man is good enough to govern another man without that other's consent."[19] However, Lincoln was clear that to save the Union he would permit the extension of slavery to the territories, were that necessary.

The guiding light in Lincoln's political philosophy was the Declaration of Independence; therefore, the restricted interpretation of it given by

[18] See *The Complete Works of Abraham Lincoln*, ed. by J. G. Nicolay and John Hay (1894), Vol. II, pp. 186*ff*.

[19] *Ibid.*, p. 228.

Chief Justice Taney in the Dred Scott case required an answer. The Declaration was, he thought, for future use, since it had no immediate value in bringing about our separation from Great Britain.

I think the authors of that notable instrument intended to include *all* men, but they did not intend to declare all men equal *in all respects*. They did not mean to say all were equal in color, size, intellect, moral developments, or social capacity. They defined with tolerable distinctness in what respects they did consider all men created equal—equal with "certain inalienable rights, among which are life, liberty, and the pursuit of happiness." This they said, and this they meant. They did not mean to assert the obvious untruth that all were then actually enjoying that equality, nor yet that they were about to confer it immediately upon them. In fact, they had no power to confer such a boon. They meant simply to declare the right, so that enforcement of it might follow as fast as circumstances should permit.[20]

Because Lincoln opposed the extension of slavery to the territories, Judge Douglas was able to argue that he favored the general consolidation of all local institutions of government under national authority. In meeting this argument Lincoln was forced to argue that the slave question was more than a question of self-government, for it was a great moral issue that stood above the specific rights of local governments such as the states. Neither the North nor the South wanted a destruction of local authority, but people were beginning to be sure that they did not want slavery extended to the territories, and they were sure that in the end, in some way or other, they wanted the institution of slavery to be destroyed. In 1858, in a speech at Chicago, Lincoln said:

How is it, then, that Judge Douglas infers, because I hope to see slavery put where the public mind shall rest in the belief that it is in the course of ultimate extinction, that I am in favor of Illinois going over and interfering with the cranberry laws of Indiana? What can authorize him to draw any such inference? I suppose there might be one thing that at least enabled him to draw such an inference that would not be true with me or many others; that is, because he looks upon all this matter of slavery as an exceedingly little thing—this matter of keeping one sixth of the population of the whole nation in a state of oppression and tyranny unequaled in the world. He looks upon it as being an exceedingly little thing, only equal to the question of the cranberry laws of Indiana—as something having no moral question in it—as something on a par with the question of whether a man shall pasture his land with cattle or plant it with tobacco—so little and so small a thing that he concludes, if I could desire that anything should be done to bring about the ultimate extinction of that little thing, I must be in favor of bringing about an amalgamation of all the other little things in the Union. Now, it so happens—and there, I presume, is

[20] Speech at Springfield, June 27, 1857. *Ibid.*, pp. 330–331.

the foundation of this mistake—that the judge thinks thus; and it so happens that there is a vast portion of the American people that do not look upon that matter as being this very little thing. They look upon it as a vast moral evil; they can prove it as such by the writings of those who gave us the blessings of liberty which we enjoy, and that they so looked upon it, and not as an evil merely confining itself to the States where it is situated; and while we agree that, by the Constitution we assented to, in the States where it exists we have no right to interfere with it, because it is in the Constitution, we are by both duty and inclination to stick by that Constitution in all its letter and spirit from beginning to end.[21]

Wayland and Channing. In 1835 Francis Wayland and William E. Channing published, from the standpoint of moral philosophy, their attacks on slavery. The moral criticism of the Southern institution reached its height in the work of these two Northern divines, and their work is of profound significance in dividing the Christian thought of the United States on slavery. Wayland's *The Elements of Moral Science* declares that every human being is complete in himself and responsible only to God for the use of his body and mind as a moral person. The master of the slave is an odious tyrant and arrogates to himself the authority of God. The basis of society is to be found in the mutual consent of individuals, so that each may promote his own happiness in so far as he does not injure others. Domestic slavery is the common violation in the United States of the principle of personal liberty, and the happiness of the slave is extinguished in competition with the happiness of the master. Slavery thus violates the personal liberty of man as a physical, moral, and intellectual being. But slavery is injurious to the morals of both master and slave, and it retards the growth of national wealth, thereby injuring society as a whole. The duty to labor, for example, is not imposed on all, and work becomes disgraceful save for the slave. In the end the slave lacks the natural stimulation to labor, and in the masters there is no disposition to frugality.

In Wayland's mind the spirit of the Bible is opposed to slavery. The precepts of the Gospels, to love one's neighbor, and to do unto others as we would have them do unto us, are universal in their application, and they are directly contradicted by domestic slavery. If the New Testament is opposed to the principle of slavery, it is bound to be opposed to the practice of slavery. Any system which interferes, for instance, with the sanctity of marriage is contrary to the principles of morality found in the Bible. But whether the slaves are ready for emancipation was to Wayland a difficult question; if they are not, it is the fault of their masters, and the masters' duty is to make them ready for freedom as soon

[21] *Ibid.*, pp. 36–37.

as possible. If there is to be no immediate emancipation, the slave must be held only for his own good, since the slaves are not responsible for their condition. On the question of fact as to the feasibility of emancipation, Wayland did not feel competent to judge; but that in the end emancipation must come, he had no doubt. In the meantime the slave owed obedience to the master only because humility and meekness are commanded in our relation to God; the slave should obey in those things that are not wrong; passive, not open resistance, is sanctioned by the Bible.

Furthermore, society may violate the liberty of individuals. Society has rights over man only because of the principle of consent, and there should be no violation of the rights mentioned, for example, in the Declaration of Independence. Social control is necessary for the existence of liberty, but control exists in order to prevent injury to others. Society itself would dissolve, were suitable restraints on freedom abolished; but society in turn has no right, as under slavery, to violate the rights of individuals by making them slaves.

The doctrine of the rights of man was assumed also in the work of William E. Channing, one of the leaders in the Unitarian movement. In his *Slavery,* Channing asserts that a rational being must ask what is right and not what is profitable. Duty is the supreme law of reason and right is the supreme good. Slavery must be regarded above all else as a moral question. He admitted that a higher law than the Constitution condemns insurrection, since it would ruin both master and slave. The cause of freedom, therefore, must be pleaded with the free and not with the slave. The spirit of Christianity is universal, and it teaches respect for persons, even degraded individuals. On this basis Channing argued that a man cannot be held and justly used as property; that man has sacred rights drawn from God, and that slavery is an infraction of these rights; that the evils of slavery are manifold; that the passages in the Scriptures favoring slavery are not controlling for the Christian; and that there are appropriate means of removing the institution of slavery.

Thus Channing denied that, on moral principles, there could be any property in a man; for if one man were so held, every other man might be made a slave. A man may not be property because he is a rational, moral creature, and as such he possesses rights that slavery destroys. All men have the same rational nature and the same power of conscience, and all are equally made for indefinite improvement of these divine faculties, and for the happiness to be found in their virtuous use.

I come now to what is to my own mind the great argument against seizing and using a man as property. He cannot be property in the sight of God and

justice, because he is a Rational, Moral, Immortal Being; because created in God's image, and therefore in the highest sense his child; because created to unfold godlike faculties, and to govern himself by a Divine Law written on his heart, and republished in God's word. His whole nature forbids that he should be seized as property.[22]

Channing then proceeds to the argument that men have sacred rights that are the gift of God and not of society. The rights of men were not absorbed when they entered the state. These rights may not be taken away on the plea of the public good; for the individual is never to be sacrificed to the community, and the sense of moral duty implanted in men is the fountain of rights—and their duties, which go together. Happiness and virtue being the great purposes of existence, there is an obligation to leave all men free to use their faculties for the good of themselves and of others. But each man has a right to inquire into his duty, and the state equally with individuals is restrained by the moral law. Justice, the greatest public good, cannot ask for the surrender of rights, and justice itself is superior to any rights of property.

Education and the pervasive effect of enlightened opinion were relied upon by Channing to bring about the emancipation of the slaves. He believed that the abolitionists had been extreme in their position, and that they had failed to see that the evil of slavery was not the only evil they should oppose; he had little faith in agitation by the organization of noisy crowds. In general, Channing deplored passion in opinion in both the North and the South.

Conclusion. The debate on slavery has been one of the greatest in the history of the United States. From it the North formulated more clearly the implications that have hardly been realized in the political practice of the more than two generations which have followed the War Between the States. The North could be energetic because its enemy was clearly the South; and the South could become unified, likewise, because it felt it was being hounded by Northern passion. But out of the debate on slavery, national sentiment in the North was given compelling impetus. Without such a conflict it is hardly possible that the sense of national unity, of the mission of American democracy to the rest of the world, could have been shaped. If slavery aided in the final destruction of Southern nationality, it played a mighty role in the development of national feelings in the predominant section of the country. The nation was born when men were willing to die that it should be preserved, and the attack on slavery gave much of the reason for that willingness to die and to save the Union. The sentiments that produce national coherence

[22] *The Works of William E. Channing* (1848), Vol. II, p. 26.

have little to do with the refinements of political discussion, but such discussion provides a symbolism that is necessary for the feeling of unity. In the next chapter we must pursue the development of the national ideal, which was a continuous movement from long before the war, through it, and long afterward.

SELECTED BIBLIOGRAPHY

BEARD, CHARLES A., and MARY R. BEARD: *The Rise of American Civilization* (2 vols., 1927–1930).

CALHOUN, JOHN C.: *The Works of John C. Calhoun*, ed. by R. K. Crallé (6 vols., 1854–1860).

CHANNING, WILLIAM E.: *The Works of William E. Channing* (8th ed., 1848), Vol. II.

COKER, FRANCIS W.: *Democracy, Liberty and Property* (1942).

Cotton Is King and Pro-slavery Arguments, ed. by E. N. Elliott (1860).

DEW, THOMAS R.: *An Essay on Slavery* (2d ed., 1849).

———: *Review of the Debates in the Virginia Legislature of 1831 and 1832* (1832).

FITZHUGH, GEORGE: *Cannibals All! or, Slaves Without Masters* (1857).

———: *Sociology for the South: or, The Failure of Free Society* (1854).

FLETCHER, JOHN: *Studies in Slavery in Easy Lessons* (1851).

GARRISON, WILLIAM LLOYD: *Selections from the Writings and Speeches of William Lloyd Garrison* (1852).

GETTELL, R. G.: *History of American Political Thought* (1928).

JACOBSON, J. M.: *The Development of American Political Thought* (1932).

JENKINS, WILLIAM S.: *Pro-slavery Thought in the Old South* (1935).

LINCOLN, ABRAHAM: *The Complete Works of Abraham Lincoln*, ed. by J. G. Nicolay and John Hay (1894).

MERRIAM, CHARLES E.: *American Political Theories* (1903).

PARRINGTON, V. L.: *Main Currents in American Thought* (3 vols., 1927–1930).

PRIEST, JOSIAH: *Bible Defense of Slavery* (1851).

———: *Pro-slavery Argument, The* (1852).

WAYLAND, FRANCIS: *The Elements of Moral Science* (1835).

WILLIAMS, ERIC: *Capitalism and Slavery* (1945).

WISH, HARVEY: *George Fitzhugh: Propagandist of the Old South* (1943).

WRIGHT, B. F.: *A Source Book of American Political Theory* (1929).

Chapter 10

THE SOVEREIGN NATION

> In *your* hands, my dissatisfied fellow-countrymen, and not in *mine*, is the momentous issue of civil war. The Government will not assail *you*. You can have no conflict without being yourselves the aggressors. *You* have no oath registered in heaven to destroy the Government, while I shall have the most solemn one to "preserve, protect, and defend it." I am loath to close. We are not enemies, but friends. We must not be enemies. Though passion may have strained it must not break our bonds of affection. The mystic chords of memory, stretching from every battlefield and patriot grave to every living heart and hearthstone all over this broad land, will yet swell the chorus of the Union, when again touched, as surely they will be, by the better angels of our nature.
> —Abraham Lincoln, First inaugural address, March 4, 1861.

Nationalism in the Nineteenth Century. The symbolism of a democratic equality and the defense of the Constitution alone cannot explain the rise of American nationalism. For the discovery of the nation was a general experience of European peoples during the nineteenth century, and in our time the rise of nationalism in Asia has become an impelling force in the loyalties and thinking of hundreds of millions of people. Americans have not been different from the rest. Our own experiences, however, cast our nationalism in a particular mold and thus has differentiated our national sentiment from that which came to dominate in other countries.

The nineteenth century became the period of national unity for the most advanced peoples of the world. Germany had long been satisfied with a sense of common culture; Italians since Machiavelli had dreamed of a united Italy that might in reality continue the unity achieved in the greater days of Rome; and smaller and weaker states in Europe were constructing their own national existence in the shadow of greater peoples. It is a striking coincidence that Bismarck, Cavour, and Abraham Lincoln led their respective peoples to national unity at approximately the same time. Perhaps all this is reflective of a stage in the development of the West, which in later years the Orient has tried to copy, though none too successfully. But why should nationalism be a stage in Western development? Again, we have a question which must be answered in the light of the theory of historical movement which a man

may espouse. What we do see, however, is the rise of a group of leaders, a ruling order in each of these countries, devoted to the task of preserving and developing the principles of nationality. We do know that in the nineteenth century men became suddenly conscious of their past, and that their conception of political brotherhood reached beyond the parish to the country at large.

The existence of a "nation" presents a problem in the area over which the symbols of political affection can extend. We know that in times past this area has broadened and contracted, making distinct the contours of historical movement. The people of the Greek city-states were city-minded to the end; they were unimpressed by the Persian Empire, the Macedonian kingdom, and only reluctantly were they moved by the Roman Empire. In its time the Roman Empire was able to create a pride in its citizenship which has been matched only by citizenship in the modern national state. Our symbols of political affection do not extend to the world at large, for they are limited to particular areas and population groups; hence, the internationalist in the years after the First World War was unable to create any real loyalty to the League of Nations system, save in the hearts of a few. A nation is a system of order and government, it is an area of centralization in political institutions, and it is an economy. In modern times the type of economy existing in a national state has been capitalistic, but the experience of the Soviet Union after the Revolution in 1917 might indicate that a nation may also be an area of an organized socialist economy.

A nation, so the theory runs, is the largest area of people and territory in which a common social or political experience is possible. In past times the Greek thinkers, such as Plato and Aristotle, believed that the city-state was the extent of reasonable political and social unity; whereas the prophets of the new day speak of a time when, in the future, the national state will be transcended and a world system of order will be substituted in its place. But, for the nineteenth and twentieth centuries it is the national state system which prevails. It may be that civilization can only survive, in the end, if the nation-state is transcended or negated by a world system; or it may be that areas of regional autonomy must be established to make real to ordinary men their political allegiance. Certainly, no one can say that the nation-state system has been working usefully for the advance of civilization, since we feel today that it is being driven constantly into conflict. Just why the destructive effort of war seems so inevitable depends again on one's philosophy of history; but that war on a more gigantic scale than ever before has characterized the twentieth century, none can deny.

Critics of the national idea insist that the nation-state is merely a

transitional form of political organization; they believe that the future must lead to a strengthened world organization which ignores the passions, the sentiments, and the prejudices which hold a nation together. Particularly is it argued that the modern economic structure of the world is handicapped by national barriers. Communications of goods and ideas is easy throughout the world; science knows no barriers of "mystic" sentiments which may keep people apart. Liberal economists believe that a modern economy is interdependent with other economies; that autarchy, as it has been practiced in the totalitarian states, must fail because of the integration of economic experience. Socialists, in contrast, point to the movement of capitalism to expansion, to imperialism, and in turn to war; these evils can be corrected only by an abolition of capitalism, which in turn will make the national state unnecessary, since expansion based on a war machine will not be necessary. The nineteenth century did not believe that nationalism was a movement carrying the seeds of contradiction and destruction within it; the twentieth century sees in the hypernationalism of the authoritarian states the end result of nationalism itself.

The Development of American Nationalism. American nationalism is a gradual development. Some signs of it appeared at the time of the Revolution, since unity among the revolting colonies was presumed, and likewise the necessity of a national government of some kind. Even under the Articles of Confederation some believed that the national government, however weak, was supreme in relation to the states.[1]

From the outset there were those who never doubted that the national government created in 1787 was supreme, and that the nation itself was a unit of which the states were but permanent parts. In other words, there were leaders who consistently opposed the idea that sectional interests should ever be in a position to terminate the Union. We can hardly say that the national feeling implicit in these views was nationalism in the later sense of the word, for the later nationalism was a political passion connected with a vast new type of economy. The final discovery of national feeling, the willingness of the North to spill its blood and waste its treasure in the suppression of the South, came in the years between 1850 and 1865; at the end of the war the North itself felt only that its previous judgment had been confirmed.

Since the surrender at Appomattox there has been no serious doubt that the nation as a whole is sovereign, and that the states are states only as a part of the permanent Union making up the United States of

[1] See Edward S. Corwin, *National Supremacy: Treaty Power vs. State Power* (1913).

America. True, the principle of state rights has been evoked on occasion, and many of the principles for the protection of minorities remain to stabilize and grace our democracy; but sovereignty is not conceded to the states, except as a verbal distinction and under the judgment of the organs of the national government. Yet the sovereignty of the sovereign nation is hard to define; sovereignty has been chiefly regarded as a concept of public law,[2] but the refined distinctions of that remote science hardly penetrate to the average political leaders, and much less to the busy American citizen. When an American refuses to surrender sovereignty, he is not sure just what he is refusing to surrender; but it is politically impossible for any man to advocate seriously the destruction of the sovereignty of the United States.

Nationalism and Sovereignty. Sovereignty is one of the most powerful of the symbols of politics; indeed, to the average man it must mean the existence of an overwhelming power vested in the government of his country. Sovereignty is, therefore, in part the verbal symbol of the power of the nation, and that sense of power runs deep in the national consciousness. When Lincoln spoke of the "mystic chords of memory" running back to the battlefields of the Republic, he was speaking of the experience and memory of the average man with the power of the state. And that sense of power in the citizen is often an experience of beauty; it becomes associated with his poetic insight into the realities of politics. Before the Lincoln Memorial (built like a Greek temple dedicated of old to civic worship, and called a "temple") the American may present himself, to think on the majesty of his nation, its great traditions, and the swelling list of its achievements. Here we come as close as we may to a civic religion; not that Lincoln is a figure for our vague Olympus, but that in the mystic chords of memory, swelling the chorus of Union, he becomes the symbol of all that has been great in American democracy and in the sovereignty of our nation. Before his kindly eyes floats the mythology of battle that reasoning cannot destroy, and his silent figure is the embodiment of national power.

Such feelings had to grow through the political experience of the American people, as they had to grow in the experience of Germans, Italians, Frenchmen, or (in Asia) in the hearts of the Chinese and Japanese. But that national feeling did come to dominate the American scene, the Confederate War showed beyond peradventure of a doubt. The justification of nationalism is exceedingly complex; yet above everything else it has been the spirit of the age in which we live, the context of opinion, and the framework of emotion. For many, nationalism has

[2] See W. W. Willoughby, *The Fundamental Concepts of Public Law* (1924).

been associated in our religious beliefs with a firm conviction that Providence has been watching over the destiny of the American people. During the nineteenth century religious faith suggested also that we have a mission in the world, a mission of extending the principle of freedom over areas where it had never been attained before.

From the purely political point of view, sovereignty, the sovereignty of a nation, is the great evocative symbol of national feeling. Through the various phases of attitude toward sovereignty in the United States can be traced, or suggested, the trends in national feeling. For to argue the supremacy of the nation has been the hallmark throughout our history of the principle of national existence. Owing to the fact that we began with a Federal system, the question of sovereignty has been always in our history a very complex issue, even though the average man may have been content to assert that the people, the people of the United States, are sovereign.

Sovereignty: The Background. The framers of our Constitutional system in 1787 evaded the issue of the final residence of sovereignty. Among a people destined to acquire a strong sense of nationalism, it was not sufficient to argue that sovereignty could be divided between the states and the nation; for the nationalist would have to assert in the long run that the nation should determine the division of sovereignty and thereby assert the sovereignty of the nation. What the framers did assert was that the new government was mixed in character; it was partly national and partly Federal [*i.e.*, Confederate in our terminology]; the powers of the states remained in the states, while other powers were given to the national government. It was the theory of divided sovereignty—a theory that is valid depending upon the definition one gives of sovereignty itself. For if we say that sovereignty is a "bundle" of powers, those powers may be distributed between any number of political units; but if sovereignty is a supreme attribute or quality of political authority, then it can hardly be divided. Our courts may still speak of the "sovereignty of the states," but they are speaking simply of certain powers that pertain to the states under the Constitutional system itself. As the South turned to the principle of the indivisibility of sovereignty, so the North began to insist upon the supremacy of the Constitution over all political authorities composing the Federal union.[3]

In *The Federalist*, No. 9, Hamilton observed:

> The definition of a *confederate republic* seems simply to be "an assemblage of societies," or an association of two or more states in one state. The extent, modi-

[3] See F. G. Wilson, "A Relativistic View of Sovereignty," *Political Science Quarterly*, 49 (1934), 386*ff*.

fications, and objects of the federal authority, are mere matters of discretion. So long as the separate organization of the members be not abolished; so long as it exists, by a constitutional necessity, for local purposes; though it should be in perfect subordination to the general authority of the union, it would still be, in fact and in theory, an association of states, or a confederacy. The proposed Constitution, so far from implying an abolition of the State governments, makes them constituent parts of the national sovereignty, by allowing them a direct representation in the Senate, and leaves in their possession certain exclusive and very important portions of the sovereign power. This fully corresponds, in every rational import of the terms, with the idea of a federal government.

The final sentence quoted clearly shows that Hamilton accepted the principle of divided sovereignty. But there was no disposition on the part of the authors of *The Federalists* to deny that laws made by the national government in the exercise of delegated powers were to be the supreme law of the land as the Constitution indicates. It was stressed particularly that the real danger to Federal authority was the encroachment of the states on the legitimate power of the national government. There must be some manner in which such encroachments can be prevented.

In No. 31 of *The Federalist*, Hamilton speaks of this point, saying:

It should not be forgotten that a disposition in the State governments to encroach upon the rights of the Union is quite as probable as a disposition in the Union to encroach upon the rights of the State governments. What side would be likely to prevail in such a conflict must depend on the means which the contending parties could employ towards insuring success. As in republics strength is always on the side of the people, and as there are weighty reasons to induce a belief that the State governments will commonly possess most influence over them, the natural conclusion is that such contests will be most apt to end to the disadvantage of the Union; and that there is greater probability of encroachments by the members upon the federal head, than by the federal head upon the members. But it is evident that all conjectures of this kind must be extremely vague and fallible: and that it is by far the safest course to lay them altogether aside, and to confine our attention wholly to the nature and extent of the powers as they are delineated in the Constitution. Everything beyond this must be left to the prudence and firmness of the people; who, as they will hold the scales in their own hands, it is to be hoped, will always take care to preserve the constitutional equilibrium between the general and the State governments. Upon this ground, which is evidently the true one, it will not be difficult to obviate the objections which have been made to an indefinite power of taxation in the United States.

Thus the position of *The Federalist* was that the States will retain all of their preexisting authority which is not delegated to the national au-

thority. James Madison was, for example, a strong supporter of the principle of divided sovereignty. He believed that the American government was unique in character, being neither completely Federal nor national. But he felt that it was impossible to discuss intelligently our system of government without the principle of divided sovereignty. Thus those who assert the principle of nullification of national laws by state actions deny this principle and assert in effect that sovereignty is indivisible and inalienable.[4]

It became customary, likewise, for the courts to discuss the American system of government in the light of a theory of divided sovereignty, which implied the divisibility and alienability of sovereignty. In other words, sovereignty was a system of powers which had been distributed by the Constitution between the national and state governments. In *Chisholm v. Georgia* in 1793 (2 Dallas 419), the Supreme Court of the United States asserted the duty of the State of Georgia to submit to the jurisdiction of the Court in an original action brought against the state. It was held that the United States is sovereign as to all powers of government surrendered to it, while the states are sovereign as to the powers reserved to them under the Constitution.

> This is a case of uncommon magnitude [observed the Court]. One of the parties to it is a State, certainly respectable, claiming to be sovereign. The question to be determined is, whether this State, so respectable and whose claim soars so high, is amenable to the jurisdiction of the Supreme Court of the United States? This question, important in itself, will depend on others, more important still; and may, perhaps, be ultimately resolved into one, no less radical than this —"Do the People of the United States form a nation?" To the Constitution of the United States the term sovereign is totally unknown. There is but one place where it could have been used with propriety. But even in that place, it would not, perhaps, have comported with the delicacy of those who ordained and established the Constitution. They might have announced themselves sovereign people of the United States; but serenely conscious of the past, they avoided the ostentatious declaration.

The Court then asked: Who are the people of the United States? They were the people of the thirteen states, each of which had a separate constitution and government. But the Articles of Confederation were totally inadequate to the needs of the states in their relations to each

[4] James Madison, *Works*, Vol. IX, pp. 383*ff*. Down to the development of the Southern argument, it was generally held in the United States that sovereignty was divisible. See Frederick Grimke, *Considerations on the Nature and Tendency of Free Institutions* (1848). Nathaniel Chipman, in *Principles of Government* (1833), p. 273, asserted that experience had shown that sovereignty—*i.e.*, powers—is capable of division.

other, and the more perfect union was established. The people of Georgia participated in the establishment of this union, this establishment of a government under the Constitution, and they likewise assisted in the creation of the jurisdiction of the Supreme Court, which extends to the states themselves. Our very existence as a nation would be endangered, were the claims of Georgia to be recognized.[5]

Joseph Story. As the discussion became more intense concerning the nature of the Union, more and more thinkers and writers were led to enter the great debate. One of these men, Associate Justice Joseph Story, wrote in 1833 his *Commentaries on the Constitution of the United States,* which he dedicated to Chief Justice John Marshall. Lawyers and judges were to be among the greatest of the disputants in the growing consciousness of the American people of their national existence. But such was true of both the North and the South.[6]

Story denied that any of the colonies before the Revolution were, in the large and general sense, sovereign communities. They were under the British government, and the Declaration of Independence was the united act of all of them. This declaration was the act of the whole people.

> No state had presumed of itself to form a new government, or to provide for the exigencies of the times, without consulting Congress on the subject; and when they acted, it was in pursuance of the recommendation of Congress. It was, therefore, the achievement of the whole for the benefit of the whole. The people of the united colonies made the united colonies free and independent states, and absolved them from allegiance to the British crown. The Declaration of Independence has accordingly always been treated as an act of paramount and sovereign authority, complete and perfect *per se*, and *ipso facto* working an entire dissolution of all political connection with, and allegiance to, Great Britain. And this, not merely as a practical fact, but in a legal and constitutional view of the matter by courts of justice. [Section 211]

The independent colonies became, through their independence, a nation, though there was jealousy and watchfulness everywhere as to the powers given to the general government.

Particular annoyance is shown by Story at Tucker's argument in his *Commentaries on Blackstone,* for Tucker asserted that the Constitution of the United States was an original, written, federal, and social compact,

[5] See also, for example, *Ware v. Hylton,* 3 Dallas 232, and *Cherokee Nation v. Georgia,* 5 Peters 26.

[6] See, for example, Henry St. George Tucker, *Commentaries on Blackstone* (1803), who urged that the states were united in a confederacy, but retained their sovereignty and the right to withdraw from the Constitutional compact as they withdrew from the union under the Articles of Confederation.

freely, voluntarily, and solemnly entered into by the several states, and ratified by the people thereof respectively. But the conclusion drawn from such a position is that the Constitution is a mere treaty between the states, and the states themselves have a right to break the compact whenever it shall suit their pleasure.[7] But, said Story:

A constitution is in fact a fundamental law or basis of government, and falls strictly within the definition of law, as given by Mr. Justice Blackstone. It is a rule of action, prescribed by the supreme power in a state, regulating the rights and duties of the whole community. It is a *rule*, as contradistinguished from a temporary or sudden order; permanent, uniform, and universal. It is also called a rule, to distinguish it from a compact, or agreement; for a compact [he adds] is a promise proceeding from us; law is a command directed to us. The language of a compact is, I will, or will not do this; that of a law is, Thou shalt, or shalt not do it. [Section 339]

To Story the language of the Constitution made all this clear, since that instrument speaks of the Constitution being the supreme law of the land, and a law, by the very meaning of the term, includes supremacy.

There is nowhere found upon the face of the constitution any clause, intimating it to be a compact, or in anywise, providing for its interpretation, as such [asserted Story, Section 352]. On the contrary, the preamble emphatically speaks of it, as a solemn ordinance and establishment of government. The language is, "We, the people of the United States, do *ordain* and *establish* this *constitution* for the United States of America." *The people* do *ordain* and *establish*, not contract and stipulate with each other. The people of the *United States*, not the distinct people of a *particular state* with the people of the other states. The people ordain and establish a *"Constitution"*; not a *"Confederation."* The distinction between a constitution and confederation is well known and understood. The latter, or at least a pure confederation, is a mere treaty or league between independent states, and binds no longer, than during the good pleasure of each. It rests forever in articles of compact, where each is or may be the supreme judge of his own rights and duties. The former is a permanent form of government, where the powers, once given, are irrevocable, and cannot be resumed or withdrawn at pleasure. Whether formed by a single people, or by different societies of people, in their political capacity, a constitution, though originating in consent, becomes, when ratified, obligatory, as a fundamental ordinance or law. The constitution of a confederated republic, that is, of a national republic formed of several states, is, or at least, may be, not less an irrevocable form of government, than the constitution of a state formed and ratified by the aggregate of the several counties of the state.

[7] Madison accepted the idea of compact, but argued that it is equally obligatory on all parties to the compact; no state may be liberated from the compact without the consent of the others. Madison, *op. cit.*, p. 386.

Had the framers of the Constitution intended it to be a mere confederation, they would have been more explicit, argued Story. A contract cannot be a delegation of powers, nor would a mere confederation have in it the supreme law clause which declares the Constitution to be the supreme law, and that the judges of every state were bound by oath to its observance. The design to establish a government implicates more than the objectives of a confederation, for that government is to be permanent and subject to the control of the authorities in whose hands it has been placed. The great objective of the compact theory as to the Constitution, notes Story, is to deny that there is a common umpire in case of disputes concerning the national and state governments. Naturally, since all officials are bound by the Constitution, they must in the discharge of their duties determine, in the first instance, the issue of Constitutionality. In many cases final decision rests with the political branches of the government, that is, with the executive and legislative branches, and a remedy against their decisions must be found in an appeal to the voters or through the process of Constitutional amendment. But on other questions the Constitution has itself provided a common arbiter in the judicial power of the United States, and the judges themselves are finally subject to removal by impeachment.

If it is argued that powers may be abused, and that therefore the states must have a right to decide Constitutional questions, what will become of the authority of the Union? When Story wrote there were twenty-four states. What if there were twenty-four arbiters of the meaning of the Constitution? Always there have been differences of opinion between states on these matters, and if the states had the right to decide there would never be a common import of the Constitution throughout the Union. Is it not better that the national judiciary should have a power extending throughout the Union to determine these matters? Such had been in fact the intention of the framers of the Constitution.

Daniel Webster. Among the greatest defenders of the nationalist view of the Constitution was Daniel Webster. Webster was a lawyer and a public figure; his argument was not philosophical, it was an argument typical of the lawyer, and not unlike the principles asserted by Justice Story. Perhaps the strongest expression of his views is found in his debate with Senator Robert Y. Hayne. The question considered was the right of the states to nullify acts of Congress on the ground of their unconstitutionality. The Constitution, argued Webster in substance, was founded by the whole people of the United States; it was not founded by the people of the several states. Once a Constitution is established, it

creates and is law; it is an executed contract,[8] remaining valid and binding on all of the parties to it. And no state may venture to deny the binding force of the Constitution of the United States. In the second reply to Hayne in 1830 we get one of the ablest of Webster's statements on the nature of the Union.[9]

I say [declared Webster], the right of a State to annul a law of Congress cannot be maintained, but on the ground of the inalienable right of man to resist oppression; that is to say, upon the ground of revolution. I admit that there is an ultimate violent remedy, above the Constitution and in defiance of the Constitution, which may be resorted to when a revolution is to be justified. But I do not admit, that, under the Constitution and in conformity with it, there is any mode in which a State government, as a member of the Union, can interfere and stop the progress of the general government, by force of her own laws, under any circumstances whatever.[10]

Webster then raised the question whether the Constitution was established by the states, for their own benefit. This proposition he denied, for the Constitution, he said, was established by the people of the United States for themselves and not for the four-and-twenty masters constituting the states of the Union.

It is, Sir, the people's Constitution, the people's government, made for the people, made by the people, and answerable to the people. The people of the United States have declared that this Constitution shall be the supreme law. We must either admit the proposition, or dispute their authority. The States are, unquestionably, sovereign, so far as their sovereignty is not affected by this supreme law. But the State legislatures, as political bodies, however sovereign, are yet not sovereign over the people. So far as the people have given power to the general government, so far the grant is unquestionably good, and the government holds of the people, and not of the State governments. We are all agents of the same supreme power, the people. The general government and the State governments derive their authority from the same source. Neither can, in relation to the other, be called primary, though one is definite and restricted, and the other general and residuary.[11]

In Carolina [continued Webster] the tariff is a palpable, deliberate usurpation; Carolina, therefore, may nullify it, and refuse to pay the duties. In Pennsylvania, it is both clearly constitutional and highly expedient; and there the duties are to be paid. And yet we live under a government of uniform laws, and under a Constitution too, which contains an express provision, as it happens, that all duties shall be equal in all the States. Does not this approach absurdity?

[8] *The Works of Daniel Webster* (1851), Vol. III, p. 468.
[9] *Ibid.*, pp. 270*ff.*
[10] *Ibid.*, p. 321.
[11] *Ibid.*, pp. 321–322.

If there be no power to settle such questions, independent of either of the States, is not the whole Union a rope of sand? Are we not thrown back again, precisely, upon the old Confederation? [12]

It was clear to Webster that the general government came from the same source as the state governments. Both came from the people, and in no sense can it be said that the general government is a creature of the states. Indeed, one of the primary purposes of the national government was to impose wise and salutary checks on the state governments. The states cannot under the Constitution make war; they may not contract alliances; and separate regulations of commerce are forbidden. Likewise, they cannot coin money, or do other things mentioned in the Constitution as limitations upon them. But the interpretation of the Constitution was not left to chance, for that instrument provided the means of settling all disputes that might arise under it.

It is declared in the Constitution that it is the supreme law of the land and that anything in the constitution or laws of any state shall not prevail against the supremacy of the Constitution. Again, the judicial power of the United States is so defined as to cover all cases arising under the Constitution and laws of the United States. These two provisions, urged Webster, cover the whole ground. Thus the states can have no final power of saying what the Constitution means; they have no right to define the extent of the powers of the national government, nor to interpret the limitations on the powers of the states.

The honorable gentleman argues [he went on] that if this government be the sole judge of the extent of its own powers, whether that right of judging be in Congress or the Supreme Court, it equally subverts State sovereignty. This the gentleman sees, or thinks he sees, although he cannot perceive how the right of judging, in this matter, if left to the exercise of State legislatures, has any tendency to subvert the government of the Union. The gentleman's opinion may be, that the right *ought not* to have been lodged with the general government; he may like better such a constitution as we should have under the right of State interference; but I ask him to meet me on the plain matter of fact. I ask him to meet me on the Constitution itself. I ask him if the power is not found there, clearly and visibly found there? [13]

The Constitution, insisted Webster, is not unalterable; if there are any powers the people wish to take away from the national government, they may do so by the process of amendment; certainly, the state legislatures do not have the right to make such changes directly or indirectly.

[12] *Ibid.*, pp. 323–324.
[13] *Ibid.*, p. 339.

Sir [said Webster], the people have not trusted their safety, in regard to the general Constitution, to these hands. They have required other security, and taken other bonds. They have chosen to trust themselves, first, to the plain words of the instrument, and to such construction as the government themselves, in doubtful cases, should put on their own powers, under their oaths of office, and subject to their own responsibility to them; just as the people of a State trust their own State governments with a similar power. Secondly, they have reposed their trust in the efficacy of frequent elections, and in their power to remove their own servants and agents whenever they see cause. Thirdly, they have reposed trust in the judicial power, which, in order that it might be trustworthy, they have made as respectable, as disinterested, and as independent as was practicable. Fourthly, they have seen fit to rely, in case of necessity, or high expediency, on their known and admitted power to alter or amend the Constitution, peaceably and quietly, whenever experience shall point out defects or imperfections. And, finally, the people of the United States have at no time, in no way, directly or indirectly, authorized any State legislature to construe or interpret *their* high instrument of government; much less, to interfere, by their own power, to arrest its course and operation.[14]

But, Sir, although there are fears, there are hopes also. The people preserved this, their own chosen Constitution, for forty years, and have seen their happiness, prosperity, and renown grow with its growth, and strengthen with its strength. They are now, generally, strongly attached to it. Overthrown by direct assault, it cannot be; evaded, undermined, NULLIFIED, it will not be, if we, and those who shall succeed us here, as agents and representatives of the people, shall conscientiously and vigilantly discharge the two great branches of our public trust, faithfully to preserve, and wisely to administer it.[15]

When the records of the Constitutional Convention of 1787 came finally to light, it was shown that the Preamble to the Constitution originally intended to say "We, the people" of the specifically mentioned states. Webster's great emphasis on the exact wording of the Preamble was a legalism appealing to the future of the nation rather than to the past action of the founding fathers. Yet it did Senator Hayne little good to cite James Madison to the effect that the Constitution was a compact between the states, or to argue that at the time the Constitution was established the several states were independent sovereignties. Webster, unconsciously, was appealing to a developing tide of national sentiment that was to be stronger in the future than in the past. Webster could assert that on the face of the Constitution it was a government that was established and that the Constitution was no compact. Such an argument depended on his conception of what a constitution is; and he could assert, without historical evidence, that the whole people of the United

[14] *Ibid.*, p. 340.
[15] *Ibid.*, p. 341.

States enacted the Constitution. The people of the North were becoming ever more ready to accept any argument which postulated the permanency of the Union against the rights of the states. But they were more deeply moved by the symbolism of the Constitution as an object of loyalty than by the Constitution as a carefully interpreted legal document. The Constitution was coming to express, vaguely to be sure, the organic union of the people and not merely the law that governed them.

Abraham Lincoln. Thus, the way was prepared for the simple yet compelling statements of Abraham Lincoln as to the nature of the Union. From the preservation of the Constitution the people moved with Lincoln to the determination to preserve the Union, that bond in which liberty and freedom were experienced. The Union came first, and the Constitution second; the Constitution was revered only as it meant the principle of union among the American people.

It can hardly be questioned that the highest point in the defense of the Union and the denial of the Southern theory of the nature of the Constitutional compact is reached in the words of Abraham Lincoln when he became President of the United States in 1861. Buchanan had not believed that under the Constitution he was able to use force against the South, and Lincoln faced the fateful decision of civil war. His theory, however, was very simple. The Union could not be dissolved by the secession of any states. There was no real Secession; there were only groups of men in particular states raising the standard of revolt against the supremacy of the Union under the Constitution. Lincoln declared he would enforce the laws of the United States; any effort which might be made to resist that action would be by unauthorized individuals; he would carry out his oath to defend and preserve the Constitution. The paths of compromise gradually closed; the people of the North under the leadership of Lincoln were determined that the Union should be preserved, come what may in the sacrifices of war.[16]

[16] In his Fourth Annual Message to Congress, in December, 1860, President Buchanan discussed the problem presented by Secession. He declared: "The question fairly stated is, Has the Constitution delegated to Congress the power to coerce a State into submission which is attempting to withdraw or has actually withdrawn from the Confederacy? If answered in the affirmative, it must be on the principle that the power has been conferred upon Congress to declare and to make war against a State. After much serious reflection I have arrived at the conclusion that no such power has been delegated to Congress or to any other department of the Federal Government. It is manifest upon an inspection of the Constitution that this is not among the specific and enumerated powers granted to Congress, and it is equally apparent that its exercise is not 'necessary and proper for carrying into exe-

"I therefore consider that in view of the Constitution and the laws the Union is unbroken," observed Lincoln in his first inaugural address, "and to the extent of my ability I shall take care, as the Constitution itself expressly enjoins upon me, that the laws of the Union be faithfully executed in all the States." No state, he had said, can get out of the Union; any ordinance of secession is legally void, and acts of violence against the authority of the United States are insurrectionary or revolutionary, according to circumstances.

Doing this [he went on] I deem to be only a simple duty on my part, and I shall perform it so far as practicable unless my rightful masters, the American people, shall withhold the requisite means or in some authoritative manner direct the contrary. I trust this will not be regarded as a menace, but only as the declared purpose of the Union that it *will* constitutionally defend and maintain itself.

In doing this there needs to be no bloodshed or violence, and there shall be none unless it be forced upon the national authority. The power confided to me will be used to hold, occupy, and possess the property and places belonging to the Government and to collect the duties and imposts; but beyond what may be necessary for these objects, there will be no invasion, no using of force against or among the people anywhere. Where hostility to the United States in any interior locality shall be so great and universal as to prevent competent resident citizens from holding the Federal offices, there will be no attempt to force obnoxious strangers among the people for that object. While the strict legal right may exist in the Government to enforce the exercise of these offices, the attempt to do so would be so irritating and so nearly impracticable withal that I deem it better to forego for the time the uses of such offices.

The mails, unless repelled, will continue to be furnished in all parts of the Union. So far as possible the people everywhere shall have that sense of perfect security which is most favorable to calm thought and reflection. The course here indicated will be followed unless current events and experience shall show a modification or change to be proper, and in every case and exigency my best

---

cution' any one of these powers. So far from this power having been delegated to Congress, it was expressly refused by the Convention which framed the Constitution." Buchanan had already concluded that the effort of the executive to enforce the laws of the United States must be through the ordinary channels provided, and that the executive itself was not authorized to use the army and navy against a state in the enforcement of the law. "The fact is," continued Buchanan, "that our Union rests upon public opinion, and can never be cemented by the blood of its citizens shed in civil war. If it can not live in the affections of the people, it must one day perish. Congress possesses many means of preserving it by conciliation, but the sword was not placed in their hand to preserve it by force." (Richardson, *Messages and Papers,* Vol. V, pp. 635–636.) Buchanan, of course, did not justify Secession; he condemned it. But he felt that if the states would agree on compromise measures, the Union might be saved.

discretion will be exercised, according to circumstances actually existing and with a view and a hope of a peaceful solution of the national troubles and the restoration of fraternal sympathies and affection.[17]

But beyond the legal aspects of the question, Lincoln believed that the sections could not be separated one from the other. One section, he said, believes slavery is right and ought to be extended; and the other believes it is wrong and ought not to be extended. This is no just cause for Secession and the disruption of the Union. The problem can be better solved together than if separation takes place. Let us not hurry, pleaded Lincoln. Let us think calmly and well, for there are remedies under the Constitution that should not lightly be thrown aside.

On the Fourth of July, 1861, Lincoln returned to the problem of the place of the states in the Federal union. In the meantime volunteers had enlisted to preserve the authority of the Union, and the war had begun in earnest. In speaking now of the South and not to it, he asserted:

> With rebellion thus sugar coated they have been drugging the public mind of their section for more than thirty years, and until at length they have brought many good men to a willingness to take up arms against the Government the day *after* some assembly of men have enacted the farcical pretense of taking their State out of the Union who could have been brought to no such thing the day *before*.
>
> This sophism derives much, perhaps the whole, of its currency from the assumption that there is some omnipotent and sacred supremacy pertaining to a *State*—to each State of our Federal Union. Our States have neither more nor less power than that reserved to them in the Union by the Constitution, no one of them ever having been a State *out* of the Union. The original ones passed into the Union even *before* they cast off their British colonial dependence, and the new ones each came into the Union directly from a condition of dependence, excepting Texas; and even Texas, in its temporary independence, was never designated a State. The new ones only took the designation of States on coming into the Union, while that name was first adopted for the old ones in and by the Declaration of Independence. Therein the "United Colonies" were declared "free and independent States"; but even then the object plainly was not to declare their independence of *one another* or of the *Union*, but directly the contrary, as their mutual pledge and their mutual action before, at the time, and afterwards abundantly show. The express plighting of faith by each and all of the original thirteen in the Articles of Confederation, two years later, that the Union shall be perpetual is most conclusive. Having never been States, either in substance or in name, *outside* of the Union, whence this magical omnipotence of "State rights," asserting a claim of power to lawfully destroy the Union itself? Much is said about the "sovereignty" of the States, but the word even is not in the National Constitution, nor, as is believed, in any of the State Constitutions.

[17] Richardson, *Messages and Papers*, Vol. VI, pp. 7–8.

What is a "sovereignty" in the political sense of the term? Would it be far wrong to define it "a political community without a political superior"? Tested by this, no one of our States, except Texas, ever was a sovereignty; and even Texas gave up the character on coming into the Union, by which act she acknowledged the Constitution of the United States and the laws and treaties of the United States made in pursuance of the Constitution to be for her the supreme law of the land. The States have their status in the Union, and they have no other legal status. If they break from this, they can only do so against law and by revolution. The Union, and not themselves separately, procured their independence and their liberty. By conquest or purchase the Union gave each of them whatever of independence and liberty it has. The Union is older than any of the States, and, in fact, it created them as States. Originally some dependent colonies made the Union, and in turn the Union threw off their old dependence for them and made them States, such as they are. Not one of them ever had a State constitution independent of the Union. Of course it is not forgotten that all the new States framed their constitutions before they entered the Union, nevertheless dependent upon and preparatory to coming into the Union.

Addressing himself to those who raised the question of what was to be done by the Federal government after the rebellion had been suppressed, Lincoln observed:

> Lest there be some uneasiness in the minds of candid men as to what is to be the course of the Government toward the Southern States *after* the rebellion shall have been suppressed, the Executive deems it proper to say it will be his purpose then, as ever, to be guided by the Constitution and laws, and that he probably will have no different understanding of the powers and duties of the Federal Government relatively to the rights of the States and the people under the Constitution than that expressed in the inaugural address. . . .
>
> The Constitution provided, and all the States have accepted the provision, that "the United States shall guarantee to every State in this Union a republican form of government." But if a State may lawfully go out of the Union, having done so it may also discard the republican form of government; so that to prevent its going out is an indispensable *means* to the *end* of maintaining the guaranty mentioned; and when an end is lawful and obligatory the indispensable means to it are also lawful and obligatory.[18]

Reconstruction and the Theory of the Supreme Court. In April, 1865, General Lee surrendered at Appomattox, and in the same month Abraham Lincoln was assassinated. Thus the Reconstruction period was ushered in with the greatest possible political bitterness. Not only were passions high as a result of the effort of war, but the murder of the President added energy to those passions. If Lincoln was willing that the states should resume, under suitable conditions, their position in the Union, the mem-

[18] *Ibid.*, pp. 27–31.

bers of Congress were not so sure. Indeed, it was uncertain whether the position of the seceded states was the same as before or had been altered by the fact of rebellion. The Reconstruction Acts were passed over the veto of President Johnson, and the Southern states were divided into five military districts, each commanded by an officer of the United States army, who was responsible for the protection of life and property. Stringent conditions were laid down for the restoration of normal civil life in the late Confederate states. Conventions of delegates were to frame new constitutions, elected by the male citizens of whatever race, color, or previous condition except those disfranchised for participation in rebellion. These constitutions were to be approved by the people and Congress, and the legislature elected by each state should ratify the Fourteenth Amendment to the Constitution of the United States.

As the hatred of war subsided, the Southern states returned to their normal position in the Union, and the Northern garrisons were finally withdrawn. Yet it can hardly be said that the program of equality envisaged by Reconstruction was achieved; as the new leaders of the South carried on where their previous leaders had left off, every effort was made to nullify the Civil War amendments, and a significant measure of success was attained by them. Not only was the Negro denied equality, in spite of the acts passed by Congress to attain this purpose, but the Negro was also systematically denied the right to vote by the Southern legislatures. Nor since Reconstruction can it be said that any serious effort has been made to enforce the penalty provisions of the Fourteenth Amendment, or by other means to give the Negro the civil and political equality assured him under the Constitution. In result, the Southern states returned to the Union with only the scars of war upon their economy and the tenacious memory of the defeated. They admitted the existence of a nation of which they were a part, and from which they could not escape. Southern leaders turned their attention to the building of a new South.

As has often been the case in the history of the United States, the final word on the nature of our political system was spoken by the Supreme Court. The Court had to consider on various occasions the problem of Reconstruction and the position of the reconstructed states in the Union. While the Court quite naturally avoided as much as possible an outright clash with the political branches of the government on so explosive a question, it could, nevertheless, speak with some assurance on the nature of the Union. In the case of *Texas v. White,* decided in 1869 (7 Wallace 700), one of the most authoritative judicial utterances on behalf of national unity is to be found. The Reconstruction government of the State of Texas asked the return of certain bonds of the United States govern-

ment which had been used, during the war, to purchase supplies for the Confederate government. The fundamental question the Court had to consider was whether the state of Texas was one of the United States during the period of the Confederacy and during the period of Reconstruction. If Texas were a state in 1869, then it had the right to bring suit under the original jurisdiction of the Supreme Court; and if it were a state during the period of the Confederacy, it could bring an action to invalidate an action taken by those who asserted themselves to be in authority in Texas during that time. Implicitly, the Court had to determine what was the enduring relation between the states under the Constitution. The Court held that the seceding states did not cease to be members of the Union.

> In the Constitution the term "State" most frequently expresses the combined idea just noticed, of people, territory, and government [observed Chief Justice Chase in his opinion]. A State in the ordinary sense of the Constitution, is a political community of free citizens, occupying a territory of defined boundaries and organized under a government sanctioned and limited by a written constitution, and established by consent of the governed. It is the union of such States, under a common constitution, which forms the distinct and greater political unit, which the Constitution designates as the United States, and makes of the people and States which compose it one people and one country.

The history of the admission of Texas to the Union was mentioned in the Court's opinion, and it was observed that during the period of war there were no officials in Texas who recognized the authority of the national government. But Texas did not cease to be a member of the Union, and the Court thought it needless to discuss whether any state might have the right to secede from the Union on grounds deemed sufficient for itself.

The conventional Northern interpretation on the historical development of the Union from the time of the colonies was then offered by the Court. "The Union of the States was never a purely artificial and arbitrary relation. It began among the Colonies, and grew out of common origin, mutual sympathies, kindred principles, similar interests, and geographical relations. It was confirmed and strengthened by the necessities of war, and received definite form, and character, and sanction from the Articles of Confederation." The Union under the Articles was declared to be perpetual, and when they were found insufficient, the Constitution was established to form a more perfect Union. "It is difficult to convey the idea of indissoluble unity more clearly than by these words. What can be indissoluble if a perpetual Union made more perfect, is not?"

But the perpetuity and indissolubility of the Union does not mean that the states have lost their right of self-government.

Not only, therefore, can there be no loss of separate and independent autonomy to the States, through their union under the Constitution, but it may be not unreasonably said that the preservation of the States, and the maintenance of their governments, are as much within the design and care of the Constitution as the preservation of the Union and the maintenance of the National Government. The Constitution, in all its provisions, looks to an indestructible Union, composed of indestructible States.

Only through revolution could a state, such as Texas, reconsider its action in becoming a part of the Federal Union under the Constitution of the United States.

In the light of judicial determination, it can be seen that the War Between the States settled nothing save the ability of the national government to restore a republican form of government in each of the states which attempted to withdraw from the Union. The theory of the Court was that all acts connected with Secession were null and void. If the states had the right to secede from the Union, they probably still have it; and if they did not have the right to secede, the act of Secession established no legal right so to do. If historically there might be such a right, it exists still in legal theory; and if there was no such right, it was not created by the acts of the Southern states. But it is clear that the Court was only validating the acts of the government after victory on the field of battle. In retrospect we can say that the war created finally and permanently the American nation, and since there was to be no further question of Secession, the discussion of the Constitution entered on a new phase. The sterile discussions of state rights and the supremacy of the Union no longer appealed actively to the imaginations of the citizens of the united nation.[19] It was no longer the function of the lawyers and the judges to discuss the basis of nationality; rather it was to become the duty of the political philosopher and the historian, who could see the role of the United States as a nation within the context of national states throughout the Western world.

The Organic Nation. With the end of Reconstruction, the character of the nationalist argument changed. It was not the meaning of the words of the Constitution to which appeal might be made, it was rather to the historical experience of the American people, and to the belief that the national community offered individuals the widest possible range of freedom and opportunity. With the end of the war the people of the United States, both North and South, having settled the thorny questions of slavery and state rights, began to discover the meaning of the genera-

[19] See, for example, Henry St. George Tucker, *The Constitution of the United States* (2 vols., 1899).

tion in which they lived. They began to see that the United States was becoming one of the great powers of the world, and they saw likewise that the economic development of the whole continent was just ahead of them. The publicists were less concerned with the law of our national state and more with the philosophy of nationalism; they could not readily revive the principle of the social contract, and it was natural that thinkers began to view the nation as an organic unity; nor were many seriously concerned with the principle of divided sovereignty, for the nation was sovereign and the states assumed an even more subordinate position in the Union than had been contemplated by Lincoln or by Chief Justice Chase. The whole Federal system began to move swiftly toward national centralization under a Constitution which had been viewed before as the basic guarantee of the autonomy of the states.

When the time of defending nationality had passed, it was possible to return to the principles of the Federalists, and Hamilton and Adams were, in modified form, again to dominate American thought in the defense of capitalism and individualism. The courts were to continue the work of Marshall and Story in resisting the popular movements of the generation that followed the war. But in the years immediately after the war the American people responded to a defense of the sovereign nation, and as in other days American thinkers turned to Europe for the lines of thought that would be suitable for the purpose at hand. For in Europe the defense of nationalism had proceeded apace; there were those members of the Catholic reaction who wished to see authority take the place of the dissolvent doctrines of nineteenth-century liberalism; and there were the philosophers of Germany, who, in a system of political metaphysics quite alien to the American habits of mind, were defending the principles of German nationality as a result of the harrowing experiences with Napoleonic and continental imperialism. Yet, as we have seen, there were many similarities between the German nationalists and the doctrines of Calhoun; only, in the United States after the war it was clearly impossible to pay any attention to the ideas which the South developed in the long and stubborn defense of its own attempt to gain the realization of nationhood.

Orestes A. Brownson. The time was not yet, however, when the Catholic faith was to be regarded by the mass of our citizens as other than peculiar. In spite of the long existence of Catholic groups in the United States, the predominant feeling was that Protestantism alone was a suitable religious foundation of American democratic nationalism. Our principles of religious freedom did not permit the adoption of legal discriminations against the Catholics, as had been the case in England

and in France. It remained for ministers of the Protestant view to insist that there was a Catholic conspiracy against the system of American institutions. Anti-Catholicism became a national movement, culminating in the organization in the fifties of the Native American party or the Know-Nothing party.[20] However, Orestes A. Brownson, a wanderer from one religious view to another until he came to rest in the Catholic Church, was one of the first to see in the Catholic faith the necessary underpinning for American democracy. Popular liberty, he believed, could be sustained only by a religion that had the ability to press upon the people the fulfillment of their duties. The primary element in any civic faith is the moral law that the people can obey; too much have we heard of liberty and the rights of man, and we need now to hear more of his duties and the rights of government.

Brownson's belief that the national existence is a moral growth, and that the providential constitution of a state is as important as the written, came to full maturity following the war. His nationalism is expressed most forcefully in *The American Republic,* published in 1866; explicitly he rejected the doctrine of state rights, which he defended from 1828 to 1861. But he still maintained that the sovereignty of the United States rested in the states, though in the states collectively or united. Nations, he urged, are only individuals on a larger scale. They have a life and individuality, a reason, a conscience, and instincts of their own, and have the same general law of development as the individual man. A nation has a spiritual as well as a material existence; it has a moral as well as a physical being. The right of government to govern is derived from the collective people of society, and through God by the law of nature; and rulers hold power from God through the people or the nation. The sovereign in a republican order is the organic people, or state, and with us is the United States; for here the organic people exist only as organized into states united, which in their union form one compact and indissoluble whole.

In Brownson we may observe a mixture of older Catholic views combined with the newer organic theory of the nation. In the years following the Confederate War the organismic theory of the state was an idea which writer after writer picked up and used to explain the principle of national existence in the United States. In general, however, we must say that Brownson stands alone in the peculiar emphasis of his thought. Others like Isaac Hecker, also a convert, were to be more effective and

[20] See Ralph H. Gabriel, *The Course of American Democratic Thought* (1940), pp. 52*ff.*, for a brief discussion of this spirit in American politics.

determined in their effort to unite the Catholic view of life with the American democratic theory of society.[21]

German Influence: Francis Lieber. When Brownson discussed American democracy, he was looking at it from the perspective of historical experience, from the time of the ancients to the present; he had escaped the thralldom of narrow constitutionalism which had so dulled the earlier discussions of American nationality. The unwritten, providential constitution was a product of historical experience from the earliest times; the mission of the United States was likewise viewed from his interpretation of the force of Providence in shaping institutions. On the other hand, when we observe the method of other writers of this period, it is clear that something like contemporary political science had emerged. Political science is discussed in the background of a theory of the state. If German influence is strong in writers like Lieber and Burgess, it was because the German political thinkers of their time were among the most energetic in the world. But German political science was divided between authoritarian and conservative nationalist views on the one hand, and on the other, those which continued the traditions of European liberalism.[22] Lieber was a German liberal, adapting continental liberalism to the needs of American political thought. By contrast, Burgess represents a slightly more conservative strain of German influence. Whether these or other writers are considered, the social contract and the theory of natural rights in the eighteenth-century sense had passed from our science of politics. Instead of the earlier individualistic constitutionalism, the constitutionalism of the national state took its place. From this time on, serious American problems could not be discussed without a consideration of related issues in European political experience. American political thinking became liberal, in part, in the European sense of the word.

When Francis Lieber came to the United States in 1827, he was fleeing from the European reaction which followed the downfall of Napoleon. If he adhered to the principles of liberal government, he brought with him also a firm conviction of the value of the national state. With his wide background of history and European politics, his energetic pen was soon

[21] On Hecker, see Gabriel, *op. cit.*, pp. 58*ff*. Hecker was the founder of the Paulists. He emphasized the principle of the free individual as the basis of religious and democratic faith. Hecker urged that the great American delusion was the belief that democracy springs from Protestantism. Both Lutheranism and Calvinism he thought ultimately incompatible with a full, free democracy.

[22] See Guido de Ruggiero, *The History of European Liberalism*, trans. from the Italian (1927).

indicating to the American student the new course that political thought was to follow.

Civil liberty was one of the profound interests of Lieber, but he argued that liberty must partake of the character of the whole of politics found in a nation.

This view, however correct, has, nevertheless, misled many nations. It is true, that the system of politics must adapt itself to the materials and destinies of a nation; but this very truth is frequently perverted by rulers who wish to withhold liberty from the people, and do it on the plea that the destiny of the nation is conquest, or concentrated action in different spheres of civilization, with which liberty would interfere. In the same manner are, sometimes, whole portions of a people, or even large majorities misled. They seem to think that there is a fate written somewhere beyond the nation itself, and independent of its own morality to which everything, even justice and liberty must be sacrificed. It is at least a very large portion of the French that thus believes the highest destiny of France to consist in ruling as the first power in Europe, and who openly say, that everything must bend to this great destiny. So are many among us, who seem to believe that the highest destiny of the United States, consists in the extension of her territory—a task in which, at best, we can only be imitators, while, on the contrary, our destiny is one of its own, and of a substantive character.[23]

The nation Lieber approved was one in which the rights of citizens were protected, in which the historic civil rights had full scope for the protection of individual citizens. But it was only in such a broad community as the nation that the proper constitutional system could be organized. This national community has a moral function to perform in relation to the individual; it has as its function the education of the citizen to higher levels of civilized life.

When it is asserted that the state exists of necessity [said Lieber] and is the natural state of man, it is not pretended that the idea of the state, such as I have represented it, has existed and been clearly acknowledged from the beginning. The history of the state is similar to that of all other ties and institutions founded in man's nature, and of which I have said already that their character becomes more distinctly developed on their own essential ground, and that their operation consequently becomes more powerful with every advanced state of civilization, which in other words only means, with every farther development of man's true nature. No states are so powerful in their action, within and without, as those of civilized nations. . . . I mean that the essential attributes of the state become more distinctly understood, affect more powerfully each individual, unite

[23] Francis Lieber, *On Civil Liberty and Self-government* (2 vols., 1853), Vol. I, p. 55.

men into a more closely interlinked community, that it extends protection and receives stronger support, that vast, powerful public opinion joins it—in short, that the intensity of its action in a thousand different ways increases.[24]

John W. Burgess. One of the curious phases of the defense of the state as morally necessary to the development of the individual is the insistence at the same time on an individualistic type of society from the economic point of view. Those who have denied the state to be a moral organism, a product of the highest reaches of civilization, have been more willing to reject the current institutions of society and to favor new experiments in organization, particularly as to property. The nationalist writers, however, were interested primarily in establishing the right of the national state to exist on a historical and moral basis. In the nature of the case, they would be conservatives of one shade or another. We may say that there was a short moment in our national life when the American people felt the need of a defense of nationalism itself. That moment was just after the discovery of the nation had been made. But in the later years of the nineteenth century John W. Burgess, of Columbia University, expressed perhaps most eloquently and effectively of all the spirit of the national state.

His work on *Political Science and Comparative Constitutional Law* (1890) is one of those great works in politics which today is more noted than read. Indeed, it is hardly necessary for the casual student of politics to read it today, since it summarizes the end of a period rather than the beginning of the new. It belongs to the nineteenth century, and in its substance it was unable to reach into the spirit of the twentieth. Thus, it is an excellent work with which to conclude this chapter. Burgess studied in Germany and returned to the United States with the mark of German scholarship upon his mind, but he also returned bringing with him many of the conceptions of systematic political study which were regarded as essential in Germany.

[24] Francis Lieber, *Manual of Political Ethics* (2d ed., rev., 1881), Vol. I, pp. 162–164. Other writers who might be considered here are John A. Jameson, *The Constitutional Convention* (1866); Elisha Mulford, *The Nation* (1870); John C. Hurd, *The Law of Freedom and Bondage* (1858), *The Theory of Our National Existence* (1881), *The Union State* (1890); Theodore D. Woolsey, *Political Science* (2 vols., 1878). In one way or another, all of the nationalist writers attempted to find something more than simply a Constitutional basis for the union of the American people. The nation was behind the Constitution, but the nation was an historical fact, a growth, an organism. The nation-state reflected the intention of history as to the best form of social organization. The writers were, like Lieber, interested in maintaining the Constitutional rights of property against the attacks of newer social theories. The organic theory of nationalism has been more recently argued in the Third Inaugural of Franklin D. Roosevelt, in 1941.

The idea of the nation dominates Burgess's work. "Nation" has become, he said, one of the commonest catchwords of political science.

> Especially is it so used and abused by French, English and American publicists. The Germans, on the other hand, are more exact and scientific in their political and legal nomenclature. They confine the word and idea more nearly to their original and natural place, and find another term and concept for political and legal science. We shall do well to imitate their example; and we shall escape much confusion in thought and language by fixing clearly the meaning of this term in our own minds, and using it only with that meaning. As an abstract definition, I would offer this: A population of an ethnic unity, inhabiting a territory of a geographic unity, is a nation.[25]

But in Burgess's mind there was a distinct hierarchy of nations.

> Not all nations, however, are endowed with political capacity or great political impulse. Frequently the national genius expends itself in the production of language, art or religion; frequently it shows itself too feeble to bring even these to any degree of perfection. The highest talent for political organization has been exhibited by the Aryan nations, and by these unequally. Those of them remaining in the Asiatic home have created no real states; and the European branches manifest great differences of capacity in this respect. The Celt, for instance, has shown almost none, the Greek but little, while the Teuton really dominates the world by his superior political genius. It is therefore not to be assumed that every nation *must* become a State. The political subjection or attachment of the unpolitical nations to those possessing political endowment appears, if we may judge from history, to be as truly a part of the course of the world's civilization as the national organization of states. I do not think that Asia and Africa can ever receive political organization in any other way. Of course, in such a state of things, the dominant nation should spare, as far as possible, the language, literature, art, religion and innocent customs of the subject nation; but in law and politics it is referred wholly to its own consciousness of justice and experience.[26]

North America, Burgess saw, was not markedly distinct from the geographic point of view, and he was convinced that the Anglo-Americans would absorb the other Teutonic elements of the population. Hence, aside from the Negroes, Mongolians, and Celts there was little divergence of race, and the Celts would in the end mingle their blood with the Teutonic elements of the population. In examining the peculiar characteristics of different nations, Burgess came to the conclusion that the primary fact about the Teutonic peoples is that they are political, and they are above all the creators of the national state. Nearly every state

[25] John W. Burgess, *Political Science and Comparative Constitutional Law* (1890), Vol. I, p. 1.

[26] *Ibid.*, pp. 3–4.

of modern Europe owes its origin to the Teutons, the United States included. It was not Roman discipline nor Christian ideas that so marked out the Teutonic peoples, for education could only develop what already exists in seed and germ.

> The United States [said Burgess] also must be regarded as a Teutonic national state. In the light of history and of present fact, our propositions cannot be successfully disputed, that the significant production of the Teutonic political genius is the national state; that only the Teutonic nations have produced national states; and they have proved their intense positive force in this direction by creating national states upon the basis of populations belonging to other races, even upon the basis of a population belonging to a race of so high political endowment as the Roman.[27]

In common with other nationalists, Burgess believed that the national state comes nearer to solving the problems of political organizations than any other form of state known to history. Such a state rescues the world from the monotony of universal empire, and it resolves the problem of the relation of sovereignty and liberty. The most powerful national states are the most free, since, when the people have a common basis of life, participation in government raises no serious questions.

Conclusion. In the flush times of nationalism after the Confederate War, little attention was given, either by the publicists or the common citizen, to the problem of state rights. The American people were weary of the rights of the states; they were concerned with the rights of the nation, and the place of our nation in the historical order of nations. Because he was interested in the place of the states in the Union, Woodrow Wilson was able to see that James Bryce, in 1888 in *The American Commonwealth,* had given suitable prominence to the states in his examination of American problems. No one cared to remember in the North the pre-war Southern case for state rights, and it was necessary to rediscover the state after the period of lush and enthusiastic nationalism.[28]

In the critical years of the twentieth century we can no longer feel self-assured concerning the usefulness of the national state. Some might urge that it is too large and centralized, and becomes inevitably a machine for war and imperialism; others may feel that a strong world or-

[27] *Ibid.,* p. 38.

[28] See R. C. Brooks, ed., *Bryce's American Commonwealth: Fiftieth Anniversary* (1939), pp. 174–175. In *An Old Master and Other Political Essays* (1893), p. 94, Woodrow Wilson maintained that the states or members of the Union were genuine states, in accordance with Jellinek's views, although their sphere is limited by the presiding sovereign powers of a state superordinated to them. The states have dominion; the Union has sovereignty.

ganization is necessary to overcome the havoc caused by the national-state system of the nineteenth century. Most would agree, however, that the national-state system has not solved the essential problems of political life, as Burgess and others claimed over half a century ago.

Selected Bibliography

Adamic, Louis: *A Nation of Nations* (1945).

Bowers, Claude G.: *The Tragic Era: The Revolution After Lincoln* (1929).

Brownson, Orestes A.: *The American Republic* (1866).

———: *The Works of Orestes A. Brownson* (1888).

Burgess, John W.: *Political Science and Comparative Constitutional Law* (2 vols., 1890).

Carpenter, William S.: *The Development of American Political Thought* (1930).

Coker, Francis W.: *Democracy, Liberty and Property* (1942).

Cook, T. I., and A. B. Leavelle: "German Idealism and American Theories of the Democratic Community," *The Journal of Politics,* V (1943), 213*ff.*

Curti, Merle: *The Social Ideas of American Educators* (1935).

———: *The Roots of American Loyalty* (1946).

Federalist, The

Gabriel, Ralph H.: *The Course of American Democratic Thought* (1940).

Gettell, R. G.: *History of American Political Thought* (1928).

Hacker, L. M.: *The Triumph of American Capitalism* (1940).

Haines, Charles G.: *The American Doctrine of Judicial Supremacy* (2d ed., 1932).

Harley, L. R.: *Francis Lieber: His Life and Political Philosophy* (1899).

Hayes, Carleton J. H.: *Essays on Nationalism* (1928).

Hertz, Frederick: *Nationality in History and Politics* (1944).

Holcombe, Arthur N.: *The Foundations of the Modern Commonwealth* (1923).

Jacobson, J. M.: *The Development of American Political Thought* (1932).

Jameson, John A.: *The Constitutional Convention: Its History, Powers, and Modes of Proceeding* (1867).

———: *A Treatise on Constitutional Conventions* (4th ed., 1887).

Kohn, Hans: *The Idea of Nationalism* (1944).

Lieber, Francis: *Civil Liberty and Self-government* (1853).

———: *Political Ethics* (1838–1839).

Lincoln, Abraham: *The Complete Works of Abraham Lincoln,* ed. by J. G. Nicolay and John Hay (1894).

Martin, Charles E., and Henry George: *American Government and Citizenship* (1927).

Maynard, Theodore: *Orestes Brownson* (1944).

Merriam, Charles E.: *American Political Theories* (1903).

———: *American Political Ideas, 1865–1917* (1920).

Parrington, V. L.: *Main Currents in American Thought* (3 vols., 1927–1930).

Randall, James G.: *The Civil War and Reconstruction* (1937).

Richardson, James D.: *A Compilation of the Messages and Papers of the Presidents, 1789–1897* (10 vols., 1897).

Robson, C. B.: "Francis Lieber's Theories of Society, Government and Liberty," *The Journal of Politics,* IV (1942), 227*ff.*

ROBSON, C. B.: "Francis Lieber's Nationalism," *The Journal of Politics,* VIII (1946), 57*ff*.

STORY, JOSEPH: *Commentaries on the Constitution of the United States* (3 vols. 1833).

WEBSTER, DANIEL: *The Works of Daniel Webster* (12th ed., 6 vols., 1860).

WECTER, DIXON: *The Hero in America: A Chronicle of Hero Worship* (1941).

WILLOUGHBY, W. W.: *The Fundamental Concepts of Public Law* (1924).

WILSON, WOODROW: *An Old Master and Other Political Essays* (1893).

WRIGHT, B. F.: *A Source Book of American Political Theory* (1929).

Chapter 11

THE VOICE OF PROTEST

> But just as such a community realizes the conditions which all civilized communities are striving for, and advances in the scale of material progress—just as closer settlement and a more intimate connection with the rest of the world, and greater utilization of labor-saving machinery, make possible greater economies in production and exchange, and wealth in consequence increases, not merely in the aggregate, but in proportion to population—so does poverty take a darker aspect. Some get an infinitely better and easier living, but others find it hard to get a living at all. The "tramp" comes with the locomotive, and almshouses and prisons are as surely the marks of "material progress" as are costly dwellings, rich warehouses, and magnificent churches. Upon streets lighted with gas and patrolled by uniformed policemen, beggars wait for the passer-by, and in the shadow of college, and library and museum, are gathering the more hideous Huns and fiercer Vandals of whom Macaulay prophesied.—Henry George.[1]

The Poor and the Revolution. It can hardly be said that any society is perfect. Many social thinkers have insisted that the greatest imperfection of society is the unequal distribution of wealth that enables some to live well and forces others to the borderline of subsistence. In every civilization there have been some who have protested against what they have deemed to be injustice. They have acted on the undying conviction that men can change the order or tendency of social history. That men do not act justly does not invalidate protest—as, for example, the Christian who sees the Golden Rule flouted with every new day does not any the less believe that this principle of reciprocity is the cure for social ills.

Ever since the prophet Amos shouted woe to the rich who ate the young out of the flocks, who had fine cups for their wine and fine beds for their sleep, the rich have been subject to attack in the civilizations which we know. Momentarily through this history of the West the poor, the starving, and the oppressed have risen in desperate revolt. Thus there have been successful revolutions, but the economic misery of advanced societies has been only momentarily assuaged. The pattern of protest is as sure in the social process as the pattern of conservatism; and

[1] *Progress and Poverty,* Twenty-fifth Anniversary ed., p. 7.

through the centuries the arguments for the established order and for the new "dream" order have varied surprisingly little in their import.

A revolution is the passage of an idea from theory to practice, said Mazzini, the great Italian nationalist and patriot. But the passage of ideas to practice is a constant in society itself, and the idea of the beginning is never exactly like the set of social controls or government which exists after the revolution has been achieved. Ideas in practice, moreover, pass continually from practice into the realm of theoretical concept, and such we know as the decay of a body of governing institutions used by those who are in power. A revolution is, therefore, always an assault upon a ruling class, but the achieved revolution is usually the final seal put on the long process of social decay or loss of institutional energy. The English revolutions of the seventeenth century expressed changes long overdue in the character of rulership in Great Britain; De Tocqueville in *The Old Regime and the Revolution* showed how most of the French Revolution was attained long before the events beginning in 1789; the American Revolution was brewing, it would seem, before the beginning of the eighteenth century; the failing revolutions of the nineteenth century showed surely how anachronistic the remaining feudalism of Europe was; the Chinese Revolution, beginning in 1911, stamped the historical verdict of decay on the Manchu regime; and the Russian Revolution of 1917 was the product of long political stagnation and the disruption of the First World War.

American Discontent: Movements and Reforms. Our concern in this chapter is the protest against the economic system of the nineteenth century. Some speak of capitalism (an epithet produced by socialist thought), and others of free enterprise. But whatever name we may use, the protest against the modern industrial and financial system began with the inception of that system itself. As capitalism began its triumphant march, the rebellious note of socialistic thought was heard early in the nineteenth century. Yet until the critical times of war and economic crisis in the twentieth century, no large group of political leaders had espoused the cause of the humanitarian socialist. Now we seriously ask ourselves whether there is to be a revolution in all of the West, as in Russia, which will overturn the economic system which Western men have defended against attack. Is there a coming American Revolution?

In the United States there has been great discontent during the period since the Confederate War. It has taken a variety of forms, but those thinkers who have been the most consistent and thorough in their demands for change have made the least impression on the American voter, while those who have advocated piecemeal changes have attained some re-

sponse from the electorate. As we trace this movement by its great landmarks in this chapter down to 1917 (the time of the Russian Revolution), we may wonder why, with all the humanitarianism and sentimentalism of the American people, the critics have got no further along than they have. The remarkable thing about all this may be the loyalty of the American people to the traditional economic system, which in its roots goes back to the days of the Constitutional Convention in 1787 and before. Primarily the voice of discontent since the surrender of Lee has been directed against the inequities of the economic system. Remedy has been sought, not only in changes in the economic system, but also in various reforms seeking to make the democratic system more effective. The second era of democratic reform will be considered in the following chapter, while in this our attention will be directed to the criticism of conservatism in the economic sphere.

We have already observed that the intense humanitarian and reformist movements up to the end of the Confederate War did not extend to fundamental changes in the economic order. The problem of slavery in the North was a humanitarian issue, and it was not seen in the context of the general problem of labor. It has been said that Wendell Phillips alone of the abolitionists perceived the economic origins of the issue; the slavery question was a labor question, and abolition was only one battle gained in a long warfare. Therefore, Phillips turned his attention to wage slavery after abolition. Perhaps he was a socialist, though he had no formula and no system; he supported the application of democratic and equalitarian principles to economics, and believed in the argument of Ira Steward, a Boston machinist, for the eight-hour day, which Steward advanced in 1865. The limitation of the hours of labor was to Phillips a primary issue, and it was the duty of government to give the people leisure for politics in a democratic society.[2]

The American principle of equality, therefore, had a definite connection with the rising criticism of the economic system. Gradually it came to be felt by many that the system did not live up to advance notice, and that something more must be done about the golden age of American capitalism than to adopt the principle of *laissez faire*. But aside from the socialists, Utopian or otherwise, and the anarchists, the American people were content with partial reforms directed against particular abuses. Such a plan seemed in accord with their desires for a greater realization of equality. Perhaps a no more thorough approach was

[2] See Charles Edward Russell, *The Story of Wendell Phillips* (1914), pp. 119, 120, 135. Cited in Edward R. Lewis, *A History of American Political Thought from the Civil War to the World War* (1937), p. 256. See *ibid.*, pp. 254*ff*.

adopted because of the deep sense of the mission of American democracy and freedom that had been ingrained in American thought in previous generations. Perhaps even today we are still greatly influenced by the mid-nineteenth-century feeling that ours is, after all, the best social system on the face of the earth.[3]

In view of this assumption, we must conclude that American economic criticism is derived more from older European thought than from nineteenth-century socialism. The socialist is, naturally, an avowed exponent of such ideas, whether or not he accepts directly the teachings of Karl Marx and Frederick Engels. If Lincoln helped revive the principles of the Declaration of Independence in fighting the institution of slavery, later thinkers could return to the liberalism of the eighteenth century to support their belief in the possibility of a better economic condition for all Americans. It was a simple step from the idea of political democracy to a system of reform which would insure an extension of economic democracy. Each movement for change had to have its particular point of reference, even if nearly all of the movements envisaged legislation and democratic machinery as the devices for attaining their purposes. Labor and agriculture have been the two main sources of protest, socialism in various forms has been another, while the Progressive movement in the twentieth century tended to absorb much of the thought of the other systems of criticism.

In the seventies it was a new experience to see farmers of the Middle West on the warpath against the discriminations of railroads in their rate structures, and to see them demanding relief from impossibly high interest rates. For a time it seemed that the Granger movement would succeed in making a fundamental change in the structure and policies of the political parties, dominated largely by the East. The Interstate Commerce Act of 1887 and other measures attempted to control the policies of the railroads, while the Sherman Antitrust Act of 1890 attempted to prevent business from establishing combinations in restraint of trade. Under Theodore Roosevelt and William Howard Taft the national government undertook many prosecutions of monopolies, which were growing up in the American business system.

It was not until 1913, under the leadership of Woodrow Wilson, who proposed a "New Freedom," that more comprehensive measures were adopted. A successful effort was made to reduce the interest rate on farm loans, and the Federal Trade Commission was established to prevent unfair methods and trade practices. The Clayton Act attempted

[3] See T. V. Smith, *The American Philosophy of Equality* (1927).

to extend further protection against price discriminations, consolidations, and combinations, while it exempted labor unions and agricultural cooperatives from the operation of antitrust laws. The Federal Reserve System was placed over the American banking system. In addition labor began to receive specific protection. Under Senator La Follette's leadership American seamen were relieved of the historic and absolute control of masters of vessels, and they were given the right to leave their ships without violating the law; the Adamson Act established the eight-hour day for railroad employees. If in the meantime the membership in the unions connected with the American Federation of Labor under Samuel Gompers grew by leaps, the wartime effort brought promises of a better day for both farmers and workers. At the end of the war, however, these promises were forgotten; in economic depression the social gains made up to the First World War were, in the minds of many, largely lost.

The attack on conservatism through legislation progressed rapidly in the states in spite of the constant supervision of laws through the power of the Supreme Court. States undertook the regulation of railroads and other forms of transportation to prevent discrimination. The way was opened in 1869 in Massachusetts when that state created a railroad commission; other types of commissions were established to regulate various public-utility services. Meanwhile, the Progressives in Wisconsin were setting examples of social legislation for other states to follow. Workmen's compensation acts made it possible for workers to secure compensation as a result of industrial accidents without facing the conservative doctrines of the common law when they entered court. Women were given special protection in the form of minimum-wage and maximum-hour legislation. Industry was made safer by compelling employers to install safety devices, and industrial inspection was instituted, or at least a start was made. Among other things, the theory of taxation changed, for the reformers insisted that taxes might serve as an engine to alter the social structure as well as to raise revenue. The conservatives continued to insist that taxes should be levied only for the purpose of raising revenue, but the need for public revenue in the modern state is so great that taxes are certain to have social effects. Income taxes in the states—first established in Wisconsin in 1910 and by the Federal government in 1913—and inheritance and estate taxes served the joint purpose of increasing revenue and of checking the growth of large fortunes.

The agricultural problem was not solved by the protective tariff, nor by lowering the rates of interest on farm mortgages through Federal

lending. Out of the disturbances of the seventies, the Granger movement, Greenbackism, and the theory of cheap money, it became clear gradually that the United States faced a long-standing agricultural issue that could not be solved by war inflation, such as occurred during the First World War. In the years since that time the question has grown more acute, as soil depletion and erosion, migratory farm populations from the marginal farming areas, and the poverty of tenant farmers and tenant landlords have been added to the old list of problems. Nor has the breakdown of the international farm market in the years since the First World War added anything but disturbance to an already disturbed picture. Both Democratic and Republican parties recognized the plight of the farmers, but minor party movements, culminating in the Populist revolt of the nineties, added emphasis to the political protest against what was deemed to be the control of the trusts and big business. The Populists returned to the Democratic Party in 1896, but in 1912 the Progressive Republicans under Theodore Roosevelt split their party and permitted the Democrats to win the Presidential election of that year. For some years the Non-Partisan League, beginning in North Dakota, terrorized the conservatives, and following this, the efforts to form a Farmer-Labor party have been abortive. The minor parties in American politics have provided, on occasion, parts of the programs of the older and well-established parties.

As the organization of labor developed, and the American Federation of Labor succeeded the Knights of Labor, trade-unionism began to be respectable in the United States. Yet the program of the labor movement was fragmentary and essentially conservative in character. American labor did not, as labor in European countries, form a separate political party. Under the leadership of Samuel Gompers, the trade-union movement asked for collective bargains and for the unionization of industry; it did not demand the overthrow of capitalism, nor did it believe in social legislation to protect the workers. It preferred to rest its security on its capacity to extract suitable contracts from the employers of labor. During the First World War many promises were made to labor, the membership in trade-unions increased amazingly, and wages higher than ever before were paid. Yet at the end of the war reaction set in and labor lost heavily in union membership and the drive for the open or nonunion shop gained rapidly. The gains of labor before and during the war were sacrificed in large measure in the depression which followed. It was not until after the "Great Depression," beginning in 1929, that American labor came to accept the general principles of labor legislation; that is, the legislative guarantee of collective

bargaining, and other forms of protection such as social-security legislation. Gompers, though a leader of labor, was one of the sturdy individualists after all.[4]

One may wonder why, after so many years of economic reform, the American system continues to be, in the minds of liberals, still so much at fault. In the first place, the agricultural problem was not solved by the end of the First World War, nor is it solved today. In the second place, labor did not really gain by 1917 the fully assured right of collective bargaining. Nor had the socialists acquired sufficient power to be a real challenge to the capitalist economy. In addition, the minor parties which had sprung up from time to time had been short-lived. But the various movements which ended in the Progressive crusade had brought the government in as a corrective of industrial abuses. It was definitely assured that the Federal government was on the side of free competition, as in the antitrust laws and the prosecutions under it. As to the railroads, for example, the principle of regulation rather than competition was accepted. Other economic services were being assumed gradually by the government, both state and Federal, while in some instances, through legislation of a social character, government was fostering labor and agriculture, as well as standing as a friend to the larger aggregations of capital. It cannot be said that the conservatives had lost the battle by 1917 when we entered the European War; but it can be said that many profound changes had taken place, and the people of the United States were accustomed to a growing range of governmental intervention in economic matters. We must recognize that unrestricted competition had existed only in specific areas and for limited times, as in the early days of the railroads when there was no compulsory uniformity in rates charged the public. We must conclude that by 1917 the United States was not as free in competition as some have supposed it to be, and that what free competition there was had not been curbed to the extent that many desired. It can be argued that governmental control was a legitimate implication of the individualistic argument as it had been presented from the outset of American political experience. The individualists had never been completely so, even as far back as Adam Smith, and the real individualists of the generation after Appomattox

[4] See John R. Commons and Others, *History of Labour in the United States* (4 vols., 1935–1936); Samuel Gompers, *Seventy Years of Life and Labor* (2 vols., 1925); L. L. Lorwin, *The American Federation of Labor* (1933); Herbert Harris, *Labor's Civil War* (1940); Harwood L. Childs, *Labor and Capital in National Politics* (1930); M. R. Carroll, *Labor and Politics* (1923).

protested against both government aid to industrial development and government regulation of business.[5]

Utopian Socialism. If we turn to the movements which rejected capitalism and all its works, we find two different types of socialism. One type, the Utopian, endeavored to form new communities, and by the process of expansion to undercut the old society. On the other hand, scientific or Marxian socialism is a philosophy and a program for the direct change of industrial society itself. It has the greatest contempt for those who would establish in the midst of capitalism the perfect or near-perfect society. Both types of socialism have had their share in shaping the critical tradition in the United States. But the influence of Utopian thought was more dramatic than real; and since the rise of integral Marxian socialism, Utopian ideas have been more curiosities than the basis for political movements. Yet the Utopians of the nineteenth century certainly helped develop a critical point of view on the modern economic system, and it can hardly be denied that other socialists have benefited by Utopian criticism. However, both the Utopian and the Marxian types of socialism developed side by side during the latter part of the eighteenth and the first half of the nineteenth century—with this proviso, that the Utopians gained more of a hearing before the middle of the nineteenth century than did the integral socialists, who proposed a complete change in society by the destruction of the existing ruling classes. Likewise, the Utopians appealed to both high and low in society to make the change in the industrial system, while the socialists after Marx turned their attention to the workers and the exploited members of society in order to make them the engine of warfare against the capitalistic order. It must not be forgotten that even during the French Revolution Francis Noel Babeuf (executed in France in 1797) called on the workers to become a revolutionary force. Modern socialism is characterized by a thoroughgoing criticism of the economic order, with

[5] Among the conservative political scientists who may be consulted on this problem are Theodore D. Woolsey, *Political Science* (1877); W. W. Willoughby, *An Examination of the Nature of the State* (1896), *Social Justice* (1900); Woodrow Wilson, *The State* (1889), *The New Freedom* (1913).

Allan Nevins, *John D. Rockefeller: The Heroic Age of American Enterprise* (2 vols., 1940), blames the people for the rise of many monopolies, such as oil and coal, since they did not insist on the regulation of the common carriers, the railroads, and failed to provide for standard rates. The railroads' discrimination against shippers was a life-and-death control over certain businesses. Had extensive regulation been used, our economic development might have been more leisurely. Rockefeller, for example, was impressed with the bankruptcy and unemployment which accompanied rate wars, overproduction, and the individualism of the development of oil in Pennsylvania. Standard oil became the bête noire of the critics of individualism

a specific technique of social change—that is, the organized workers should make the change, either by bullets or by ballots.[6]

The great names in early French socialism were Babeuf, Etienne Cabet, Henri de Saint-Simon, Charles Fourier, Louis Blanc, and Pierre Joseph Proudhon (the anarchist). In England the volume of social criticism was immense, but it did not produce as many attempted systematic treatments of the social problem. Thomas Spence, William Ogilvie, and Thomas Paine were agrarian reformers and not comprehensive socialists. William Godwin, the poets Wordsworth, Southey, Shelley, and Coleridge, and others dreamed of a new order under the inspiration of the idealism of the French Revolution; but the name of Robert Owen stands out in prominence above the rest because of his practical efforts as well as his writings in favor of a communistic society. Owen, for example, brought about the socialistic or communistic experiment at New Harmony, Indiana, when he bought 30,000 acres there in 1824. All of these thinkers of the revolutionary generation which followed the French Revolution believed in the possibility of making man a rational and intelligent creature, and that by a change in institutions, with emphasis on proper education, the new society might be gradually created from the piecemeal destruction of the old. Nor must we forget, as far as the United States is concerned, that the New World seemed, to those in the eighteenth century who romanticized the natural condition of man, the proper place to establish a new society. Since the time of St. John Crèvecoeur's *Letters from an American Farmer* (1793), the romantic picture of America has been perhaps in the minds of dreamers in Europe. It was in consequence of such ideas that many attempts were made to establish cooperative communities in the United States; and it may have been in part the reason for a fairly wide acceptance of Utopian socialism in the United States during the middle decades of the nineteenth century.

It happened that the ideas of Fourier received the most systematic hearing in the United States in the generation which saw the war between the North and the South. Albert Brisbane, the father of the journalist Arthur Brisbane, became an energetic apostle of Fourierism, publishing in 1840 his *Social Destiny of Man.* Horace Greeley, editor of the New York *Tribune,* was converted to the principles of Association according to the argument of Fourier. The right of labor to a full and just compensation could not, he thought, be achieved without a radical and thorough change in our social economy.

[6] See Harry W. Laidler, *A History of Socialist Thought* (1933), for a summary of the development of socialistic thinking in the modern world.

By Association [said Greeley] I mean a social order which shall take the place of the present township, to be composed of some hundreds or some thousands of persons, who shall be united together in interest and industry for the purpose of securing to each individual the following things: (1) an elegant and commodious house; (2) an education, complete and thorough; (3) a secure subsistence; (4) opportunity to labor; (5) fair wages; (6) agreeable social relations; (7) progress in knowledge and skill. As society is at present organized, these are the portion of a very small minority. But by Association of capital and industry they might become the lot of all; inasmuch as Association tends to *economy* in all departments, economy in lands, fences, fuel, household labor, tools, education, medicine, legal advice and commercial exchanges. . . . The property of an Association will be vested in those who contribute the capital to establish it, represented by shares of stock, just as the property of a bank, factory or railroad now is. Labor, skill and talent will be remunerated by a fixed proportion of their product, or of their proceeds, if sold. Men will be induced to labor by a knowledge that its rewards will be a certain and major portion of the product, which, of course, will be less or more, according to the skill and industry of each individual.[7]

New England transcendentalists were deeply influenced by the principles of Utopian socialism on the Fourier model. Charles A. Dana, George Ripley, Parke Godwin, and others had become the inner pillars of the movement in the United States. But it was the Brook Farm experiment, begun in 1840, that has been given the widest attention in American intellectual history because of the distinguished names which lent their approval or directly participated in it. In 1844 Brook Farm became a full-fledged Fourier experiment; it became the "Brook Farm Phalanx." Because of an accidental fire and waning of interest in such social ideas, Brook Farm ceased to be. Not only was Brook Farm an economic enterprise, it was an attempt to combine the principles of a cooperative economy with an ideal intellectual development. It was the center, for a time, of intense intellectual activity at the height of the New England hegemony of American philosophical thought.

The Utopian thought of which we have been speaking was based on the theory of the goodness of human nature corrupted by unjust social institutions; it believed that a change of institutions will enable men to be educated to social harmony; that the new institutions would be more economical, providing a higher and better-distributed level of existence for all. It was not an appeal to class war, since it urged that men establish their own system of the good society. The cooperative movement of more recent years assumes that certain relations of men may be

[7] Quoted in Laidler, *op. cit.*, p. 125. See Horace Greeley, "Hints toward Reforms," in *Lectures, Addresses and Other Writings* (1850).

better organized without changing society in its total organization; the cooperative may be regarded as a kind of successor of earlier Utopian socialism. On the other hand, as the technological age began to clarify the minds of critical or radical thinkers, they were impressed with the increased production of wealth and the increasingly unequal distribution of the productiveness of industry. They believed also that the necessity of labor could be greatly reduced by technological advance, and later Utopian thought has therefore stressed the technical aspect of social organization. The engineer, in other words, became a more important factor in social thought. Logically, the impact of the engineer idea on radical thought was the sovereignty of the engineer, a principle accepted after 1930 by the Technocracy movement. Indeed, in the construction of imaginary ruling classes almost any group might be selected as the leaders and arbiters of social destiny: the schoolteacher, the scientist, the doctor, the businessman, or just "women." The new Utopian thought stresses not only science and technology (as did Francis Bacon in his *New Atlantis*), but it accepts, likewise, the principle of development, process, and change in society, even in the ideal one.

Edward Bellamy. When Edward Bellamy published in 1887 his *Looking Backward: 2000–1887*, he could not have been expected to anticipate the popular reception of his work. Through this work he outlined what might be accomplished by his program of national socialism. Bellamy has his hero, Mr. Julian West of Boston, fall asleep on Decoration Day, 1887, under the influence of a mesmerist, and then awaken in the year 2000. On awaking he discovered not the poverty-ridden Boston of 1887, but a beautiful city without corruption, without politicians, and with peace, plenty, and equal opportunity for all, as a result of the cooperative system of production introduced into all phases of industrial life. His was a materialistic and technological society, but one in which the human spirit blossomed. In 1897 he pursued his attack on social injustice in *Equality*.

Bellamy was profoundly influenced by the agitation against trusts and monopolies, for in his work he pictured the course of American economic history as one of increasing consolidation and monopoly. Monopolies became larger and more powerful, until small businesses lived like rats and mice in holes and corners. Men were forced increasingly to enter the service of the great corporations, and when there was money to invest, it had to be placed in the capital of the great and ever greater aggregations of capital. But according to the story, early in the twentieth century the evolution was completed and the final consolidation of capital in the United States took place.

Early in the last century [Bellamy has his narrator say in Chapter V] the evolution was completed by the final consolidation of the entire capital of the nation. The industry and commerce of the country, ceasing to be conducted by a set of irresponsible corporations and syndicates of private persons at their caprice and for their profits, were intrusted to a single syndicate representing the people, to be conducted in the common interest for the common profit. The nation, that is to say, organized as the one great business corporation in which all other corporations were absorbed; it became the capitalist in the place of all other capitalists, the sole employer, the final monopoly in which all previous and lesser monopolies were swallowed up, a monopoly in the profits and economies of which all citizens shared. The epoch of trusts had ended in The Great Trust. In a word, the people of the United States concluded to assume the conduct of their own business, just as one hundred odd years before they had assumed the conduct of their own government, organizing now for industrial purposes on precisely the same grounds that they had then organized for political purposes. At last, strangely late in the world's history, the obvious fact was perceived that no business is so essentially the public business as the industry and commerce on which the people's livelihood depends, and that to intrust it to private persons to be managed for private profit is a folly similar in kind, though vastly greater in magnitude, to that of surrendering the functions of political government to kings and nobles to be conducted for their personal glorification.

The new system was introduced without violence. It solved the labor problem, and all citizens were placed under the obligation of working for the common good, between the ages of twenty-one and forty-five. The money and credit institutions of the past disappeared, and credit cards, issued to all persons, secured for them the goods they needed, and the wastes associated with the old capitalistic system of production were eliminated.

In a later chapter we shall see how the Utopian movements after the First World War and during the "Great Depression" were gradually absorbed by other trends in politics, and gave much of their support to the New Deal administration. But we shall also see how there is a continuity in American politics, outside of the socialist movement, of special theoretical solutions for the difficulties of the modern economic age.[8]

[8] We must look upon the Utopian community in American life as a profound expression of minority views. Even if the economic structure of a religious community changes, the thought which gave rise to the rejection of the conventional way of life may persist. See H. W. Schneider, *A History of American Philosophy* (1946), pp. 144*ff.*, for a discussion of Utopianism on the frontier. See also Laurence Gronlund, *The Cooperative Commonwealth* (1884), who helped introduce in America the Fabian principle of democratic socialism. He praised Bellamy and he also wrote for Bellamy's periodical, the *Nationalist*.

Marxian Socialism. Socialistic thought which stems from the Marxian tradition has certain characteristic features. In the first place, Marxian thought and its derivatives attempt to see economic history as a whole and to analyze the course of class struggle through the centuries and in different types of economic systems. It attempts to analyze modern capitalism in the light of its inner and inevitable tendencies. Therefore, it attempts to predict, within measure, the future course of events. In the second place, it suggests a technique of change fundamentally different from that proposed by the Utopians. Socialism (for such is the term that we now apply to it) suggests that society must be changed by the abolition of the capitalistic, private-enterprise, or monopoly system, and the substitution in its place of socialized effort. There must be an integral change of the whole economic structure of society, but this change must come about by the effort of the working class and such others as will support them. The workers may use either democratic means, or they may resort to revolution. Some socialists have insisted from the beginning of the movement that revolution is necessary, while others have believed that as the class-conscious working class commands a majority of the votes in a democratic state, a change of vast character may be brought about in the economy. American socialists have, in general, favored the democratic and evolutionary principle of change. But throughout the socialist movement the sectarian differences between socialist groups have been bitter and debilitating.

The socialist movement in the United States began with the immigration of German revolutionaries after the uprisings of 1830 and 1848. Workingmen's political organizations were formed in the sixties, and in 1877 the Socialist Labor party was organized, the oldest of the existing working-class parties in the United States. This party nominated its first Presidential ticket in 1892; it reached its height in 1898, when it polled over 82,000 votes. A split occurred over trade-union tactics in the late nineties, since Daniel de Leon, the leader of the party, insisted that Socialist Labor followers should form their own industrial (rather than craft) unions to compete with the American Federation of Labor. Men who were later to be leaders in the Socialist party, such as Morris Hillquit, Job Harriman, and others, argued that the Socialists should cooperate with the existing unions. The Socialist Labor party has never affiliated with any International, and it has lost members repeatedly to other radical groups. It has been more consistent in its stand than any other political party, and today its program is very much as laid down in the earlier days by de Leon.

The Socialist Labor party stands for the abolition of capitalism, and the means for securing this change is through the organization of workers

into socialist industrial unions. All present trade-union organizations, all other parties, all effort against war and for the amelioration of social and economic inequality are branded as delusions, since they turn the minds of the workers from the great objective, the destruction of capitalism through the power of the strike embodied in the great industrial unions. Attempts to mend the defects of capitalism must fail in the end; in a true sense, only the end of capitalism will help the workers. The party advocates the immediate but peaceful (if possible) overthrow of the present system.[9]

Meanwhile, other organizations were being formed. In 1897 the Social Democracy of America was formed under the leadership of Eugene V. Debs from the Brotherhood of the Cooperative Commonwealth and the remnants of the American Railway Union. The organization soon split, however, and in 1900 a basis of cooperation was established between the Social Democratic party and the Hillquit–Harriman group of the Socialist Labor party. Debs was nominated for President and Harriman for Vice-president, and the party polled nearly a hundred thousand votes in the election of that year. In 1901 the present Socialist party was born at a unity meeting in Indianapolis, and succeeded in polling 402,000 votes in 1904, and over 901,000 in the election of 1912. Debs became the venerated and great leader of the party. Because the Socialists opposed our entry into the First World War, Debs and many other Socialists were convicted and sent to prison under the wartime acts against seditious utterance. After the war, the Communist party entered the scene (the Communist or Third International was formed in 1919), and the Socialist party lost part of its membership to the new organization, first known as the Workers' party and later as the Communist party. It is of interest to remember that in 1924 the Socialist party supported Senator La Follette of Wisconsin in his campaign for the Presidency, and La Follette received 4,822,856 votes, the largest vote group in which the Socialists have participated. In October, 1926, Eugene V. Debs, a broken old man of seventy, died, after having been released from the Federal penitentiary. Norman Thomas, of New York, became the leader of the Socialist party.

The Socialist party has stood for the immediate socialization of large sections of basic industry, and it has been continuously in favor of peaceful change through democratic means from the capitalistic to the socialistic state. It opposed our entry into the First World War on the theory

[9] The Industrial Workers of the World (the I.W.W.) was formed by a split in the ranks of the Socialist Labor movement on the theory of tactics. The I.W.W. rejected political action as implied in the political party, and turned directly to industrial action (like the earlier French syndicalists) for the attainment of its end. The I.W.W. was organized in 1905, and with the Socialist Labor party comes closest to being an original, native proletarian movement in the United States.

that modern war is an inevitable product of the imperialism of capitalism, and that it can never, under the present system, be of any benefit to the workers. On the other hand, the party has favored various reforms within the country under the leadership of the old parties; it has definitely stood for ameliorative legislation for the benefit of the workers. It has favored social legislation, the right of labor to organize and to bargain collectively, and assistance to the farming population, and it has consistently supported the protection of minorities through the preservation of American civil liberties.[10]

All protest movements are prolific with the pen; in Europe and America the shelves of libraries are filled with the thousands of books, pamphlets, and speeches by socialist leaders who have spoken and written with amazing self-sacrifice in order to convert ordinary men to the socialist dream and the socialist program. The great socialist writer is Karl Marx, and socialists always go back to his writings to support the point of view in regard to socialism which they have taken. Likewise, in spite of the sects and splits that have continuously robbed the socialists of political victory, the socialist writings directed at the non-socialist always seem to lack originality, even if one compares the great Lenin with the writers among the Fabian socialists in England or with the leaders of the American socialist writers like John Spargo, Morris Hillquit, Eugene V. Debs, Scott Nearing, Harry W. Laidler, Daniel de Leon, or Norman Thomas. To those initiated in the socialist view, these differences mean a great deal. So far, the American mind has seemed largely impervious to the socialist dream, in spite of war and depression, unemployment and foreclosure, and in spite of the marked and glaring inequalities of wealth and power existing in our democracy.[11]

[10] An International is the organization internationally of various socialist groups or parties within each state. The First International was organized in 1864, though internal conflicts as well as the opposition of European governments made its life precarious. Karl Marx was the most important leader of the International, being particularly opposed to the anarchist views of some of the groups attempting to cooperate with it. In the 1872 Hague Convention of the First International, the majority, following Marx's advice, decided to move the headquarters to the United States, where it finally died in 1876. In his address in 1872 Marx suggested that the workers might capture political power in England and the United States without resort to violence. He was almost willing to add Holland to this list. Revolutionism in the socialist movement died down rapidly after the failure both of the First International and of the Paris Commune in 1871. The Second International was organized in 1889, being based on the new socialist parties which had appeared in Europe. After the First World War, the Second International was reorganized, and the Third International began its opposition work in 1919.

[11] One simple explanation for this may be that most Americans regard themselves as belonging to the "middle class." Appeals to the "proletariat" or working class fall, therefore, on deaf ears.

Throughout American socialist writings is the defense of democracy. Political democracy must be extended to the economic sphere; without industrial democracy (as contrasted with mere collectivism or state ownership), democracy becomes a mere shadow. In the defense of democracy American socialists have rejected the principle of revolutionary change, and they have been willing always to place their case before the whole American people. But they have been constrained constantly to say what socialism is not. Socialism is not of necessity the destruction of all private property. Where property is socially important, or where its use under private ownership is dangerous to the rest of the community, the state must step in and organize the more just and more perfect economic system. While socialist thinking has been filled with the plea for those who are unfortunate under the present system, it is not a mere sentimental movement, since it has undertaken (though not completely) to indicate the techniques of administration and organization by which the new society must be created. While the socialists have often welcomed reforms in the United States, for example, they have been at pains to point out that the mere municipal ownership of the waterworks or the gas plant is not the realization of a socialized state. The change in society must go far deeper than this in order to give each individual a just share in the productive forces of the modern economy.[12] American socialism has not been willing to adopt the abstruse Hegelianism of much of the writings of Marx and Engels, and of the later Russian communists. It has spent little time in arguing the ultimate metaphysical foundations of the socialist philosophy of history. It has proceeded directly to the analysis of the American capitalist system.

Henry George. In this chapter we are discussing the rejection of conservatism and criticism of the economic order. We must turn now to certain writers who are representative of the broad movement, whether or not they were affiliated with socialism; the criticism of the American system is, after all, much more than the socialist movement. Indeed, we have already seen this to be true in stating briefly some of the types of legislation which modified individualism in the years before that world-shaking event, the Russian Revolution in 1917.

To some, Henry George, who published in 1879 his *Progress and Poverty,* is one of the greatest and most original of American social thinkers.

[12] Some of the works that may be noted in this connection are: Laidler, *op. cit.*, *Socialism in Thought and Action* (1920); Morris Hillquit, *History of Socialism in the United States* (1910), *Socialism in Theory and Practice* (1909), *Loose Leaves from a Busy Life* (1934); John Spargo, *Americanism and Social Democracy* (1918), *Applied Socialism* (1912), *Socialism* (1906), *The Psychology of Bolshevism* (1919); *Debs: His Life, Writings, and Speeches* (1908); Daniel de Leon, *Speeches and Editorials* (2 vols., n.d.).

His work was read widely in the United States, and it was influential in reviving the socialist movement in England. Many of the early Fabian socialists were indebted to him for inspiration and ideas. George is fortunate to have stated in dramatic form one of the the enigmas of American society (or, indeed, any advanced society that we have known in the past)—that is, the increase of poverty with the elevation of the technical level of society. As more wealth can be produced, there is more poverty. George said there must be some remedy for this horrible result, which he could witness already in the eastern part of the United States and which was occurring daily under his eyes in the development of the Pacific Coast. George finally turned to the principle of land monopoly as the cause of this misery, and he proposed as a remedy the single tax on unearned social increment in the value of land. The increasing value of land is a product of social development, and no owner of land should be allowed to hold this value for himself. He should have it taxed away, so that others might use the land and so earn their living rather than exist in poverty and misery.

The writings of Henry George reflect the American humanitarianism of the hundred years which preceded the publication of his great book. An individual has meaning in the world as he acts the part of the reasoning creature, and in so far as he develops and improves the society in which he lives. At the same time George was conscious of the fact of law in the social universe, and it is one function of men to understand those laws; for on the one hand society may go the way of other dead civilizations, or it may march on to great heights by understanding the law of progressive societies. George is, therefore, an exponent of social law, of the fact that civilizations are governed by law, while at the same time he is an exponent of the principle of progress bequeathed to us by the optimism of the late eighteenth century. The work of the Reverend Thomas R. Malthus on the theory of population is accordingly one of the most hated theories in his mind, for Malthus urged that population presses against the food supply and that there could be no real labor progress without the unlikely development of certain moral checks on the growth of population. The earth gives freely to men, urged George, and it is not the food supply that prevents men from having a secure and happy life; it is rather the system of economic institutions that prevents the productiveness of the earth from being harnessed to the benefit of men. Injustice in society is the cause of want and misery, not the niggardliness of nature.

Turning directly to economic theory, George urged that the main cause of industrial depression was speculative advance in land values. This advance cuts down the earnings of capital and labor, thereby checking

the whole industrial progress of a society. Land is necessary to labor, agricultural or industrial; and land being reduced to private ownership, every increase in the productive power of labor but increases rent, the price that labor must pay for the chance to use its powers. The only ultimate remedy for the evil, for poverty in the midst of industrial advance, is to extirpate private property in land; we must make land common property. The land belongs to the people; it is the bedrock of any social existence. Why, therefore, continue to permit landowners to take the rent, or compensate them in any way for the loss of rent? Rent is a value created by the whole community, and it arises from nothing the landowners have done. In the United States, for example, the American people have failed to see the injustice of private property in land because they have not yet felt the full effect of such ownership; but when the public domain has been taken up, the consequences of private monopoly in land and the collection of rent by private owners will make clear the full import of our policy. But to recognize the common right to land does not mean that the complete right to improvements need be impaired.

I do not propose [said George in Book VIII, Chapter II] either to purchase or to confiscate private property in land. The first would be unjust; the second, needless. Let the individuals who now hold it still retain, if they want to, possession of what they are pleased to call *their* land. Let them continue to call it *their* land. Let them buy and sell, and bequeath and devise it. We may safely leave them the shell, if we take the kernel. *It is not necessary to confiscate land; it is only necessary to confiscate rent.* . . . We already take some rent in taxation. We have only to make some changes in our modes of taxation to take it all. What I, therefore, propose, as the simple yet sovereign remedy, which will raise wages, increase the earnings of capital, extirpate pauperism, abolish poverty, give remunerative employment to whoever wishes it, afford free scope to human powers, lessen crime, elevate morals, and taste, and intelligence, purify government and carry civilization to yet nobler heights, is—*to appropriate rent by taxation.*

In addition, because of the vast sums that would be raised by this type of taxation, George proposed "to abolish all taxation save that upon land values." Thus would be destroyed the great monopoly beside which all others are trivial: the monopoly in land.

As George neared the end of *Progress and Poverty,* he became more and more concerned with the problem of progress. Here he denies the Darwinian theory that progress comes from the struggle for existence. As he surveyed the fields of the past, littered with dead cultures, he raised the question whether the mere struggle for existence could produce a high type of civilization. It could not, since the law of progress is

association in equality. The great cause of inequality is in the natural monopoly which is given by the possession of land. Primitive men saw that land should be common property; but as societies advance, inequality and privilege in relation to land is introduced, and the fixed, or retrogressive, era in social life begins. Our own society already begins to show the inevitable signs of decay. Universal suffrage is useful in a society in which the land monopoly does not exist, but with the brutalization of men by poverty the corruption of politics must begin. With an equal distribution of wealth—or nearly equal—the more democratic the government, the better it is.

> The fiat has gone forth! [exclaims George.] With steam and electricity, and the new powers born of progress, forces have entered the world that will either compel us to a higher plane or overwhelm us, as nation after nation, as civilization after civilization, have been overwhelmed before. It is the delusion which precedes destruction that sees in the popular unrest with which the civilized world is feverishly pulsing only the passing effect of ephemeral causes. Between democratic ideas and the aristocratic adjustments of society there is an irreconcilable conflict. Here in the United States, as there in Europe, it may be seen arising. We cannot go on permitting men to vote and forcing them to tramp. We cannot go on educating boys and girls in our public schools and then refusing them the right to earn an honest living. [Book X, Chapter V]

The words of Henry George were an inspiration in both Europe and the United States. George ran for mayor of New York City on two occasions; he was read and studied in England; and young men were turned back to Karl Marx by having read him. Fabian socialists extended the principle of the social creation of value to the whole of the economic system. Among the immortals of American social thought the name of Henry George will remain.[13]

Henry D. Lloyd. Henry Demarest Lloyd is one of those savage critics of our business system who must be considered here because of his representative character. While Henry George looked at the monopoly in land as the source of social misery, Lloyd looked at the industrial monopoly as the cause of economic difficulty. If Henry Adams, in *The Education of Henry Adams*, looked upon the Gilded Age of Mark Twain or the "great barbecue" of Vernon L. Parrington with a sense of disillusionment and ultimate social retrogression, he proposed to do little about it. But men like George and Lloyd are representative of a host of thinkers who insisted that our poverty and injustice might be destroyed by the proper means. In 1894 Lloyd wrote *Wealth against Common-*

[13] On the criticism and influence of Henry George, see Edward R. Lewis, *A History of American Political Thought from the Civil War to the World War* (1937), pp. 280*ff.*

wealth, one of the most stinging of the journalistic attacks on the American system.[14]

Like George, Lloyd declared that nature is rich, but man is poor. The workers have enriched the world; and as they hunger, the trusts, syndicates, combinations, and other devices of business grow rich from the productiveness of labor. In the name of private profit the consumption of the poor is regulated in the interest of the rich. On the one side, it is said there are no monopolies; and on the other, it is said they are legion. But Lloyd believed that they were many. In an incredible number of the necessities of life, "some inner circle of the 'fittest' has sought, and very often obtained, the sweet power which Judge Barrett found the sugar trust had." The development of the trust is from the local to the national, and from the national to the international scale. On the other hand, the efforts of the national and state governments have been futile in checking the tendency toward combination and restriction. "What we call Monopoly is Business at the end of its journey. The concentration of wealth, the wiping out of the middle classes, are other names for it. To get it is, in the world of affairs, the chief end of man." But everywhere the people are beginning to question, to ask for information, on the use of the gifts of nature by those who control the destiny of average people.

Those who have attained the prize of power will be cunning, and will use their power accordingly. In the end, government must go back to the people, and the remedy must be found in a democracy with the will of the people that the evils shall be corrected. Likewise, the people have decided against the existence of monopoly; the sun sets every night on a greater majority against it. It is now, thought Lloyd, a practical question: Can ruin be forestalled by reform? The people cannot be driven by force, for "history is the serial obituary of the men who thought they could drive men." Ruin is already at work, and the records of the government show only too well the present course of events. The American people are capable, he argued, of conscious cooperation; they can adopt policies of reform and not leave "themselves to be kicked along the path of reform by the recoil of their own vices." It was clear to him that industry and monopoly could not continue to exist together. "Our modern perfection of exchange and division of labor cannot last without equal perfection of morals and sympathy." Our chance for liberty depends upon curbing the place hunters and the privilege hunters, the two classes that are combining to dominate the state. If we do not turn to the cooperative production of goods and share cooperatively in their enjoyment,

[14] Some of Lloyd's occasional papers are published in *Lords of Industry* (1910).

America is heading for the downward path that great societies have followed in the past.

Lester F. Ward. It was not only the progressive, the labor leader, the disappointed farmer, the socialist, or the journalist who criticized the system which came into being after 1865. In the university likewise there grew up an increasing challenge from the social sciences to the tendencies of the time. Lester F. Ward was trained and worked for the Federal government in the role of scientist, but during the latter part of his life he turned to sociology. When he published his *Dynamic Sociology* in 1883, he was making reply to the *Social Statics* of Herbert Spencer. As the conservatives urged on occasion, evolution should be directed by individual effort and by the competition which results from the struggle for existence, social or otherwise. Ward insisted, however, that evolution should be purposive in character; that effort, as a cardinal principle of progress, should take the place of the belief in the hit-or-miss principle of individualism. Granting that the survival of the fittest exists in nature, it was, nevertheless, wasteful according to Ward, and man should not be forced to submit himself to the same wasteful, competitive process. Men as rational beings must always struggle to avoid the consequences of unnecessary competition. Thus in society there should be a policy of cooperation. On sociological grounds, therefore, Ward cast his lot with the critics of American conservatism against the freedom of the businessman to control our economic life.

Ward was one of the American thinkers who helped dethrone the individualism which Herbert Spencer proposed as the ultimate design of the universe, and into the social sciences he introduced a note of humanistic purpose. But there is elaborate analysis which cannot be presented here, save in a few details. The goal of nature is the production of mind, and in man it becomes self-conscious, man uses his experience in the past to improve his condition in the present and in the future; working toward a definite end is telesis. Hunger and sex in man are static, while feelings and emotions are the driving forces toward future goals; the intellect directs but does not propel. Emotion and intellect in their synergy or cooperation have been the means of lifting mankind to ever higher levels. These stages are from original confusion, through autocracy, on to democracy—which, in turn, is in reality a plutocracy in which the clever and unscrupulous get the rewards. Individualism is bad because it creates artificial inequalities; while socialism creates, on the other hand, artificial equalities. Sociocracy, as the better way, would mean the recognition of natural inequalities, and the removal of artificial inequalities. Through gradual stages, through meliorism, the goal can be reached; education, in the broad sense of the application of

knowledge, would bring about the necessary changes. In the concluding chapter of *Dynamic Sociology* Ward eulogizes with little stint the administrative wisdom and effectiveness of the state; the functions the state has taken over from private and wasteful competition it has uniformly performed better than they were performed before under competitive control. In his day he noted particularly the confusion of railroad transportation in the country as evidence of the ineffectiveness of private enterprise. Collective telesis is the answer.[15]

Thorstein Veblen. The intellectual stature of Thorstein Veblen—economist or sociologist, as one will—increases with the passing of the years, though at the time he wrote his first two books he was forced to subsidize their publication. Veblen was a man rejected by his fellow economists, but today he is recognized as helping to found the method of institutional economics—the study of economic institutions rather than the taxonomic (or exercises in classification) and classical aspects of the "dismal science." He tried in the last resort, perhaps, to show that capitalism was an impossible mixture of canceling elements.[16] Business and the machine process were the proper subjects of economic study. The contradiction in the modern system was that the machine process demanded certain types of behavior: exactitude, faithfulness, steadiness, attention to the scientific details of the technological system; on the other hand, the system was in the control of businessmen, financiers, and not engineers, and the businessman loved speculation, sportsmanship, conspicuous consumption, wasteful ceremonial, whimsical management. The machine he regarded as the dominant institution of industry, but the businessman was, on anthropolitical argument, the descendant of those classes in previous societies who were exempt from industrial activity and who brought to themselves social honor and prestige. The starting and stopping of production, the accumulation of surpluses, Veblen argued, was not part of the industrial system; it was the contribution of the business type, a result of its inability to serve the modern industrial system.

When Veblen turned to government, he found it to be a business and not an industrial enterprise. As such it was an agent of destruction. The ordinary man assumed that what was good for business was good for him, and therefore popular majorities were in favor of business and against industry. The "common sense" attitude thereby labors to produce its own destruction. As others noted that businessmen had not

[15] See Lester F. Ward, *Dynamic Sociology* (2 vols., 1897), *Outlines of Sociology* (1897). See also Samuel Chugerman, *Lester F. Ward: the American Aristotle* (1939); and *Young Ward's Diary*, ed. by B. J. Stern (1935).

[16] See R. G. Tugwell, "Veblen and 'Business Enterprise,'" *New Republic*, Mar. 29, 1939, p. 215.

always existed, Veblen suggested that the regime of business was transitory and would normally come to an end. The machine process acted against the existence of business, the existence of property rights, and of the systematized and conspicuous wastes of modern society. If Veblen urged the inevitable decline of the business system, he lived in a time in which his hearers could not believe it. A later generation, having observed beyond the limits of patience the continuing world crisis of the twentieth century, might turn back to Veblen and recognize his insight. Veblen indicated that the coordinating process in the modern economy might be taken over by the engineers if the captains of finance could be eliminated, for it was these latter who possessed the pecuniary and emulative standards which contradicted the orderly processes of industry.[17]

The Progressive Movement. In the concluding phase of this chapter we must turn to a brief statement of some of the larger aspects of what has now come to be called the Progressive movement. Some of the legislation that emerged from that movement has already been summarized; but the Progressive movement was not socialist, in the sense that it did not favor the destruction of capitalism. It was not bitter, like the unwelcome taste of a Veblen paradox; it was not Utopian, as were Bellamy and the Utopian socialists who preceded him. It was rather the spirit of optimistic reform within the ruling order itself. One must not forget that the reforms of Roosevelt I or of the administrations of Woodrow Wilson were made by those who occupied the seats of political power; the protest of the Progressives was within the ruling order. It was not the protest of men in the ranks of the minority parties or in the halls of learning. The Progressive movement was practical politics. But on the American scene there had been many preliminary stirrings of the progressivism that was to capture for a time both the Democratic and Republican parties. It was a time in which all leaders felt that they had to protest loudly that they were progressive, just as in later years they were all to protest their belief in liberalism and democracy. In the period from 1896 to 1917 the names of William Jennings Bryan, Theodore Roosevelt, and Woodrow Wilson were the dominant symbols in American politics. Their ideas, supported as they were by a legion of writers and speakers, constitute the heart of American progressivism in this period. Bryan failed to attain the Presidency; Roosevelt split the Republican party in 1912; and Woodrow Wilson, the conservative from Princeton

[17] See Thorstein Veblen, *The Theory of the Leisure Class* (1899); *The Theory of Business Enterprise* (1904); *The Instinct of Workmanship* (1914); *The Engineers and the Price System* (1921).

and New Jersey, slipped into the Presidential office in the confusion of the election of 1912.

From 1896, when Bryan made his famous "cross of gold" speech at the Democratic convention, he was an imposing though ridiculed figure in American politics. He was a man of principle and moral courage. He clung to "free silver" when others would have forgotten the issue; but millions believed in him, since he spoke for them the common political philosophy of the time. All his life he was a student of Jefferson. He believed in equal rights for all men and special privileges for none; to attain this he advocated bimetallism, a lower tariff, the regulation or destruction of monopoly, and the freedom of state governments against the encroachments of Federal authority. As early as 1894 he favored an income tax; he favored the arbitration of labor disputes, the direct election of United States senators; he opposed interlocking directorates and favored the guarantee of bank deposits; he insisted on the licensing and control of corporations as a means of checking monopoly. Ahead of his time, he believed in the government ownership of railroads. It can be argued that Bryan was really a fundamentalist in both religion and politics; that as the years passed he failed to read with the times; and that in the end, through disappointment and age, his mind hardened until the intellectual catastrophe of Dayton, Tennessee, occurred, in which his arguments against evolution made him the laughingstock of the intellectually emancipated throughout the nation—perhaps even in Europe as well.[18]

The personality of Theodore Roosevelt was vivid and compelling; in politics he was able to draw men to him and to hold them loyal through many political battles. His inspiration to liberals was great, and out of his program there grew up a literature on progressivism which is still of interest to the intelligent reader. In preparation for his 1912 campaign he made speeches around the country outlining the program he then accepted. He endorsed a strict regulation of the trusts, a graduated income tax, an even more thorough conservation program, labor legislation, direct primaries, the initiative and referendum, the recall of executive officers, and the review by the people of judicial decisions involving the constitutionality of social legislation.

Perhaps Roosevelt will be more remembered for his initiation of the conservation movement; but in his own day the continued battle against the great organizations of business was held to be the outstanding issue.

[18] See William J. Bryan, *Speeches* (2 vols., 1909); William J. Bryan and Mary B. Bryan, *The Memoirs of William J. Bryan* (1925).

Roosevelt was a nationalist, and he believed in the necessity of virility in a nation, which is to say that he was an individualist. But he was an individualist who believed that positive action must be taken by the government in order to restore the freedom of the individual against the encroachments of the trusts. He was not against business, but against the abuses in business practice; hence, the distinction must be made between those combinations of business which are injurious and monopolistic, and those which are not. Roosevelt regarded property as inviolable, but he brought about the organization of the Bureau of Corporations, and in the courts he fought and won his battle against the Northern Securities Company, which was condemned in effect because it was monopolistic. He brought about the increase of power of the Interstate Commerce Commission to regulate rates of railroads; he urged an employers' liability law for all industries subject to Federal power.[19]

It is difficult to distinguish the program of Woodrow Wilson from that of his Republican contemporaries. The Progressive movement had captured for the moment both the major parties. A Progressive Republican like Senator La Follette in Wisconsin could see then more hope for the future in the Republican party than in the Democratic organization. Like Roosevelt, the ideas of Woodrow Wilson enlarged with time. As a professor and political scientist, he had not committed himself to the heresies of Bryan and the Populists before 1896; and as president of Princeton he was a conservative. But as governor of New Jersey he began to show signs of a progressivism which was not too much for the conservatives, but which made it possible to present him favorably to the "radicals" and critics of the American system. As President of the United States, Wilson developed a program of control of business which astonished some who had supported him and pleased those who had distrusted him. Yet his program was a continuation of the movement already launched by the Republicans in their Progressive movement. In 1912 Wilson declared that the national government had long been dominated by the captains of industry; the time had come for the "new freedom" which would restore to power the lower middle class, the farmers, and the workers of the cities. Such was the spirit he exemplified in American politics. As President, he brought about the enactment of a remarkable social program with an effort that lasted until he finally turned his attention to international politics.[20]

[19] See Theodore Roosevelt, *The New Nationalism* (1910); *Presidential Addresses and State Papers* (1908); *Works* (1925).

[20] See Woodrow Wilson, *The New Freedom* (1913); *The Public Papers of Woodrow Wilson*, ed. by Ray Stannard Baker and William E. Dodd (1925); James Kerney, *The Political Education of Woodrow Wilson* (1926).

The Muckrakers. *The Autobiography of Lincoln Steffens* (1931) tells with passionate vividness the story of effective political progressivism from the standpoint of the life of one man. But when one seeks for the political theory behind progressivism in action, it turns out to be fairly simple. Attention had turned to the promise of the future of American democracy; as business was under attack for *some* of its abuses, so the principles of popular control were being expanded (to be examined in the next chapter). Bossism was seen as an aberration that might be corrected by exposure. One of the most remarkable passages in Steffens's work is his description of his arrival in Pittsburgh to expose graft and corruption, when he knew no one; and how, two weeks later, he had the full story for national publication in *McClure's Magazine*. Democracy would be made to work by exposure of corruption and by economic and political reform, which would give the country back to the average man. Steffens was the greatest of the muckrakers (a name President Roosevelt took from *Pilgrim's Progress* and pinned on them); but the muckrakers included all types of men, and not just the newspaperman looking for scandal. Muckraking culminated in the leadership of Roosevelt and Wilson; but it ended, it has been suggested, when the monopolistic capitalists themselves bought out the magazines and newspapers which had published the material gathered by the progressives and the critics.[21]

Thus we must see in the Progressive movement and its intellectual atmosphere a theory of hope for American institutions. There was attack on the flanks, but capitalism as an institution was not questioned, as by the socialists or those more to the left than the muckrakers and the progressives. And among the works from this time which have become important is *The Promise of American Life* (1909) by Herbert Croly. With Croly, however, one should not forget the work of J. Allen Smith, who wrote in 1907 *The Spirit of American Government*. This work undertakes to show, by a study of the literary remains of the founders of the republic, that the spirit of our government has been conservative and aristocratic and in no sense democratic. The work of Hamilton and his fellows, for example, had to be overcome before the United States could become a democratic society; the principle of the protection of property at all costs had to give way before the right of the people to control their own government. The argument of Smith was, in the minds of some, one of the pillars of the intellectual side of the Progressive movement. Charles A. Beard published in 1913 *An Economic Interpretation of the Constitution,* which documented in painful detail the principles enunciated

[21] See Louis Filler, *Crusaders for American Liberalism* (1940).

already by Smith, the great liberal from the Pacific Northwest.[22] Beard's work has now entered the political consciousness of most literate Americans; but at the time it was published it created a storm of protest, which was a factor in bringing about his later resignation from the faculty of Columbia University.

Croly saw in America an ideal national promise; that promise was the democratic ideal, a desire for economic independence and for free political institutions. Economic conditions had greatly changed, he saw, from the days of Jefferson and Jackson, when the people were attempting to seize power from the higher economic classes. Our free lands were gone and monopoly had appeared. If the old freedom is to remain, we must make government the partner of the American citizen in his search for freedom; likewise, if government is to be used for democratic ends, experts must not be distrusted as in the earlier democracy. The guarantee to the individual of specific rights was no longer sufficient; other and more positive measures must be accepted under the control and direction of democratic government. Therefore, Croly favored inheritance taxes to prevent the growth of fortunes too large for the public safety. On the other hand, he did not favor the Sherman Antitrust Act, which put the government on the side of small business; the government instead should let consolidation progress to its natural conclusion, but under such regulation as will preserve the interests and rights of the people. His policy was to recognize the semimonopolistic corporations, without distinction as to the kind of corporation involved. Yet he did not, as did Lester F. Ward, believe in the general efficiency of government; he was opposed to regulation which would go beyond the correction of abuses; the government commission had to be watched. Taxation and short franchises might be used in certain other cases in which consolidation was advanced. In addition, the government should favor definitely the organization of labor unions; the nonunion worker had little place, he thought, in our society.

In his *Progressive Democracy* (1914) Croly insisted that the progressive leaders should make privilege widespread; theirs should be a program of extending just privileges to all groups in the United States.

[22] While Vernon L. Parrington, *Main Currents in American Thought* (3 vols., 1927, 1930), was published years later, he was a colleague of J. Allen Smith on the faculty of the University of Washington, Seattle. Parrington should be listed with Smith and other intellectuals of the Progressive movement, since his ideas were formed in this period rather than in the postwar generation in which he published. The whole three volumes of Parrington's work constitute a sturdy case for the Progressive point of view. After his death, J. Allen Smith's manuscript, *The Growth and Decadence of Constitutional Government,* was published in 1930, with an introduction by Parrington.

Those who had privileges should be allowed to retain them, but they should be made responsible to the state for their just use. Every class should have its full share of natural and artificial economic privilege. The distribution of privileges should be revised, and they should be granted on the assurance that the social results will be those desired by public policy. Particularly, the new privileges should be extended to the wage-earning rather than the property-owning groups. Thus, social legislation should be passed to protect the worker against the consequences of accident and unemployment. Such social legislation would be of the same character as the privilege given manufacturers by the protective tariff.

There was no doubt, in Croly's mind, of the effectiveness of the Progressive movement. Its effect on political leaders was enough to show this; yet he did not believe that the "new freedom" had the concreteness under Wilson's leadership that the Republican movement had. Indeed, Croly had little patience with Democrats. He did not like Thomas Jefferson, and he did like Hamilton in all respects, except in his resistance to the tide of democracy. Hamilton's use of the state, of governmental power, to attain his ends, we suspect might be the explanation of this. Part of the Progressive faith was the belief that direct government (the initiative, referendum, and recall) was peculiarly suited to the realization of the new social program, to the attainment of the promise of America. Consequently Croly was greatly interested in the various proposed and actual reforms of legislative, executive, and administrative procedure. But behind all of his thought was a belief in the nationalism of the United States. This nationalism was founded on the democratic faith, and it could be more democratic than European states that were moving toward the democratic way. His was at once an individualistic and a socialistic nationalism; it was American national socialism.[23]

Conclusion. The demand for economic reform was constant in the generation and a half that followed the War Between the States. When the agitation for reform fell within the spirit and tradition of the American people, the reformers were often successful, and, as we have seen,

[23] Walter E. Weyl, *The New Democracy* (1912), may also be mentioned here. Weyl favored a gradual, eclectic socialization of the United States. He was thoroughly conscious of the economic forces at work in the party system (which, it is argued, Croly was not), and he favored public contributions to campaign expense. He believed there would be less of class conflict in the future, and more of coalitions between classes. He favored taxation to aid in the redistribution of wealth; in some cases he favored government ownership, and in others merely government supervision of economic enterprise. Under our plutocracy, the democratic vision has been corrupted and lost; it must be recovered by strong political and popular action.

their ideas were written into the statutory law of the United States. However, the reforms did not measure up to the hopes of the reformers, though such a situation can hardly be called unusual. On the other hand, those who were the proponents of broad European philosophies of revolutionary change, or who proposed violent departures from the way of life to which the American people were accustomed, failed in their political efforts. The people were more conservative than those who attacked capitalism had thought. Thus, along with the success of economic reform movements, American capitalism, as the basis of our economic system, came to the First World War in 1917, having lost only an occasional feather. Yet the progressive tradition is still vital in American politics, and a "new freedom" has been followed by a "new deal," and various efforts to establish progressive and reformist third parties.

Selected Bibliography

Bellamy, Edward: *Looking Backward: 2000–1887* (1887).
Bishop, J. B.: *Theodore Roosevelt and His Time* (2 vols., 1920).
Brooks, John G.: *American Syndicalism: The I.W.W.* (1913).
Buck, S. J.: *The Agrarian Crusade* (1920).
———: *The Granger Movement* (1913).
Calverton, V. F.: *Where Angels Fear to Tread* (1941).
Coker, Francis W.: *Democracy, Liberty and Property* (1942).
Croly, Herbert: *The Promise of American Life* (1909).
de Leon, Daniel: *Speeches and Editorials* (2 vols., n.d.).
Debs, Eugene V.: *Debs: His Life, Writings and Speeches* (1908).
Destler, Chester McArthur: *American Radicalism, 1865–1901* (1946).
Dorfman, Joseph: *Thorstein Veblen and His America* (1934).
Earhart, Mary: *Frances Willard* (1944).
Ellis, Elmer: *Mr. Dooley's America: A Life of Finley Peter Dunne* (1941).
Faulkner, H. U.: *The Quest for Social Justice, 1898–1914* (1931).
Flynn, John T.: *Men of Wealth: The Story of Twelve Significant Fortunes from the Renaissance to the Present Day* (1941).
George, Henry: *Progress and Poverty* (1879).
Gettell, R. G.: *History of American Political Thought* (1928).
Goldman, Emma: *Living My Life* (1934).
Gompers, Samuel: *Seventy Years of Life and Labor* (2 vols., 1925).
Haynes, F. E.: *Third Party Movements* (1918).
Hertzler, J. O.: *A History of Utopian Thought* (1923).
Hicks, John D.: *The Populist Revolt* (1931).
Hillquit, Morris: *Loose Leaves from a Busy Life* (1934).
Hirsch, Max: *Democracy Versus Socialism* (3d ed., 1939).
Hunter, Robert: *Revolution: Why, How, When?* (1940).
Jacobson, J. M.: *The Development of American Political Thought* (1932).
La Follette, Robert M.: *La Follette's Autobiography: A Personal Narrative of Political Experiences* (6th ed., 1913).
Laidler, Harry W.: *A History of Socialist Thought* (1933).
———: *Social-economic Movements* (1944).

LEWIS, EDWARD R.: *A History of American Political Thought from the Civil War to the World War* (1937).
LONDON, JACK: *London's Essays of Revolt*, ed. with intro. by L. D. Abbott (1926).
———: *Revolution and Other Essays* (1910).
———: *War of the Classes* (1905).
LORWIN, L. L.: *The American Federation of Labor* (1933).
LLOYD, HENRY D.: *Wealth Against Commonwealth* (1894).
LUNDBERG, FERDINAND: *America's Sixty Families* (1937).
MACKAY, K. C.: *The Progressive Movement in 1924* (1947).
MADISON, C. A.: "Anarchism in America," *Journal of the History of Ideas*, VI (1945), 46*ff*.
MERRIAM, CHARLES E.: *American Political Ideas, 1865–1917* (1920).
MORGAN, A. E.: *The Philosophy of Edward Bellamy* (1944).
MYERS, GUSTAVUS: *History of the Great American Fortunes* (Modern Library, 1936).
NOBLE, R. E.: *New Jersey Progressivism before Wilson* (1946).
NORDHOFF, CHARLES: *The Communist Societies of the United States* (1875).
NOYES, JOHN H.: *History of American Socialisms* (1870).
PARRINGTON, V. L.: *Main Currents in American Thought* (3 vols., 1927–1930).
POWDERLY, TERENCE W.: *The Path I Trod* (1940).
REGIER, C. C.: *The Era of the Muckrakers* (1932).
SIMPSON, KEMPER: *Big Business Efficiency and Fascism* (1941).
SPARGO, JOHN: *Applied Socialism* (1912).
STEFFENS, LINCOLN: *The Autobiography of Lincoln Steffens* (1931).
VEBLEN, THORSTEIN: *The Theory of the Leisure Class* (1912).
———: *The Theory of Business Enterprise* (1904).
———: *The Engineers and the Price System* (1921).
WHITE, WILLIAM ALLEN: *The Autobiography of William Allen White* (1946).
WILSON, EDMUND: *To the Finland Station* (1940).
WOODWARD, C. VANN: *Tom Watson: Agrarian Rebel* (1938).
WRIGHT, B. F.: *A Source Book of American Political Theory* (1929).
YOUNG, A. N.: *The Single Tax Movement in the United States* (1916).

Chapter 12

THE SECOND ERA OF DEMOCRATIC REFORM

> The plutocracy, to control the market and the ballot box, must control also the mind of the nation. It therefore invests the last citadel, public opinion.
>
> The democracy seeks a complete control over governmental machinery and processes. It seeks to break the power of a politically entrenched plutocracy, to attain to a government by the people for the people.—Walter E. Weyl.[1]

Democracy Turns to Economic Reform. In an earlier chapter we have discussed the rise of democracy in the United States by the extension of the right to vote, the organization of political parties, the extension of the principle of election to new types of public officials, and by the application of the idea of rotation in office. Such were some of the political techniques relied on by Jacksonian democracy. Likewise, it was seen that the idea of democracy in the generation before the Confederate War was the heart of the American civic religion, and that the American people believed that they had a mission to the rest of the world in setting an example of political freedom. The American democratic impulse was part of the stirring of the whole West—Europe and America—toward the institutions that apply the tenets of a political faith. Europe was moving toward democracy at the same time as the United States. De Tocqueville regarded America as the most democratic of nations, but democracy in his mind was a universal fact, a providential fact, which Europeans as well as Americans had to recognize.[2]

When the war was over and the great industrial movement of the United States began, when the American economic revolution was well under way, it came to be recognized that something was wrong with the democratic picture so easily drawn in the previous generation. Reform, or attempted reform, goes in cycles, it would seem. After the war the ideas that were to produce the second great era of democratic faith and

[1] *The New Democracy* (1912), pp. 121, 298. Rev. ed. Copyright, 1912, by The Macmillan Company and used by permission.

[2] *Cf.* De Tocqueville's reaction to the Fourth of July celebration in Albany in 1831, in George Wilson Pierson, *Tocqueville and Beaumont in America* (1938), pp. 179*ff*. He was unimpressed with the oratory; the reading of the Declaration of Independence struck him favorably.

change began to take shape. These democratic stirrings, we have seen in the last chapter, were associated with widespread economic discontent among the American people. As men formulated their ideas of economic change, the farmers and the workers turned to leaders who were symbols of faith in the future. But with the specific proposals of economic change—of increased regulation of business and the common carriers—came suggestions also for alterations in the political structure. All during the period from the abolition of slavery to the entrance of the United States into the First World War we may find some of these ideas expressed. Democratic reform finally culminated in the Progressive era which was ended by war in 1917.

Today it is hard to realize the staunch faith of the earlier generation in the effectiveness of mere structural reform in government; we no longer respond to the same symbolism. We cannot believe, or even imagine, the fervor that went into the campaign for the direct primary, the initiative, referendum and recall, or the direct election of United States senators. But such fervor there was, and it knew nothing of the stern political realism which at moments has dominated American discussion of the democratic process of government. The high point of the campaign of 1912 has not been reached since.

Freedom and Reform. The second era of democratic reform believed in the people as no democratic movement had believed before. The people were sound, honest, and reasonable; their control over government had been thwarted by powerful, secretly organized plutocratic interests. These interests were big business in a narrow sense. They were the great combinations of wealth, the giant corporations, the trusts, the monopolies, the railroads, the corrupt seekers of municipal franchises, the grafters who milked the public through the manipulation of public contracts, the party bosses who drew their funds from the corrupt, and thereby kept alive the irresponsible party organizations or oligarchies. It was a combination between low-grade politicians and powerful but corrupt economic interests. The people were powerless to control this mesalliance, since the structure of government was weighted against them. The solution was to give government back to the people, and the life of the democracy would be purified. Tacitly it was assumed, of course, that the people on the whole would support the Progressive reforms. The people should be the rulers, and they could be, with suitable changes in the organization of the democratic process.

Like most movements of reform, the era which we are now discussing oscillated between a deterministic, synthetic, or descriptive analysis of society, and a normative, ethical, or purposive interpretation of social dynamics. There was a tendency, as in all modern socialistic thought,

to say that the enemy, the plutocrats, could not do other than they did, since they represented inherently the corruption of the system upon which they fattened. But the people were free; it was to them that we must turn for ethical standards in public life; it was for the people to express purpose and to see that this purpose was brought to fruition through sustained political action. The law of political corruption, of oligarchical control, was only conditional; it would operate as long as the plutocrats had their way, but the rise of the people to power would change the course of politics. Progressives did not apply the laws of social behavior to the people as well as to the interests.

Henry Adams might be considering the ultimate effect of the second law of thermodynamics, *i.e.*, the dissipation of energy rather than its conservation, and he might conclude that the vast release of energy which had occurred in the nineteenth century would not lead to progress; with a mechanical interpretation of the universe (which was to run down) he might conclude that the democratic dogma was not much to worry about. Herman Melville might also see law and determinism in the world of social relations, but these ideas did not reach the common understanding of the American citizen.[3] On the other hand, the new philosophy of pragmatism, popularized by William James in his *Pragmatism*, suggested that men might govern their conduct in the light of the consequences of what they were doing.

Optimism is, therefore, the high note of this late nineteenth- and early twentieth-century period of reform. If we seek a just analogy, we might say that the spirit of the reform movement was like the enthusiasm of the Enlightenment during the second half of the eighteenth century; or we might say that the second era of democratic reform was the final pulse of the Enlightenment in America. For democratic reform succeeded because men in high places believed that it was worth fighting for. The people, in turn, were willing to follow them for a time. Behind the belief in democratic reform lay the full realization of what the term "public opinion" might mean. The people were sound and reasonable—that is, public opinion in the upswing is sound and reasonable; the people are to be trusted, really trusted, with the affairs of government. Theirs is the wisdom to seek, not that of the expert in government.

Bryce and Whitman. While James Bryce, in *The American Commonwealth* in 1888, might point to the corruption of municipal government in the United States, others like Walt Whitman might sing the praises of democracy to the very heavens.

[3] See R. H. Gabriel, *The Course of American Democratic Thought* (1940), pp. 259*ff.*, 78*ff.*

There is no denying [said Bryce] that the government of cities is the one conspicuous failure of the United States. The deficiencies of the National government tell but little for evil on the welfare of the people. The faults of the State governments are insignificant compared with the extravagance, corruption, and mismanagement which mark the administration of most of the great cities. For these evils are not confined to one or two cities. The commonest mistake of Europeans who talk about America is to assume that the political vices of New York are found everywhere. The next most common is to suppose that they are found nowhere else. In New York they have revealed themselves on the largest scale. They are "gross as a mountain, open, palpable." But there is not a city with a population exceeding 200,000 where the poison germs have not sprung into a vigorous life; and in some of the smaller ones, down to 70,000, it needs no microscope to note the results of their growth. Even in cities of the third rank similar phenomena may occasionally be discerned, though there, as some one has said, the jet black of New York or San Francisco dies away into a harmless gray.[4]

Such corruption Bryce attributed largely to the party system, as it was then organized. Such, indeed, was the view of most of the progressives. A later time was to suggest that the people themselves were in measure responsible, and that the system of bossism was inherent (not an aberration) in the economic system of the United States. Corruption was therefore much deeper than the partial reforms to which Progressive enthusiasm hitched its wagon. Like others of his day, Bryce was deeply concerned with the optimistic analysis of political corruption.

Like Bryce, Whitman saw the corruption of American life; and like him also, he was calmly confident of the future. But to Whitman democracy, our democracy, was only in the embryonic stage. In the future we were to spread to the Pacific, include Canada and Cuba as states; our people were to increase. But democracy would be, as we say today, "a way of living." It would have a growing and great literature; democracy would represent the growth of the arts, and to the world American democracy would be an example. It would show the vistas of which man is capable. The warm breath of confidence in men runs through the words of Whitman; the evils we know can be attributed to youth, while the future stands clearly and beautifully before us. In poetry and prose Whitman expressed the native confidence of Americans in their own destiny. And it was this spirit which animated the reformers of the democratic process we are to consider in this chapter.[5]

[4] *The American Commonwealth* (1891), Vol. I, p. 608. New ed. Copyright, 1893, by Macmillan and Company; 1910, 1914 by The Macmillan Company; 1921 by Rt. Hon. Viscount Bryce. Reprinted by permission of The Macmillan Company.

[5] See Walt Whitman, *Leaves of Grass* (*1855–71*); *Democratic Vistas* (Everyman's ed., 1912); Van Wyck Brooks, *The Times of Melville and Whitman* (1947).

The Problem of Democratic Responsibility. In 1818 Sir James Mackintosh, in the *Edinburgh Review,* criticized the democratic dreams of the philosophic radicals, Bentham and his followers. He urged that the plan of Parliamentary reform would not work, and he pointed to some of the realistic aspects of the process of democracy in the United States. Suffrage was widely extended, but there was a kind of conspiracy against the people, through the caucus and other devices, to rob them of control. Likewise, in a slaveholding society it was useless to speak of democracy in the Benthamite sense.[6] The conservative thus from the outset of the democratic tide might point to the difficulties ahead, but the men of the nineteenth century were unconvinced; they were believers in the democratic dream. If there was disillusionment with the structure of government in the years following the Civil War, there was none in the minds of the progressives concerning the people. Owing to the movements of protest, it was easy to believe that the people both in the cities and on the farms would vote for the future, were they given a chance. Conservatives such as Elihu Root would not defend dishonesty in government, and they realized that all must stand together in fighting corruption. But the reformers wanted more than simple honesty in the conduct of government; they wanted, like the reformers of England, the adoption of certain policies and programs which the full, open, and free democracy would bring about. The problem was, therefore, so to reform democracy as to make it fully responsible to the wishes of the people.

In Western constitutionalism from the earliest times the idea has prevailed that rulers must be subject to the law. In ancient and medieval times, it is to be argued, the devices for enforcing this responsibility were erratic and uncertain in their application. On the other hand, it has been the function of modern constitutionalism to develop the means of enforcing this responsibility against the public official. The American lawyer has been fond of tracing this development back to Magna Charta in 1215, but all agree that one aspect of the revolutionary epoch in England during the seventeenth century was the creation of means to make the executive responsive to the Parliamentary branch of the English government. Indeed, the great advantage of English constitutionalism has been the principle of executive responsibility, while the same developments did not take place in Spain, France, or Germany in the late medieval and early modern periods. Democracy has grown up on the basis of the official's responsibility to the law; without constitutionalism it would not have advanced beyond the stage reached by Greek and Roman

[6] Elie Halévy, *La Formation du Radicalisme philosophique* (Paris, 1904), Vol. III, p. 202.

democratic trends. In the nineteenth century when the democratic movement gained the day in the United States, it adopted without question the already established ideas of constitutional government. On the other hand, the constitutionalism of the United States was essentially conservative; it was the reformers who, under the influence of ideas beginning in the eighteenth century, saw or thought they saw the need for further means of enforcing public responsibility. It was, therefore, in such an atmosphere that the second era of democratic reform took shape.[7]

Democracy in the post-Appomattox period had, of course, certain normal devices for enforcing responsibility. Officials might be retired to private life by defeat at the next election; if an official was appointed, the appointing officer might ask for his resignation; if there were violations of the criminal law, a grand jury might indict, and at a following trial the guilty official might be convicted and sent to prison. But it was just the contention of the reformers that these devices were not enough, since public opinion was frustrated by the corrupt interests who used the party system for their own ends. The boss and the plutocrat were the eternal enemies of the people, for it was they who falsified the existing democratic machinery.

Civil-service reform, the short-ballot movement, the advocacy of executive leadership, the advancement of regulative institutions, the reform of administrative structure, and the reform of state and municipal government all looked toward greater efficiency and less waste of the tax dollar. On the other hand, the reformers insisted that genuine popular control of government would achieve the democratic ends they had in mind. The suffrage was still to be extended (to women, for example), but it was mainly through the direct primary, the direct election of United States senators, the Presidential-preference primary, the initiative and referendum, and the recall of public officials that popular control was to be made a political reality. Through all of these devices, however, the political machine would be destroyed, and the interests, plutocratic in character, would stand naked before the conscience of the sovereign citizen of the American democracy.

To Walter E. Weyl, the control of the political party was the very beginning of political democracy. For that massive, oligarchic structure stood between the people and government, unresponsive to the people and too responsive to those who might fill the party treasury in exchange for political favors. There were five paths that had to be pursued in at-

[7] On early constitutionalism, see in general R. W. and A. J. Carlyle, *A History of Medieval Political Theories in the West* (6 vols., 1903–1936); C. H. McIlwain, *Constitutionalism, Ancient and Modern* (1940).

taining democratic control of government. First, there must be a democratic control of parties and especially of nominations for public office; second, elections must be controlled democratically; third, there must be a democratic control of the representative already elected; fourth, there must be direct legislation by the people; and fifth, there must be increased efficiency in democratic government.[8]

Civil-service Reform. The political evil which first aroused indignation was the spoils system, a characteristic of our system since the early days of the Constitution, but dramatized by Jacksonian democracy. As a result of scandals in the national government after the Confederate War, publicists were led to attack the appointment of officials simply because of party loyalty. They began to demand that there be some connection between the qualifications of the individual and the office to which he might be appointed. With President James A. Garfield's death in 1881 (he was shot and mortally wounded by a rejected seeker of public office), civil-service, or "snivel"-service, reform became a popular and respectable issue. It was clear that the President of the United States had been reduced to a vulgar broker of political jobs. But this interpretation was buttressed by the exposure of national scandal in connection with both the administration and political campaigns, and by the destruction of the Tweed Ring in New York City during the seventies.

In 1883 Congress enacted a civil-service law which promised some measure of reform. The President was empowered to appoint a commission of three, not more than two from the same political party; the President could also extend the merit or examination system to certain classes of Federal employees, and persons chosen in this manner should serve during good behavior. The number of employees under this system was gradually increased, sometimes in the interests of efficiency and sometimes to make secure the tenure of political appointees; but by the time of our entry into the First World War nearly three-fifths of the Federal employees had a relatively permanent tenure of office. In addition, the Federal example led some of the states to follow, and by 1920 ten states had civil-service commissions. In municipalities the progress of the reform was faster, and some three hundred cities had adopted measures of civil-service reform by 1927. It must be remembered that the enactment of a law does not mean the end of an evil. The operation of the merit system has been quite uneven where adopted, though in certain cases state and city governments have obviously benefited by such legislation, especially in the technical branches of the public service.

The reformers most interested in civil service, among them George

[8] Weyl, *The New Democracy* (1912), p. 298.

William Curtis, Carl Schurz, and Richard Henry Dana, believed that the merit system was the central reform in the reestablishment of American democracy. When President Eliot of Harvard became, upon his retirement, president of the National Civil Service Reform League, he insisted that the abolition of the spoils system was the reform of reforms. Curtis said that by the merit system the despotic oligarchy of the party might be tamed, and that government could thus be given back to the people. That people are indifferent to politics was to be explained on the ground that they felt helpless in combating political machines. The principle of the merit system has been accepted today as one part of intelligent government. But if the promises extended by the civil-service reformers have not been realized in practice, it can also be seen that some sort of merit principle is inescapable in the modern technological state. The state cannot perform the services it is called upon to perform without using trained men or specialists in administration. The spoils system is an enemy of the positive state.[9]

The Direct Election of Senators. A further reform of the national government demanded by the advocates of the new democracy was the direct election of United States senators. Election of senators by the state legislatures was established in part to provide a more conservative legislative body than the House of Representatives as a check upon the excesses of democracy. Those who wished the national government to come directly under the control of the people had to attack, therefore, the original system of the Constitution. The Seventeenth Amendment to the Constitution was submitted to the states in 1912 and became a part of the Constitution the following year. It provided that the Senate shall be elected by the people of each state, and that the electors in each state shall have the qualifications requisite for the electors of the most numerous branch of the state legislature. Once the amendment was submitted to the states, it was promptly ratified. But a long debate had preceded the final submission of this change in the national system. As we consider the debate on the popular election of senators today, it seems strange that this reform could have been viewed with such enthusiasm by its supporters or with such distress by those who opposed it.

In general, the problem was the same as with the merit system. The election of senators, so the case went, had become high carnival in political corruption. The debased interests with plenty of money were able to buy the election of senators. A senatorial election was a period of callous and irresponsible bribery, and the senator elected usually had

[9] See Frank M. Stewart, *The National Civil Service Reform League* (1929); George William Curtis, *Orations and Addresses* (1894), Vol. II.

little concern for the wishes of the people of the state he was representing. To elect senators by the people would be a long step in the direction of bringing the national government under the control of the people. It would exclude the influence of the bosses and the plutocratic interests, who had so long defeated the real desires of the people. The reformer assumed that the more direct the government was, the more just and effective it would be. In opposition, it was urged that our system was representative in character; that the framers of the Constitution had considered the problem of direct democracy and had rejected it. It was an issue between representative government and direct government.

As early as 1892 James B. Weaver, the Populist Presidential candidate had, in his book *A Call to Action,* demanded the direct election of senators. He insisted that the corporations controlled the Senate through their attorneys who were elected senators. As early as 1893 a resolution for amending the Constitution to elect senators directly had been presented to Congress. In the early debates those who favored the amendment urged that the people should be trusted; that we should no longer accept the view of the "fathers" that the people could not be entrusted with important decisions. In addition, the choices of the party caucus should be brought before the people; the popular election of senators would at least give the people a chance to reject what the caucus had done. Senator Hoar of Massachusetts was one of the most vigorous defenders of the existing system. The traditions of a century of American government were against the proposal. He frankly did not believe that anything would be gained by transferring authority from a responsible legislature to an irresponsible electorate. Not only this, but under the proposed scheme the cities would exercise a preponderant influence in the choice of senators, and in turn the more populous states would begin the demand for a larger number of senators. The equality of states under the Constitution would finally be destroyed. The high and dispassionate deliberative functions of the Senate would be lost under the new proposal.

It was urged on behalf of the amendment that to distrust the people who elected the legislatures was to question the whole principle of democracy. But it was likewise argued that the legislatures, peculiarly under the influence of the party machine with its attendant corruption, had failed as an elective body. The legislatures were no longer worthy of selecting senators; the people, on the other hand, were uncorrupted, and this function should be handed back to them, in accordance with the axioms of democratic government. E. L. Godkin came out in favor of the direct election of senators; William Jennings Bryan gave the cause his blessing; and in the campaign of 1912 Theodore Roosevelt supported the amendment. Woodrow Wilson agreed with the Progressives, asserting

that before the Senate could be respected senators themselves must be worthy of respect. Senator Borah in 1912 demanded that the amendment be submitted to the states; he noted the sinister influences which had come between the people and the conduct of policy; the legislatures had been demoralized by the duty of electing senators. Because of legislative deadlocks a number of states had gone without full representation in the Senate, and patronage and trading in bills had been used in senatorial elections.[10]

Elihu Root, one of the ablest opponents of the Seventeenth Amendment, insisted that the chief difficulty was deadlock within the state legislatures in the election of senators. The simple remedy would be to make election depend on a plurality instead of a majority vote. However, he feared that the power of the states in the national government would be weakened by the adoption of the amendment, and the way would be opened for greater changes in the American system. Root was impressed with the danger of frequent Constitutional amendments; in the Constitution the people have set up barriers against themselves, and it is not wise to accede to the democratic habit of frequent changes in government. The people, thought Root, have been deceived by arguments based on the unusual and exceptional corruption in legislatures in electing senators. It is unsound to propose a drastic remedy for the exceptional and not usual evil. The whole amendment rested on the assumption that the American people were incapable of electing honest state legislatures. But if this is so, what is to become of the governments of the states? The argument for the amendment, in other words, proved too much. Only by the repudiation of the proposal could the sovereignty of the states be preserved against the increase of Federal authority; let the defenders of the states go home and reorganize the state governments rather than reshape the relation of the state governments to the Federal system. Furthermore, the amendment was an expression of a general distrust of representative government which was rampant in the United States.

Mr. President [said Root in the Senate], there is another view of the fundamental proposition on which this resolution rests. It is an expression of distrust for representative government. It does not stand alone. It is a part of the great movement which has been going on now in these recent years throughout the country, and in which our people have been drifting away from their trust in representative government. These modern constitutions which are filled with specific provisions, limiting and directing the legislature in every direction, furnishing such startling contrasts to the simplicity of the Constitution of the

[10] See Edward R. Lewis, *A History of American Political Thought*, pp. 442*ff*.

United States, are an expression of distrust in representative government. The "initiative" is an expression of distrust in representative government. The "referendum" is an expression of distrust in representative government.[11]

Root was aware of the changing character of government in his day. It was a time, he said, in which representative government was more necessary than ever before. We could not hope to cure the evils of the state legislatures by evading them; the people must see that reform at home is necessary, and they must carry out their duties as citizens. But the framers of the Constitution believed that the Senate should be as different as possible from the House, and the Senate was a check which American democracy had placed upon itself. The Senate was a check on the continual change to which democracy was liable. Since America has suffered from too much legislation already, to reduce the checking power of the Senate would increase the present evil. Likewise, the high quality of the Senate in the past would be lowered, and the great names of the past would not be equaled by the senators of the future.

The arguments of men like Root were of no avail against the stream of public opinion which demanded the election of senators by the direct vote of the people. While the amendment was being discussed, various states instituted means to control the choice of the legislature. Advisory elections of senators were instituted, while the final power of election actually remained in the hands of the legislators. None could deny that the Senate of the United States had lost most of its former prestige and that as a representative body it had sunk to a low mark. Popular opinion was bitterly antagonistic to the functioning of the party system in the state legislature, and the removal of the power to elect senators was but one of the devices which commended itself to the people. It was part of the whole movement for the direct primary nomination of other candidates for public office.[12]

The Presidential Primary. The movement to democratize the national government resulted in removing from the state legislatures their control over the nomination and election of national officials. The choice of Presidential electors had been placed in the hands of the people, with hardly an exception, by 1860; and the party organization had taken over the nominating functions once exercised by the legislative caucus. The direct election of senators took another of the Federal functions from the representative bodies in the states. A further effort to democratize the national government is to be found in the movement

[11] Elihu Root, *Addresses on Government and Citizenship* (1916), pp. 269, 257*ff*. By courtesy of the Harvard University Press.

[12] See George H. Haynes, *The Election of Senators* (1906), for an excellent summary of the situation in the years just before the adoption of the amendment.

for Presidential primaries, which gave the people the power directly to nominate the delegates to the national party conventions, and in many cases to express their wishes or preferences for the nominee of the party concerned. The fact that the action of electors, or members of the electoral college, had become formal was a most significant step in making the election of the President popular; but there was no control over the national party convention, and state regulations of political parties did not touch the convention directly.

Beginning in 1912 a number of states provided that the delegates to the national party conventions should be elected at primaries, or provided for popular preference on Presidential candidates, or both. It was argued that by such devices the voters in each party could exercise a controlling influence on the choice of candidates for the Presidential and Vice-presidential offices. The direct vote of the people for electors whose function was purely formal was not considered to be a sufficient popular check on the action of the party. In 1905 a Wisconsin law provided for the direct election of all delegates to national conventions; in 1906 a law in Pennsylvania provided for the direct election of district delegates to the national convention, and that each delegate candidate might have printed with his name the candidate for the Presidency he would support in the convention. According to Miss Overacker, Senator Jonathan Bourne of Oregon "may well lay claim to being the father of the presidential preference idea," but she notes also that the editor of the *Oregon Daily Journal* had called attention to the fact that 2,000 Alabama Democrats had petitioned the state committee to put the name of William Jennings Bryan on the primary ballot in order that the delegates to the national convention might be instructed to support him.[13] Senator Bourne and the People's Power League in Oregon took up the idea, and in 1910 an initiative measure was adopted that provided for the direct election of delegates to the national party convention and for the expression of a preference by the voters for Presidential candidates. For a time the idea spread rapidly. Wisconsin, Nebraska, New Jersey, North and South Dakota, and California adopted the Presidential primary in 1911; Maryland, Massachusetts, and Illinois adopted it the following year. "Before 1912, then, nine states provided for both a preference vote and the election of all delegates, one state for a preference vote only [Illinois], two for the direct election of district delegates, and three made such action possible at the option of the state committee." [14]

From 1912 to 1916, nine more states adopted some form of Presidential primary: Michigan, Montana, Iowa, Minnesota, New Hampshire, Ver-

[13] Louise Overacker, *The Presidential Primary* (1926), p. 12.

[14] *Ibid.*, p. 13.

mont, West Virginia, North Carolina, and Indiana. New York, Ohio, Massachusetts, California, and Illinois amended their laws. A Texas law on the subject was declared unconstitutional, and since 1916 only Alabama has adopted any form of the Presidential primary. Minnesota, Iowa, Vermont, and Montana have repealed their laws. Thus the movement for the popular control of the national party conventions failed of its original goal, and there seems to be little demand for its extension. Like many other reforms, the results of the Presidential primary did not measure up to the expectations of its supporters; and the fear of the party leaders, on the other hand, has been allayed by the failure of the primary to dominate the national-convention system.

The Reform of the Political Party. The heart of the democratic movement in the period we are discussing was, in fact, the demand for the direct primary. Specifically, the direct primary was an alternative method of nominating candidates for public offices within the states. The point of criticism was the party convention system of nomination. Leaders in the democratic crusade argued that the convention had shown itself to be a corrupt, irresponsible, and undemocratic device, against which the people, however indignant, could do little, since their choice lay between the equally irresponsible candidates of the major parties. Yet the political party oligarchy has not been conquered; there is still corruption in politics, and "progressive" measures are enacted under the pressure of executive leadership, or by the patient demands of leaders in the legislative bodies. Dominant Presidents like the two Roosevelts have achieved more in a short time than the unorganized people over years of effort; likewise, strong governors in certain states have been able to bring about significant legislative and administrative changes. If oligarchy in business is with us still, so is oligarchy in the party system. The people must still follow those who actually hold the reins of power. The "invisible government" is yet, in the minds of some, the real government of the American democracy.

The reform of the political party has come from two sources. Both the Federal and state governments have attempted to force upon parties standards of public responsibility which are generally acceptable to the American people. Congress, for example, has authority to regulate the manner of electing members of Congress. Under this authority, a variety of statutes have been passed, and several notable ones in the period we are considering. In 1907 Congress prohibited campaign contributions from corporations; in 1910 the amounts that might be spent in the election campaigns of Representatives were limited; and a requirement of publicity for receipts and expenditures was imposed. In the following year similar provisions were extended to the campaigns of candidates for

the United States Senate. But in 1921 a serious limitation on Congressional power was imposed by decision of the Supreme Court in the Newberry case (256 U.S. 232), which held that national power extended only to elections and not to the nominations of candidates by political parties. Following this, in 1925, a consolidated Federal Corrupt Practices Act was passed which brought together all the provisions clearly within the power of Congress. Further, in 1939 the Hatch Act forbade most Federal officials and employees from engaging in political activity. The devices for the enforcement of these laws are primarily the customary procedures of prosecution, such as indictment, trial, and possible conviction for violations of the Federal acts. The Department of Justice has the largest responsibility for investigating and presenting the evidence to Federal grand juries. However, Congress has undertaken in recent years to investigate directly the conduct of political campaigns for Federal offices; a Senate investigating committee has been at work in every Presidential election since 1912, and in several off-year campaigns. Likewise, the House of Representatives has on occasion undertaken to investigate campaign expenses and other activities which are in violation of Federal laws. As in other cases, Federal regulation checks rather than abolishes the abuses at which the legislation is aimed.

The Nominating System: Direct Primaries. Since the organization and activities of political parties fall largely under the control of the states, it has been the states which have, therefore, developed the greatest detailed body of regulations for the conduct of parties and elections. Few political leaders have a detailed knowledge of the regulations throughout the United States, since they vary in certain points from state to state. Behind all of them, however, is the spirit of the second era of democratic reform: the belief that the traditional structures of American democracy could be made responsible to the will of the people. From the doctrinal point of view, the struggle over the direct primary reflects most clearly what was in the minds of the reformers. If their political theory was simple—perhaps all too simple—it is nevertheless a significant phase of the development of the American political mind.

The brunt of the attack, as we have said, was upon the old system of nominating candidates for public office, the convention system of the bosses and irresponsible political parties. A political party was regarded as a private, voluntary organization of voters which had been taken over by the leaders of the invisible government—that is, the bosses—who controlled the delegates to the nominating conventions through the use of patronage and the distribution of the spoils of public office. The direct primary was a means of restoring to the people the rightful control of their own parties.

While the corruption of the primary has been gradually increasing with the growth of the nation [asserted Meyer], it was indirectly given . . . impetus through the institution of the Australian ballot system. The election without strict legal regulation had been a failure. The legalized rule-regulated election governed by the Australian ballot system was proving a success. The caucus or primary without rules was also proving a failure. Why not apply rules here as well? The process appeared simple, rules were drawn, and there rose the rule-regulated caucus. But this proved a failure in the end. The reason lies in the fact that the rules were not prescribed by the State as in the case of the Australian ballot system, to secure expression of individual will, but by the party leaders or "bosses" to insure their own control. Moreover, it was found true that no rules or statutory regulations could prevent the tampering with the delegates after they were chosen in the caucus, no matter how well its proceedings were regulated.[15]

Meyer, who was one of the important writers in support of the direct primary, admitted that the convention system at its best was a worthy institution of democracy. However, he insisted that there were certain evils that could hardly be avoided. There were, first of all, the evils in the primaries or caucuses in which the delegates were chosen. Without a rigorous overhauling of the system he did not see that much progress toward the control of the people could be made. Internally, there were difficulties in leadership and the action of the delegates, which likewise invalidated the nominating convention as a suitable instrument of popular government. Out of this persistent condition of evil, the movement for reform had got under way; the direct primary election was the only solution Meyer could see.

The movement for better primaries began shortly after the Confederate War. In 1866 California regulated the method of selecting delegates, and provided safeguards for primary meetings; in 1868 certain reforms were introduced in Pennsylvania. But the movement itself, Meyer believed, was closely associated with the introduction of the Australian ballot system. In spite of a large body of regulative legislation, the caucus or primary system grew worse.

Two main remedies were suggested: the application of the Australian ballot system of voting to the selection of delegates to conventions, and in the nomination of local officers; and the plan which had already been tried in the South, in Pennsylvania, Kentucky, Ohio, Indiana, Kansas, and elsewhere, which required the abolition of all conventions through the institution of a system of direct nomination.[16]

[15] Ernst C. Meyer, *Nominating Systems: Direct Primaries versus Conventions in the United States* (1902), pp. 38–39.

[16] *Ibid.*, p. 91.

Thus by a process of trial and error, the democratic reformers gradually reached the concept and practice of the direct-primary election. While further regulations of the convention and the caucus were to be enacted, the trend toward the nomination of officials by election was under way and was not to be stopped until all but one or two of the forty-eight states were to abolish the party-convention system of nomination. In Kentucky, "the direct vote, which had been established in that State in 1880, was further developed through the passage of the optional direct primary law of 1892, which laid the foundation for the present well-known system of optional direct primaries."[17] Optional direct-primary laws were passed applying to certain cities in some states, and optional laws were passed in others extending to the whole state. In 1898 laws were passed in New York and Illinois applying the Australian ballot to the selection of delegates to the nominating conventions. In 1901, however, bills providing for the nomination of all state officers by direct vote were introduced in some nineteen legislatures. And thus the establishment of the present system began. It is remarkable that the laws proposed in 1901 were quite similar throughout the country. They represented maturity of judgment in the light of long experience with the control of the party machines. It was a determined effort to bring the American political party to heel. If in Minnesota, Oregon, California, Indiana, and Michigan primary laws were enacted, it must not be forgotten that one of the chief incentives to the direct-primary system came in the South, in which the Democratic one-party system prevailed. In order to give a more open chance to different democratic candidates, some additional election machinery was necessary. In origin, of course, the control of the direct-primary election was in the hands of the party organization, and more particularly the state central committee. In other words, there was an informal growth of the direct primary within the party system itself.[18]

Up to his death in 1925 Senator Robert M. La Follette was one of the most vigorous and most effective leaders of the Progressive movement. While many economic reforms were urged nationally by La Follette, and under his leadership enacted in Wisconsin, he was perhaps even more

[17] *Ibid.*

[18] While defenders of the direct primary regarded it as the keystone of political reform, they felt that it was part of the general reform movement. The proponents of the direct-primary election would, in most cases, favor civil-service reform, the short-ballot principle with executive appointments and leadership, the initiative and referendum, and perhaps proportional representation and other reforms. See the concluding part of Meyer's work.

interested in the ultimate political reforms which would enable the people to wrest their governments from the control of the party oligarchies. La Follette did not waver in his confidence in the final progressivism of the average voter. In a letter to the voters of Wisconsin in 1910 he declared:

I believe in the intelligence and patriotism of the people of Wisconsin. I believe they are capable of self-government. The common, average judgment of the community is always wise, rational and trust-worthy. I would see them clothed with the largest power to say the final word as to the laws under which they are to live and the government they maintain. The republican platform of Wisconsin is the strongest guarantee yet given for perpetuating self-government. If the pledges of the republican platform become the law of this state, government of the people, by the people, will be forever safe in Wisconsin. A perfected primary law will insure majority nomination. Then the will of the majority can no longer suffer defeat through division of votes among several candidates representing the same principles. A strong corrupt practice law will limit the use of money in elections. Then no man can buy political office and power in Wisconsin and the public service will be equally within the reach of all men.[19]

With the changing phases of a twenty-five-year contest I have been more and more impressed with the deep underlying singleness of the issue. It is not railroad regulation. It is not the trusts. These and other questions are but manifestations of one great struggle. The supreme issue, involving all others, is *the encroachment of the powerful few upon the rights of the many.* This mighty power has come between the people and their government. Can we free ourselves from this control? Can representative government be restored? Shall we, with statesmanship and constructive legislation, meet these problems, or shall we pass them on, with all the possibilities of conflict and chaos, to future generations?

There never was a higher call to greater service than in this protracted fight for social justice. I believe, with increasing depth of conviction, that we will, in our day, meet our responsibility with fearlessness and faith; that we will reclaim and preserve for our children, not only the form but the spirit of our free institutions. And in our children must we rest our hope for the ultimate democracy.[20]

If many reforms were urged by La Follette as the leader of the Wisconsin progressives, the system of nomination was finally the center of his political belief. Under our form of government, he insisted, "the en-

[19] See *The Political Philosophy of Robert M. La Follette,* compiled by Ellen Torelle (1920), pp. 175*ff.*

[20] Robert M. La Follette, *La Follette's Autobiography: A Personal Narrative of Political Experiences* (6th ed., 1913), pp. 760–761. By permission of Fola M. La Follette.

tire structure rests upon the nomination of candidates for office." If the caucus and convention were abolished by law, and nominations under the Australian ballot placed in the hands of people, the very life of representative government would be preserved. The candidate appearing before the people with a clean conscience and record could expect, confidently, the verdict of the people. But in the end La Follette had to face the fact that, even with the direct primary and the political reforms of the Progressive era enacted, the people did not have the sustained will to support those candidates who were opposed to the party oligarchy and who favored fundamental economic change. The fact is that the enemies of the social politics of progressives have been able to use, to an effective degree, the very political machinery that was designed in the beginning to destroy them.

When E. L. Godkin contemplated the American democratic scene at the close of the century, he was impressed with the deviations that had occurred in the democratic ideal. It was the *Unforeseen Tendencies of Democracy* that he chose to describe in 1898. Rather than reflecting the passion of the progressives and the reformers, he was inclined to argue that time and experience were necessary for democracy to discover what was wrong and to correct it. Democracy, he thought, was not very teachable by philosophers and jurists, since experience counts for less in democracy than in other forms of government. The reason appeared to him to be that the experience of one class is not of much use to another. In addition, modern democracy faced two new forces which older regimes had not been compelled to solve. On the one hand, there "is the enormously increased facility for money-making which the modern world has supplied, and the inevitably resulting corruption. I cannot help doubting whether any regime would have withstood this." [21] On the other hand, there is the sudden necessity of governing large masses of people called cities, without experience either of the special wants of cities or of the means of satisfying them.

Our civilization has, as has been said, become urban within the present generation, almost without our knowing it. Democracy has therefore been suddenly called on to solve problems by universal suffrage which an oligarchy of the most select kind has never had to face. Its failures, therefore, have been serious and numerous, and there does not seem much chance of its doing better without experience; experience is a master from whose chastening rod none can escape. To suppose it will not learn through mishaps and miscarriages would be to despair of the human race, for it is from suffering or failure that we have got most

[21] P. v. By permission of Houghton Mifflin Company.

of the things in civilization. The great, perhaps the only, mistake optimists appear to make is, as I have said, the mistake of thinking there are short cuts to political happiness.[22]

Thus, the failure of the nominating system, the alteration in practice of the electoral system, the decline of legislative bodies, and the rise of municipal corruption were all problems that were serious enough, but which were not entirely fatal to the democratic dream. As an individualist, Godkin would not be aroused to enthusiasm by the interventionist reforms of the progressives. Yet as a liberal of the sterner stripe, he could look forward to the benevolent force of political experience. In the end, there would be solutions to the problems of American twists in the theory of the democratic process. But today we would call Godkin a conservative, since he had no confidence in the trends of American public opinion, and the influence of socialistic ideas upon the masses.

In short [he said], the one thing which can be said with most certainty about democratic public opinion in the modern world is that it is moulded as never before by economic, rather than by religious, or moral, or political considerations. The influences which governed the world down to the close of the seventeenth century were respect for a reigning family, or belief in a certain form of religious worship and horror of others, or national pride and corresponding dislike or distrust of foreigners, or commercial rivalry. It is only the last which has now much influence on public opinion or in legislation.[23]

The fact is, Godkin thought, there has been a decline in interest in political liberty, and this explains in part the surrender of power to the party bosses and the decline of legislatures as deliberative bodies. Thus the Corn Laws in England were "the beginning of a series of measures in various countries which aim merely at increasing human physical comfort, whatever their effect on the structure of the government or on the play of political institutions. This foreshadowed the greatest change which has come over the modern world. It is now governed mainly by ideas about the distribution of commodities. This distribution is not only what most occupies public opinion, but what has most to do with forming it.[24]

If Godkin stood at the middle of the road appealing to future experience as a remedy for the political disorder of the times, others were more confident in their condemnation of such devices as the direct primary, the popular election of senators, the initiative, referendum, and recall. The conservatives took the reformers at their word: the final objective of

[22] Pp. vi–vii. By permission of Houghton Mifflin Company.
[23] P. 222. By permission of Houghton Mifflin Company.
[24] P. 225. By permission of Houghton Mifflin Company.

reform was to change the social character of our system. We know now that these reforms have not changed the system, but it can hardly be expected that such long-run results could have been perceived in the heat of debate. The argument against the primary particularly was the defense of the political party in the United States, and the fear that the primary would break down both the organization and responsibility of the party system.

In 1913 William Howard Taft remarked in his book *Popular Government:*

> There is a tendency on the part of those who favor the direct election by the people at a party primary in all cases, to resort to loud declamation in favor of a method that gives all people their choice. I have commented on the fact that the electors are not all the people, and that others are interested in the government beside the electors; but I submit that the question is not to be governed by the general declaration that an expression of all the people at an election is necessarily better than the expression of their delegates in convention, and that the mere assertion is not proof. The real end that we have in view is a better government for each individual and for all the people, and if we can get better candidates, and if we can more secure the intelligent and deliberate consideration of party principle through conventions, then we should adopt conventions because what we are after is good results. The voting of all the people on an issue, or for a candidate, is not the end. It is a means, and if it is not the best means of securing good candidates and of accurately interpreting the deliberate judgment of the people, then it is not the means that ought to be adopted.[25]

The direct-primary nomination of officials through the use of the state-imposed Australian ballot was a reform accepted generally and finally by the American people. It was, however, an issue with other facets than simply the control of the people over their government. It was an issue involving the nature or the theory of the political party. Before the adoption of the direct primary, the party had been regarded as a private association of individuals having as their desire the control of the policies or plunder of government. The primary asserted with hard finality that the party is more than a private association; it is a public association and subject to public or political regulation in order to enforce public responsibility. When any private association threatens to become a state within a state, an invisible government, completely at variance with the desires of the people, it will be brought under public control to some degree.

Direct Legislation. When Frederic C. Howe recast his political beliefs in order to say what a democracy might be (democracy had not failed;

[25] William Howard Taft, *Popular Government: Its Essence, Its Permanence and Its Perils* (1913), pp. 119–120. By permission of the Yale University Press.

it had never been tried), he decided that no conventions, but only direct primaries, should nominate candidates; that the programs of candidates should be printed briefly on the ballots; that the short ballot should be adopted along with the recall of all elective officials, including judges; that the initiative and referendum should be adopted; that there should be complete home rule for cities; that there should be a one-house legislature, with the governor responsible to it; and that the courts should have no power to declare laws unconstitutional.[26] Such a program was understood by the liberals of the era we are considering. Unlike the battle over the direct primary, the conservatives were able to throw back the tide of reform which would have made direct legislation by the people as important in the legislative process as the legislature itself. The liberals of the battle before the First World War have been largely retired by age or death from the scene; but with Howe it was distrust of the state after long experience at close quarters. At the end of the second era of reform (say 1919) he could declare that the state was run according to the bidding of business. The passion for the good society led him away from mere political reform. That, too, is a verdict on the bitterly fought battle to secure the initiative, the referendum, and the recall.

In 1898 when South Dakota was controlled by the Populists, the initiative and referendum as devices for lawmaking were adopted. The referendum on constitutions and constitutional amendments was, long before, a widely accepted practice in the United States. But to go around the legislative body, and to give the people the direct right to initiate legislation and to enact it by popular vote, was regarded by the opponents of the scheme as a radical departure from the traditional genius of American institutions. While a considerable number of states have adopted the initiative and referendum, they have been chiefly in the west. Massachusetts in 1918, however, adopted a complicated and unwieldy system by which the voters, if sufficiently determined, can present legislation to the people against the wishes of the majority in the legislature.

In theory the initiative and referendum simply carry on the work begun by the direct primary. Those who supported the movement were firm believers in the wisdom of the people if given a chance to enact progressive political measures. Perhaps it is the conservatism of the people themselves that has daunted the reforming spirit of the liberals of this period. After 1902 when Oregon adopted the system, it seemed, with western enthusiasm, likely to sweep the country. From about 1910 to 1914 the movement seemed irresistible; William Jennings Bryan

[26] Frederic C. Howe, *The Confessions of a Reformer* (1925), pp. 176*ff*.

Theodore Roosevelt, and Woodrow Wilson were for the reform. In all, it was argued that the initiative and referendum would not destroy representative government, although this was the charge most frequently and fiercely brought against the change. Many of those who favored a stronger executive, a more efficient administration, insisted that the principle of direct government would weaken whatever possibilities there were of responsibility in government. We may say now that the early enthusiasm for direct legislation was unrealistic; it has made some but no great changes in our system. On the other hand, movements for the strengthening of the executive have thrived all too well, though not with correlative responsibility to the representative bodies in either the state or nation.[27]

If the theory in support of direct legislation is all too simple in its consideration of the mechanics and motivations of politics, the argument against it, while more complicated, rests upon a system of prophetic ideas which have hardly been sustained by the event. Nicholas Murray Butler declared in 1912 that there was under way in the United States a movement to transform our representative republic into a socialistic democracy. "Of all the proposals," he said, "that have been brought forward in the name of direct democracy, the initiative is the most preposterous and the most vicious." In addition, the recall would assist the initiative and referendum in reducing the consistency, the intelligence, and the disinterestedness of government, "because it will help to keep high minded and independent men from accepting nomination and election to public office." But all of this was part of "the revolt of the unfit," whose primary aim is to lessen and limit competition, for competition is felt to be part of the struggle for existence and for success.[28]

If Elihu Root favored the short-ballot principle, he was not enthusiastic about direct legislation. In his speech closing the New York Constitutional Convention in 1915, he said:

[27] Professor Barnett notes that beginning in 1892 a tireless campaign for direct legislation was carried on under the leadership of W. S. U'Ren, aided by the Joint Committee on Direct Legislation, which was later broadened into the Direct Legislation League, the forerunner of the People's Power League. After ten years the system was embodied in the state constitution. Barnett argues that the chief cause of direct legislation was the unresponsiveness of the legislature in enforcing progressive legislation. See James D. Barnett, *The Operation of the Initiative, Referedum, and Recall in Oregon* (1915), pp. 3*ff.*; Allen H. Eaton, *The Oregon System* (1912); Charles A. Beard and Birl E. Shultz, *Documents on the State-wide Initiative, Referendum and Recall* (1912).

[28] Nicholas Murray Butler, *Why Should We Change Our Form of Government?* (1912), pp. 4, 25, 39, 139, 143.

One thing I wish to say, and that is that similar evils to those we have found in our state government have been found in the governments of many other states. People of those states have had recourse to an abandonment or a partial abandonment of representative government. They have had recourse to the initiative and referendum and the recall, the recall of officers and the recall of decisions. In this convention we have offered the most irrefutable, concrete arguments against those nostrums and patent medicines in government and in favor of the preservation of that representative government which is the chief gift of our race to freedom, by undertaking to reform representative government, instead of abandoning it and to make it worthy of its great function for the preservation of liberty.[29]

Oberholtzer turned his guns directly on the theory of the wisdom of the people.

Instead of the "old machine" they [the people] have established their own—the Grange—the Federation of Labor—the People's Power League. For the old bosses they have brought themselves forward as the new bosses. The "science of government," which they are teaching in their schools, is information about a variety of schemes for changing the face of the world. It consists in a condemnation of the teachings of history and the introduction of devices by which clubs of farmers, fishermen, orchardmen, graziers, flattered and cajoled by a few leaders, can control the policy of the government, both local and State.[30]

A more sober appraisal of the movement was given by President Taft in his lectures on popular government. He objected to the movement for direct legislation on a number of grounds. If the short ballot is a useful reform, there could be nothing more in contradiction than the movement to burden the electorate with frequent elections and highly complex issues. The whole tone of the movement has been to destroy the republican system of government that the wisdom of the fathers had given the American people. Such devices as the initiative and referendum destroyed the distinction between constitutions and ordinary legislation. It was a scheme by which the voting minority could escape from the salutary restrictions placed upon them by the present system. While Taft was appreciative of the desire to assist all citizens through progressive legislation, he was fearful of the ultimate political consequences. Taft quoted Lincoln's first inaugural address to the effect that "A majority held in restraint by constitutional checks and limitations and always changing easily with deliberate changes of popular opinion and senti-

[29] Root, *op. cit.*, p. 211. By permission of the Harvard University Press.

[30] Ellis Paxson Oberholtzer, *The Referendum in America: Together With Some Chapters on the Initiative and the Recall* (new ed., 1911), p. 502. By permission of Charles Scribner's Sons, N. Y.

ments, is the only true sovereign of the people. Whoever rejects it, does of necessity fly to anarchy or to despotism." [31]

The Recall of Public Officials. From the above discussion, we have seen that those opposed to direct legislation also opposed the movement for the recall of public officials, through special elections before the expiration of the legal term of office. The same argument in favor of the representative system established by the framers of the Constitution was directed against the principle that officers duly elected might be recalled when a sufficient percentage of the electorate had signed petitions for a recall election. As in the case of the direct primary and the initiative and referendum, the recall was sometimes established in cities and not in the states, and sometimes in both. Beginning in 1908 the recall principle was adopted in Oregon, and subsequently it has been incorporated in the constitutions of a number of states. The most significant controversy over the recall concerned a provision in the proposed Arizona constitution, when that territory was seeking admission to the Union as a state. The recall was extended to all elected public officials, including the members of the judiciary. President Taft vetoed this constitution, and judicial officers were excepted from the recall provision. However, as soon as Arizona was admitted to the Union, the objectionable stipulation was restored and has since been part of the constitution of the state.

While there can be no serious objections to the recall principle as applied to nonjudicial officers, it was felt by those who wished to defend the courts that to subject judicial officers to recall would destroy the independence of the judiciary. It would be a violation of the separation of powers, and it would be an attack on the principle of judicial review. Naturally, those who favored the recall for judicial officers did not hesitate to admit that in the end they did not wish the judges, remote from the people, to have the right to overthrow any law that had been seriously adopted by the people in the exercise of their political sovereignty. When Theodore Roosevelt, speaking before the Ohio constitutional convention in February, 1912, spoke with caution about the recall of judges, yet spoke with approval of the recall of judicial decisions dealing with social questions, the storm over the recall idea broke with all its fury. Roosevelt suggested that at elections the people might have the right to vote on the interpretation of the Constitution, in effect urging a new form of amendment to the fundamental law. Nearly all of the leading lawyers in the country rushed to the defense of the courts, and after this explosion little was to be done to extend the recall in the American sys-

[31] Taft, *op. cit.*, pp. 42*ff*.

tem. The state of Colorado in 1912 attempted to apply the recall to judicial decisions, but the law itself was declared unconstitutional.[32]

The Search for Leadership. It was recognized before the outbreak of the First World War that internal changes in our government were necessary if it was to be administratively efficient and responsive to the people. The argument took several forms. There was a consistent drive for the short ballot—that is, a ballot on which a few significant officers were listed, to be filled by the electorate. The burden on the electorate would be relieved, and the executive would then have responsibility to the people for the appointment of public officials for administrative positions. He would then be responsible to the people for the conduct of the executive department, a result impossible under the long-ballot principle.

Likewise, the students of public law recognized that more executive leadership of the legislative branch of the government was necessary under modern conditions. A widespread feeling prevailed that the Parliamentary system, as in England, was much more effective than our system with the separation of powers and the check and balance system. The executive should not be a mere enforcer of law; he should be a leader of the party in relation to both the people at large and the legislative branch in particular. Moreover, it was recognized that the administrative system existing in the states was antiquated and unsuited to modern administrative tasks. There must be administrative reorganization in both the national and the state governments. This is to say nothing of the fact that all students recognized the imperative necessity of diminishing political corruption in the cities, as well as of making city government capable of administering modern municipal functions.

In the years before the First World War and the beginning of the long European crisis which has led to dictatorship and fascism, political students in the United States were generally impressed by the British Parliamentary system. Most of the students, however, like Woodrow Wilson, felt that it would not be possible to introduce a full-fledged parliamentary system in the United States. Only partial reforms were possible; and others like Henry Jones Ford were impressed with the fact that the parliamentary system was not working well on the European Continent where it had been copied from the British. It can be said, however, without exaggeration that American political science was profoundly impressed by the British system, and that it was unimpressed, from the

[32] See Lewis, *op. cit.*, pp. 123*ff*. See also the previous citations on the initiative and referendum.

executive and administrative point of view, with our own political structure.

As the framers of the Constitution believed that the mechanics of effective government must be within the Constitutional system, so at the end of the second era of democratic reform it was believed again that good government must come from within. Rather than to seek responsibility from the external pressure of the electorate, the students of our government believed that responsibility must come by the operation of government itself. On the other hand, as the proponents of direct government may have erred in stressing the purity of the people if they were given a chance, the emerging study of executive and administrative organization may have erred in putting too much stress upon the internal system of organization. The time was not yet when the study of public administration would develop its own theory of how public business should be organized; as yet the attack was upon the systematic check-and-balance system, the division of power under the separation of powers, which prevented the executive from assuming its normal role in government.

> It is, therefore, manifestly a radical defect in our federal system that it parcels out power and confuses responsibility as it does [asserted Woodrow Wilson]. The main purpose of the Convention of 1787 seems to have been to accomplish this grievous mistake. The "literary theory" of checks and balances is simply a consistent account of what our constitution-makers tried to do; and those checks and balances have proved mischievous just to the extent to which they have succeeded in establishing themselves as realities. It is quite safe to say that were it possible to call together again the members of that wonderful Convention to view the work of their hands in the light of the century that has tested it, they would be the first to admit that the only fruit of dividing power has been to make it irresponsible.[33]

Penetrating critics of the American system thus came to believe that the principle of separation of powers was inconsistent with the practice of democracy and the responsibility of political parties. Executive leadership under some modification of the British Parliamentary system was advocated as the proper means by which American democracy could be made to function more effectively. But this solution was in sharp contrast to that whole body of proposals by which government would be brought directly to the citizen's doorstep. Direct government was the negation of party responsibility reenforced under a modification of the cabinet system. Henry Jones Ford, for instance, looked forward to a time of executive leadership in which the weaknesses of the parliamentary system would be avoided; however, he asserted "that the extension of

[33] *Congressional Government* (1913), pp. 284–285.

executive authority is still the only practical method of advancing popular rule." On the other hand, the party organization continues to be the "sole efficient means of administrative union between the executive and legislative branches of the government." Whatever strengthens this union makes for orderly, progressive government—that is, the parliamentary system; whatever tends to weaken it—that is, direct government —is contrary to the genius of American politics.[34]

Those who have turned to the reform of governmental structure for the solution of democracy's ills would, in general, agree that it was a democratic mistake to assume that the electorate alone could solve, by its intermittent action, the difficulties faced by the United States. Sedgwick insisted that from the time of Jefferson on we had believed that, because of the ultimate responsibility of the people, the way to secure responsibility was through some form of elective machinery. The elective office, it was assumed, is always more responsible than the appointive one. Rather than rotation, the newer critics said, a secure tenure is the road to efficient government and to democratic responsibility. As responsibility is destroyed by short tenure and frequent elections, it must be restored by longer tenure and fewer elections. The illusions of universal suffrage and its logical development, the theory that the people can actually make nominations through a direct primary, must be abandoned.[35]

In 1914 when Professor Kales considered the problem of extra-legal or boss government in the United States, he urged that the primaries had increased the burden on the electorate, and by that fact alone had made the professional party leader all the more necessary. A new philosophy of government is necessary to sweep extra-legal government from the field. "That philosophy is summed up in three prosaic words: The Short Ballot. They are the emancipation proclamation for our government. The faithful and complete application of the principles underlying the short ballot in our local and state governments will be as im-

[34] Henry Jones Ford, *The Rise and Growth of American Politics* (1898), pp. 356*ff.*; see also his *Representative Government* (1924). It has been argued that Frank J. Goodnow was the first American scholar to recognize the importance of public administration and to stimulate seriously the study of administrative law. In 1900 he published his *Politics and Administration*, in which he rejected the theory of the separation of powers to insist that the two branches of government are the political and the administrative. The latter has the function primarily of carrying out the political determination of policy. His ideas are not unlike those of Thomas Paine, who, at the time of the American Revolution, rejected the principle of the separation of powers, or the check-and-balance system, to support the idea that there are but two powers of government.

[35] Arthur George Sedgwick, *The Democratic Mistake* (1912).

portant and perhaps as difficult a step for us to achieve as was the emancipation of the slaves." [36]

Conclusion. The effort to improve the quality of political democracy is a never-ending task. Most of the changes made in democratic structure remain today as a normal, even traditional part of our system. We accept without question the direct election of United States senators, the direct primary, and the control of political parties and elections. Likewise, civil-service reform has ceased to be a serious issue, since the spoils system in the public service has long since come to be regarded as a political evil. On the other hand, direct government (the initiative, referendum, and recall) has been adopted chiefly in the western part of the United States. It is still the great party organizations that make the machinery of government turn. Thus, out of the discussion of the late nineteenth century it came to be recognized that a responsible party system—that is, a responsible two-party system—is a fundamental aspect of our democracy.[37]

Selected Bibliography

BE[illegible]EY, ARTHUR F.: *The Process of Government: A Study of Social Pressures* [illegible]8).

BOWE[illegible]CLAUDE G.: *Beveridge and the Progressive Era* (1932).

BRADFOR[illegible]AMALIEL: *The Lesson of Popular Government* (2 vols., 1899).

BRYCE, J[illegible]: *The American Commonwealth* (2 vols, 1888).

CARPENTER[illegible]LIAM S.: *Democracy and Representation* (1925).

CHAMBERLAI[illegible]HN: *Farewell to Reform* (1932).

CHILDS, RICHA[illegible]: *Short Ballot Principles* (1911).

COKER, FRANCIS [illegible]: *Democracy, Liberty and Property* (1942).

FISH, C. R.: *The [illegible] Service and the Patronage* (1905).

FORD, HENRY JONES[illegible]: *The Rise and [illegible]resentative Government* (1924).

GABRIEL, RALPH H.: *Tr[illegible]th of American Politics* (1898).

GETTELL, R. G.: *History [illegible]urse of American Democratic Thought* (1940).

GODKIN, E. L.: *Unforeseen [illegible]merican Political Thought* (1928).

HAZLITT, HENRY: *A New C[illegible]dencies of Democracy* (1898).

[illegible]*tution Now* (1942).

[36] Albert M. Kales, *Unpop[illegible]Government in the United States* (1914), pp. 262–263, *passim*. By permission o[illegible]niversity of Chicago Press. Kales was elaborating the argument already pre[illegible] by Richard S. Childs, *Short Ballot Principles* (1911). On the defense of the [illegible]ballot by Elihu Root, see Root, *op. cit.*, pp. 191*ff.*, for his address on "invisi[illegible]nment."

[37] See M. Ostrogorski, *Democra[illegible]nment* (1910). The second title cited is a condensation and revision of th[illegible]volume of the first publication. *The Organization of Political Parties*, trans. from the French (2 vols., 1902); *[illegible]cy and the Party System in the United States: A Study in Extra-constituti[illegible]* C. Perry Patterson, *Presidential G[illegible]t in the United States* (1947), is an important recent study of the Constitu[illegible]ition of the party system.

HECKLER, KENNETH W.: *Insurgency: Personalities and Politics of the Taft Era* (1940).

HEINBERG, JOHN G.: "Theories of Majority Rule," *The American Political Science Review,* XXVI (1932), 452*ff.*

HERMANS, F. A.: *Democracy or Anarchy: A Study of Proportional Representation* (1941).

HOWE, FREDERICK C.: *The Confessions of a Reformer* (1925).

KENDALL, WILLMOORE: *John Locke and the Doctrine of Majority Rule* (1941).

LA FOLLETTE, ROBERT M.: *La Follette's Autobiography: A Personal Narrative of Political Experiences* (6th ed., 1913).

LEWIS, EDWARD R.: *A History of American Political Thought from the Civil War to the World War* (1937).

LOVEJOY, ALLEN F.: *La Follette and the Establishment of the Direct Primary in Wisconsin* (1942).

MCCONAUGHY, JOHN: *Who Rules America?* (1934).

MERRIAM, CHARLES E.: *American Political Ideas, 1865–1917* (1920).

———: *Primary Elections* (1908).

MEYER, ERNST C.: *Nominating Systems: Direct Primaries Versus Conventions in the United States* (1902).

MILTON, G. F.: *The Use of Presidential Power, 1789–1948* (1944).

MOWREY, G. E.: *Theodore Roosevelt and the Progressive Movement* (1946).

NORRIS, GEORGE W.: *Fighting Liberal: The Autobiography of George W. Norris* (1945).

OSTROGORSKI, M.: *Democracy and the Organization of Political Parties,* tr. from the French (2 vols., 1902).

PARRINGTON, V. L.: *Main Currents in American Thought* (3 vols., 1927–).

ROOT, ELIHU: *Addresses on Government and Citizenship* (1916).

SENNING, JOHN P.: *The One-house Legislature* (1937).

STEFFENS, LINCOLN: *The Autobiography of Lincoln Steffens* (1931).

VAN DEUSEN, G. G.: *Thurlow Weed: Wizard of the Lobby* (1947).

WEYL, WALTER: *The New Democracy* (1912).

WHITE, WILLIAM ALLEN: *The Autobiography of William Allen White* (1946).

WILSON, WOODROW: *Congressional Government* (1913).

WRIGHT, B. F.: *A Source Book of American Political Thought* (1929).

Chapter 13

THE EMERGENCE OF MODERN CONSERVATISM

> The two parties which divide the state, the party of Conservatism and that of Innovation, are very old, and have disputed the possession of the world ever since it was made. . . . Such an irreconcilable antagonism of course must have a corresponding depth of seat in the human constitution. It is the opposition of Past and Future, of Memory and Hope, of the Understanding and the Reason. It is the primal antagonism, the appearance in trifles of the two poles of nature. . . . Innovation is the salient energy; Conservatism is the pause on the last movement. . . . Conservatism stands on man's confessed limitations, reform on his indisputable infinitude. . . . Conservatism makes no poetry, breathes no prayer, has no invention; it is all memory. Reform has no gratitude, no prudence, no husbandry.—Ralph Waldo Emerson.[1]

The Conservative Spirit. Conservatism seeks to balance order and progress in the attainment of the common good. It limits reform because of distrust of human nature and because of the experience embodied in history and tradition. It stands for continuity in institutions, but not has held that a living society can be static. Change there must be, but it must be change in harmony with the tradition of a people and not in accordance with abstract or doctrinaire ideas. American conservatism, like all others, supports the moral tradition of the people, yet it became, after 1865, to an unfortunate extent, the defense of the capitalistic economy that was built on the older ideas of property and individual responsibility. The conservative spirit may outlive American or European capitalism, but in its beginnings the triumph of capitalism appeared as a system in which technology augmented the well-established hopes of the ordinary people. From 1865 to 1929 the new economic order was not effectively challenged in the United States, and nationalism and capitalism lived together in cooperation and understanding. It is this period that we must consider in this chapter. We must observe some of the most significant theoretical implications of the Second American Revolution, the revolution which made the United States one of the great industrial powers of the world.

In retrospect the significance of the economic developments since 1865 have become more clear. A social change of deep import was taking

[1] *The Complete Works of Ralph Waldo Emerson* (1903), Vol. I, pp. 295–299.

place in the United States, though that change was only part of an economic movement that was world-wide in its influence. Instead of gentlemen of the old school, businessmen were coming to the foreground in American economic life and in politics. The business type, the captain of industry, and the titan of finance were henceforth and for a space of time to occupy high positions of leadership on the American scene. It must not be supposed that the change of which we are speaking emerged suddenly with the end of the Confederate War. The new society had long been growing in the United States, and already in Europe, especially in England, the man of commerce had acquired an influence essentially incompatible with the older aristocracy. The businessman from early times has generally favored freedom for his kind, which has meant that he favored freedom or advantageous conditions for the pursuit of trade. Above all he desired to have a society in which enterprise is secure and in which there is a good chance of making some profit as a result of that enterprise. He has not been averse to the protection or the solicitous interest of government in his affairs, but it must be support from the government and not unfriendly regulation. So much might be said for the businessman of ancient civilizations, such as Greece and Rome, and for the businessmen of the early modern cities who spanned the length and breadth of Europe on land and roamed the seas in search of markets. Indeed, at certain periods civilization has been characterized by the predominance of the economic type, the trader and the financier, or, if one will, the moneylender at his worst.[2]

It has been said that the commercial type has been at home in America ever since the beginning of our national development. De Tocqueville observed that Americans engage in commerce as the French engage in war, and that we were able as early as 1830 to see the heroic in commerce, even while we were wont to sell for less than others in international trade.[3] Such might be called individualism, should we desire to equate commercial interest with that ambiguous term in social theory; but it is one of the propositions of this chapter that a business civilization is not opposed to governmental intervention in economic life, if that intervention is of the right kind. It is the doctrinaires who have insisted on *laissez faire*, not the business community itself. But the rise of the social prestige of the businessman in American society had to await certain developments which now characterized the nineteenth century on the economic side. If Daniel Webster was the great spokesman of the Northern capitalistic interest before the war, he had opposed to him a worthy opponent in

[2] See Brooks Adams, *The Law of Civilization and Decay* (1896); *The New Empire* (1902); *The Theory of Social Revolutions* (1913)

[3] *De la Démocratie en Amérique* (14th ed., Paris, 1864), Vol. II, pp. 409*ff*.

Calhoun, who spoke for the Southern planting interest; and in addition such men as Andrew Johnson of Tennessee and C. L. Vallandigham of Ohio praised the work of the independent farmer. The businessman is not a farmer, needless to say; but the businessman represents a vast body of complex interests whose leaders assume that society prospers as those interests are respected by other social groups and by the government.

Businessmen attained their late nineteenth-century sovereignty in the United States on the economic upsurge of European society. Today we can see that out of the early inventions in Europe, which revolutionized the production of goods for the average man, a new world economic system was coming to its logical completion. The spirit of the middle class, the city class, the bourgeoisie, reaches back into the fifteenth century. It is associated with the business ideal of the Florentine bankers, whose activity in part depended on the invention of double-entry bookkeeping; with the lowland Scotsman, who could work in his office through the years of a lifetime accumulating a fortune; and with the Jews, who, harried from bureaucratic, military, and religious preferment, entered into urban business and finance. Bourgeois society and ideals—the ideals of Benjamin Franklin, for example—antedate the rise of modern technological advance; but the principle of financial organization, the ideal of a frugal society of workingmen, had only to wait for the beginning of modern invention in the latter part of the eighteenth century to find that theirs was to be the tomorrow of the nineteenth century. In hackneyed phrase we call it all the industrial revolution, but for politics it meant a new force in the ruling class; it meant that the businessman (financier, industrialist, merchant, etc.) was to be consulted most intimately in the conduct of public affairs. To some the new ruling class was specifically the business type. American civilization throughout the world was to become identified with the dominance of the businessman and with rapid economic and technological expansion and advance. American business was to become, a generation after Appomattox, the wonder of the world.

All ruling groups universalize their systems. So also the American businessman took it to be perfectly natural that his society should be the culmination of time; that his social theory should be valid for all admirable societies; and that the world was simply waiting until it could catch up with what he was doing. It was most unkind, even absurd, to suggest that the business civilization of the United States was but one type of economic society, a type which had existed in degree and without a complex technology in the past, and which had passed from the scene through the alterations of cultures. But today we see that nineteenth-century capitalism was a world system. On the wings of its technology a

new imperialism flowered, and the last areas and peoples of the earth felt the clutch of European and American businessmen. This imperialism, it is true, was in kind similar to that which had existed in Europe since the discovery of the New World, but in quality it was so much more thorough that it may be called new. As business of old sought markets along the government-protected trade routes, so the civilized nations brought order to those peoples in Africa and Asia who yet went about their traditional ways unconcerned with what was happening in European culture on both sides of the North Atlantic ocean. The new technology could live only by exploiting the resources of every part of the world. Rubber, oil, and a dozen different minerals scattered here and there had to be brought to the great manufacturing centers in northwestern Europe and northeastern United States. These two areas came to dominate the world in the nineteenth century, and these two areas were to provide the materials of war in the twentieth century. The inventors of the late eighteenth century began the creation of the new, unstable world, and the capitalists, who stood ready and waiting beside the inventors, completed the task.

Conservatism and Individualism. The history of the United States in post-Appomattox days cannot be told without consideration of this new economic aristocracy.

> There are, of course, good grounds for differences of opinion as to the names to be enrolled first in the peerage of the new industrial age [note Charles and Mary Beard]; yet none will exclude from it Jay Gould, William H. Vanderbilt, Collis P. Huntington, James J. Hill, and Edward H. Harriman of the railway principality; John D. Rockefeller of the oil estate; Andrew Carnegie of the steel demesne; Jay Cooke and J. Pierpont Morgan of the financial seigniory; William A. Clark of the mining appanage; or Philip D. Armour of the province of beef and pork. To draw the American scene as it unfolded between 1865 and the end of the century without these dominant figures looming in the foreground is to make a shadow picture; to put in the presidents and the leading senators—to say nothing of transitory politicians of minor rank—and leave out such prime actors in the drama is to show scant respect for the substance of life. Why, moreover, should any one be interested in the beginnings of the house of a Howard or a Burleigh and indifferent to the rise of the house of a Morgan or a Rockefeller? [4]

But if we consider the great names of the rise of America to world power in the field of business, it must be remembered that all advanced nations have been marked by sharp distinctions in the distribution of wealth, and that there have always been in such nations men who were

[4] Charles A. Beard and Mary R. Beard, *The Rise of American Civilization* (1930), Vol. II, pp. 172–173. Copyright, 1927, 1930, and 1933 by The Macmillan Company and used by permission.

at the forefront of such economic expansion. It is a characteristic of modern economic society. Just as other types have led in times of war, or military expansion, or in ages of faith, or of feudal relations, so America has contributed her economic titans to the story of national greatness. It would be unwise to forget the political leaders and become enamored solely of those whose genius lay in the field of business; it is well to remember that all advanced societies are complicated in their structure. It is well also to remember that in any society certain types tend to have greater influence; society is to be characterized, indeed, by the type which acquires the greatest power. It may be that the business type is losing its prestige and influence in the United States, as that type has lost power and influence in other and rapidly changing societies in the rest of the world. Since 1929 we live in a world in which the businessman is much contemned, but so far, save in totalitarian states, the bureaucrat has not come entirely to supplant him. The war on the economic type of leader is the substance of the class struggle; and those who lead in the attack are captains in the war of the classes.[5]

Before we consider the philosophy of society held by those who believed that American business society was the final answer of the quest for human progress, some further observations must be made. Those who defended this society became the new American conservatives. But conservatism is a fundamental part of one great chapter in the history of the American people. In its social theory the new conservatism was consciously individualistic, asserting that free enterprise would bring in the end the best development of the capacities of the United States. Now it is not clear just why the conservatism of the latter part of the nineteenth century should have been individualistic, or *laissez-faire*. It should be remembered that modern capitalism, throughout the West, in Europe or America, has been insistent that government help in the expansion of enterprise. One should remember that many types of industries in the late eighteenth and early nineteenth centuries benefited from government support in Europe.

If we turn to the United States, we find that the farmer was subsidized by the public-land policies of the government, that shipping was encouraged in many ways both direct and indirect, that railroads received handsome largess from the national wealth, that industries have been fostered by the protection of the tariff, and that in times of stress industry has received loans from the government. But such information may easily obscure the issue. Capitalism, in origin, was fostered by the gov-

[5] James Burnham, *The Managerial Revolution: What Is Happening in the World* (1941).

ernments of modern countries, for it was felt that economic development should be encouraged as a phase of national strength. Mercantilism was, for example, an effort to strengthen the state economically by a careful concern for national industry and commerce. There is, therefore, no inherent reason why American business should have been for a time individualistic in its philosophy; it was appropriate, however, because of the great opportunities that awaited business within the national domain itself. The issue in a more real sense is not whether there should be government interference, but what kind of government control there should be. The conservative in the nineteenth century, while purporting to be antistate and individualistic, was not really so. He favored government support of business; he favored policies which would develop business; he favored a government, withal, which was friendly to economic enterprise. He believed that the bureaucrat should not replace the businessman as the policy-maker for the business world. He believed that when government policy was to affect business, the government should consult business first in order to make available the opinions and experience of those who were most intimately connected with the workaday world of industrialist and financier. And when economic disturbance entered the picture, the conservative believed that the government should restore the national health by restoring the health of business.

Phases of American Conservatism. We must turn now to a brief review of the phases of American conservatism. Conservatism, naturally, has many aspects, and there are conservative principles suited for other than the business type of society. In specific policy conservatism is often a defense of a given structure of inequality, but inequality is not static; it is always dynamic to some degree. The fluid qualities of capitalism brought it a large measure of public support. In revolutionary times when the structure of the state is uncertain, the principle of social equality seems on the verge of realization; but, as in the great modern example of Russia since 1917, it is not long before inequality in prestige and power begins to appear. Those who defend the new organization of authority become, whether consciously or not, the emergent conservatives, the defenders and prophets of the new order. Americans have never reached equality in the distribution of wealth, but we have had probably more social equality than any other society. A high mobility in society, probably, has prevented the formation of any permanent radical class; in the economic sphere De Tocqueville saw this well enough; men rose and fell in fortune, and save in the older and more settled sections of the country, the process was quick and elastic. But it is the inequality of property, combined with insecurity, that causes social disturbance; and it is

the function of the conservative to ameliorate and defend the existing system of inequality in political power or in economic importance.[6]

Each system of conservatism has its own peculiar type of social analysis. In the colonial days of early Massachusetts, the Puritan leaders were conservatives, but their conservatism was primarily religious in quality. Under Calvinism it was possible to argue that the elect constituted the earthly aristocracy as well as that of the hereafter. We have seen how voting was, in the beginning, limited to those who were admitted to full-fledged membership in the church. And we have likewise seen how demands for the extension of the privileges of freemen gradually overturned the Calvinistic control of government in that colony. Anglicanism in Virginia played much the same role, yet it was more subservient to the government there, as it had been in England. Early Massachusetts conservatism defended a political and economic inequality on the basis of Scriptural quotation, yet it was unable to adjust itself to changing times. In the eighteenth century Calvinist theologians returned to the preaching of damnation and salvation, while the political parade moved on in other directions.

In the work of such men as James Kent we can see another impulse at work in the creation of a native American conservatism. When the lawyers and their clients turned to the common law for the protection of rights, they were accepting a body of doctrine as tried by time and as resistant to change as could be found. The lawyers might quote Adam Smith and the economists of the time, but it was the law that gave them their most persistent ideas of stability in the rights of property. When the common-law principles were firmly established in America, the most continuous basis of American conservatism was created. The lawyers have, with few exceptions, been a conservative influence in American life. But theirs was a conservatism based simply on the long-established rights of property against the arbitrary action of the state. Nor must one forget that through the institution of judicial review the courts were able effectively to enforce their views as to the proper constitution of society. On the other hand, the simple defense of the rights of property on the basis of precedent is not a persuasive argument to the critic, and the common law has been, as other legal systems, continuously in search of a suitable social theory. In the seventeenth century the common lawyers accepted the idea of natural rights and the identification of these rights with the common law, but in the nineteenth century further search had to be made. It was in this period that the legal mind moved on from

[6] On the other hand, the security of ownership in the United States gave the property owner a stronger position than in any country of Europe. See A. T. Hadley, *Undercurrents in American Politics* (1915), p. 32.

the historical defense of property to the acceptance of individualism, grounded in English feudal theory. The great names in Kent's time might have been Adam Smith, Vattel, and other exponents of the law of nations; but in the latter part of the nineteenth century the lawyers took up a modified evolutionary and Darwinian theory of social movement, which in turn continued to support, on an individualistic basis, the historic rights of men under the common law.

The protection of the rights of property has implied other matters of no less importance. To live, the conservative must be able to resist attacks on the rights of property. Now it has been perceived since the Periclean age that it is the masses who have no property and who are most inclined to attack those who do have a significant part of the world's goods. The conservatives have tended to be political realists. That is, they have generally believed that human nature was not to be trusted too far, and that adequate safeguards against political passions are a normal phase of sound statesmanship. The key positions in this theory have been limitations on the powers of government and the principle of balance in the Constitution. John Adams, Alexander Hamilton, James Madison, and Thomas Jefferson favored these principles. Adams was no lover of unlimited power, whoever might be its possessor. An unlimited democracy was just as much despotism as an unlimited oligarchy of wealth, or tyranny in the executive branch of the government. Men like Kent and the Federalists generally might be opposed to the extension of the right of suffrage; but they were more interested in the end, it would seem, in a strong judiciary capable of protecting the rights of men to their life, liberty, and property, and in a representative system which enabled the propertied and the prudent (or wise) to have their just share in the public counsels. The check-and-balance system was used to support the principle of balance in our Constitutional system, and it was for no visionary purpose that these devices became part of the supreme law of the United States.

Southern political thought turned to the principle of balance between the great sectional interests of the United States, but we have seen that Calhoun did not intend to relinquish any checks on government action already established in our system. What he wanted was to make sure that the leaders of divergent sections would have, in addition, a right to check the predominant majority in the national or state governments. Again, we can say that Southern thought was deeply concerned with the orderly distribution of political power. The leaders of the South were not willing to leave this to chance majorities that might come at particular election times. They wanted, like Madison, to see the system of balance instituted within the Constitution itself. They were, like Madison, dis-

contented with a mere paper separation of powers and a check-and-balance system that neither checked nor balanced. We may say, therefore, that the idea of a mixed Constitution is one of the basic tenets of American conservatism; but we may also state that this doctrine was added to the already accepted principle of the protection of rights that was drawn from the historic law of England. Under American conservatism it became the great function of the judiciary to protect the natural rights of men against the encroachments of the majority.

The conservatism of political realism is with us always. At times it holds back the tide of discontent, and at other moments it is forced to retreat until the storm is passed. The realists of the late nineteenth century believed, just as much as John Adams, in a government that would protect the rights of single individuals against the assaults of mass democracy. Thus the conservatives resisted the movement toward popular election of United States senators, and thus they have defended with grim determination the right of the courts to declare acts of state legislatures and the national Congress unconstitutional. Thus they kept a weather eye always on the movements which might develop into a mature assault on the established principles of right under our system of government. On the other hand, the appeal of the common law, the glamour of Magna Charta, faded as the new world economy failed in many respects to live up to its early promise. Naturally, the businessman was a victim of the same chain of circumstances that forced the skilled worker into unemployment; the same forces which denied profits to the owner of an enterprise denied wages to the willing worker. But in the nature of the situation the businessman had to defend the system against attack, while to the discontented the businessman and his system were the most obvious points of attack. The attack upon and the defense of the system crystallized during the late nineteenth century in our political thought around the economic issue. Conservatism, like the law or with the law, was forced to go again in search of a theory of government in relation to society, for government in this case meant the mass movement directed against the businessman operating through established institutions.

American Individualism. So it was that individualism became for a time the dominant social theory of the American people. Yet we have seen that in reality the issue was missed in the discusion of individualism; we are forced to assert that a society governed entirely by the free play of economic forces has never existed. The defense of individualism was in no small degree a protest against reforms in economic organization that were being effected; it was a program to be realized just as was the conception of socialism then coming more to the foreground. Indeed,

individualism was in many ways as utopian as socialism, or as those who dreamed of a society actually equal in the distribution of economic goods. Individualism as a social theory arose out of a combination of theoretical movements that reach back into the eighteenth century, and which came to maturity only with the rise of the modern system of world capitalism. Individualism in American conservatism was therefore in the nature of an intellectual accident; and if it is to pass with the critical years of disruption in the twentieth century, it does not mean that the defense of the business type, as a leading type in society, is finished. It means merely that commercial conservatism, as one important type of American thought, must reshape, if possible, its lines of defense. Yet there have been times in the past when the businessman has been, as in Byzantium, a virtual cog in the bureaucratic management of the state.

Individualism in European thought was born of the protest against the traditional governmental restrictions on business and against the social system that preserved many of the decaying rights left over from earlier feudal times. It was a protest against the capitalism of the mercantilistic era; it was a demand for what may now be called the system of free, or relatively free, enterprise. But why should such demands appeal to the spirit of the European, or why to the American of the nineteenth century? In result, we know that they did; that Americans could feel that the individualistic principle expressed their relation to the world more completely than other ideas could have done. The work of the intellectuals was simply to bring together the fragmentary elements which go to make up a systematic social theory. They were children of their time, although as liberals they regarded themselves as speaking universally to all times and to all societies of men. The physiocrats in France, the economists of England (Adam Smith, Ricardo, the Mills, and others) all urged that government should allow as much freedom as possible to the new economic movement; Bentham and the utilitarians demanded that the traditional fictions and restrictions of the law be discarded in the light of a reasonable and rational reconstruction of society. French liberals believed that men as rational beings deserved liberty, and so did the liberals on both sides of the Atlantic. It was a world of movement and change; it was a time of optimism, as indeed the individualistic view of society always is. Individualism was real because the notion of progress was real.

But a new factor came into the picture during the nineteenth century. This factor was the theory of evolution in the field of the natural sciences. While the idea of process in nature had been advanced before the work of Charles Darwin, it was the hypothesis of biological evolution advanced in *The Origin of Species by Means of Natural Selection* (1859)

that seized the imagination of scientific and social thinkers of the time.[7] If Darwin and Wallace, along with their fellow investigators, attempted to document the development of various forms of life in the natural world, it was not long before the evolutionary idea was transferred to the "moral sciences"; men began to apply the beneficent process of nature exposed in biology to the same process in the relations of men living in society. In general, what this amounted to was the idea that nature, if left alone, works for the benefit of the human race. If competition for survival in the natural world was in the best interest of the animal kingdom, it would be also to the best interest of the human kingdom. Since this process of selection and survival was a part of nature itself, it was not necessary that legislation should attempt to aid in the work. Again, in an expanding economy, one in which the standard of living is rising and the total accumulation of wealth becomes greater year by year, it is easy to see how the processes of evolution could be looked upon as beneficial to all concerned. It was no great step to argue that the economic system should be left alone on biological principles, just as earlier economists had so argued upon the basis of a supposed discovery of certain natural laws of economic relationship.

If many of the theologians objected to the Darwinian theory because of its contradiction of the account of the origin of man in the Book of Genesis, it could not be gainsaid that the evolutionary view buttressed the religious principle of the moral responsibility of the individual. One of the deeper springs of the individualistic attitude toward life has been the Christian emphasis on the individual's responsibility for his own salvation and for his obedience to the moral law. The moral law did, on occasion, require the assistance of government, but in the end it was the willing acceptance by the single personality of his duties before God that established the Christian order. Now this order has always recognized the principles of keeping one's word, paying one's debts, and—if need be—standing against the world in order to obey God rather than men. In the United States the Protestant democracy felt little need to argue these propositions, since they were regarded as axiomatic. One may also point to the fact that Americans were continually facing the problems of a new and undeveloped world, which tended to establish a certain amount of self-reliance.

The moral theory of individualism was therefore supported by the evolutionary view of the process of nature, and the two were connected by the lawyers with the conservative principle of the protection of prop-

[7] See Max H. Fisch, "Evolution in American Philosophy," *The Philosophical Review*, LVI (1947), 357*ff*.

erty. These ideas were simply carried forward into the new world-wide economy of capitalism. In its day of success capitalism had, therefore, the benefit of the traditional theories of social organization which had flourished in the United States. But just as the moral theory of the responsibility of the individual was in effect an exhortation to men to live up to the law of God, so was the defense of individualism a protest against the latent tendencies of men to rely upon government to protect them from the hazards of living in the new, adventurous Western world. Individualism, it may be argued, has never been a reality; it has always been an exhortation.

Individualism and Protest. The reformist and protest character of individualism can be shown quite clearly in the work of Edwin Lawrence Godkin, the founder of the *Nation.* In 1873 in protesting against the scandals of the Gilded Age, he wrote:

> The remedy is simple. The Government must get out of the "protective" business and the "subsidy" business and the "improvement" and the "development" business. It must let trade, and commerce, and manufactures, and steamboats, and railroads, and telegraphs alone. It cannot touch them without breeding corruption. We care nothing about the wonderful stories we hear about what can be achieved in the way of "promoting industry" by all these canal and steamboat and railroad schemes. Were the material prospect twice as tempting, the state could not profitably meddle with them, because neither it nor any other government in the world *can command the virtue necessary to carry them on.* This is not a matter of speculation; we know it as a matter of experience. It is almost as much as this Government can do to maintain order and administer justice. It may one day be able to do a great deal more, but not until a great change has occurred in the social condition of the country.[8]

Paradoxically enough, the emergence of capitalism seemed to imply to many conservatives that very increase in government functions which the individualist protested against so loudly. The same sour note occurs in *The Education of Henry Adams,* where Adams contrasts the more simple industrial forces at work in American life with the capitalistic, centralizing, and mechanical impulses which reached dominance when the American people declared for capitalism and the single gold standard in 1896. To dislike the new capitalistic order was as antiquated, he thought, as believing in the Southern doctrine of state rights.

[8] *Nation,* Jan. 30, 1873, p. 68. Cited in Parrington, *op. cit.,* Vol. III, p. 162. *Ibid.,* p. 4, Parrington declares: "Having swept across the continent to the Pacific coast like a visitation of locusts, the frontier spirit turned back upon its course to conquer the East, infecting the new industrialism with a crude individualism, fouling the halls of Congress, despoiling the public domain, and indulging in a huge national barbecue." By permission of Harcourt, Brace and Company, Inc., New York.

The realities of the growth of the American economy in the years following the Confederate War are clear enough. The rapid development of a great continent was at stake, but it was a development which had come into vision only because of the new technology. It was indeed inconsistent to preach the idea of individualism and in the same breath to insist that government should come to the aid of industry in a thousand different ways. But such was the case, and influential people adopted for the time being the ideas of individualism, whether drawn from biology, from Herbert Spencer, or from the moral principles of Christianity.

One of the clearest and most dramatic instances of this tendency is the capture of many judicial minds by the theorists of the individualistic society. We have already seen the role in earlier American conservatism that was played by the lawyers. Whether we consider the work of Kent, Marshall, or Thomas M. Cooley—who wrote that famous work in the annals of legal conservatism, *Constitutional Limitations*—the story is much the same. From the fifties the earlier fear of the Jacobinical spirit changed; it was no longer simply the fear of Americans who were critics and reformers, but of the effect of the new radical ideas coming in from Europe where the older order was under constant attack. We have seen the dire prophecies of certain Southern writers who believed that the North and its free society was to become the victim of an uncontrolled socialism. Yet the conservatives of the North did not have to be taught by the conservatives of the South—after 1865. If the masses, influenced by these strange doctrines, had the vote, they did not have the courts. It was on the bench and the bar that the heaviest burden of the defense of the new order fell.

Judicial review in this period expanded its power to protect the property of American industry from legislative encroachments. Cases were piled upon cases until the heap was mountain high, and the tide of discontent was turned back for the time being. Individualism found its way into the "due process" clause of the Fourteenth Amendment, and thus by the back door into the Constitution itself. Judges were avid defenders of the right of free contract against laws which limited in the name of public well-being the right of individuals to enter into disadvantageous arrangements. The "rule of reason" in the hands of the state courts and the Supreme Court became a revived and modified natural law.[9] The attack on the system came from farmers who suffered at the hands of railroads and those who controlled the markets; it came from the insurgent organization of labor, with its demand for unionization and the principle of collective bargaining; and it came from those who adopted

[9] See Charles G. Haines, *The Revival of Natural Law Concepts* (1930).

the socialistic principles that had made the crowned heads of Europe tremble in the middle of the nineteenth century. Each critical group demanded particular laws to correct the more pressing disadvantages under which it labored, and in course of time such laws as were passed came before the state and Federal courts for review under question of Constitutionality.

The economic crises of the post-Appomattox years gave reality to the fears of the conservatives. Labor on strike battled the armed guards of their erstwhile employers, and the great numbers of men and women who were at times unemployed added to the fears of the secure. The Populist movement of the nineties seemed to many to be a direct assault on the citadels of property. So it was often in an atmosphere supercharged with uncertainty as to what the American people were going to do that the courts examined the laws emerging from popular discontent.

The Income-tax Case. In 1894 the Democrats and Populists succeeded in restoring the income tax to national law, where it had been placed during the effort to finance the war against the South. Joseph H. Choate, counsel for the American titans of finance, presented to the Supreme Court the case for the conservatives. It was the march of communism against the Constitutional rights of property. In the end the Court declared the income tax unconstitutional (thus making the income-tax amendment necessary). Mr. Justice Field declared that in his opinion the present assault upon capital was but the beginning. But, by the same token, the Court was saving the country from such dangerous expedients.[10]

Choate's argument is one of the high-water marks in the theory of conservatism, yet today we can see none of the significance that was then given a mere income tax. To call an income tax today communistic would not be short of absurd. Choate's biographer gives a report of his argument before the Court against the income tax, which appeared in certain of the newspapers of the time, particularly *The World,* for March 30, 1895.

Mr. Choate began by deploring the communistic tendency of the tax. He told how he was riding with ex-President Hayes at the funeral of Gen. Sherman five years ago, and how Hayes had said to him: "You will probably see the day when at the death of any of large wealth the State will take for itself all above a certain prescribed limit of his fortune and divide it or apply it to the equal uses of all the people." Mr. Choate then thought that this was as the wanderings of a dreaming man. But, he said, he would not have thought so had he known that within five years he "should be standing before this tribunal to dis-

[10] See *Pollock v. Farmers',* etc., 157 U.S. 429, 158 U.S. 601 (1895).

pute the validity of an alleged act of Congress, defended by the authorized legal representatives of the Federal Government upon the plea that it was a tax levied only upon classes and extremely rich men."

Further in the same direction, Mr. Choate said, it was not only an assault upon the rich, but an assault of the rest of the United States upon the four States, Massachusetts, New York, Pennsylvania and New Jersey, which paid four-fifths of the wartime income tax and would pay nine-tenths of the present tax, although they had less than one-fourth the representation in the lower house of Congress, where all tax measures must originate. He asked if those two most distinguished men in the Constitutional Convention, Washington and Franklin, would not have rushed forward to erase their signatures from the Constitution had they foreseen that that document would be brought forward to justify a raid by a combination of States upon the strong-boxes of four other States, wealthier, stronger, richer. . . .

Now he was laughing at the exemption of rich church and college corporations, was deriding the exemption of mutual associations, which go free on the plea that they are benevolent institutions. He could not see why citizens of Nebraska should be practically taxed to support Trinity Church or Harvard College. As for the mutual associations, their total deposits were near two thousand millions, and greater than the total deposits of the State and national banks. He was mightily amused that the Mutual Life, with $204,000,000 of accumulations, and the Equitable with $185,000,000, should get out of $200,000 and $180,000 income tax annually because they were benevolent institutions, but he failed to see where the constitutional command that there must be uniformity was obeyed.

Most of the widows and orphans, most of the helpless, he said, had their small capital invested in corporations, and the income tax robbed them. "We speak for them," he said. "In striking at the corporations in attempting to confiscate their property, you injure, not the wealthy—they can now stand it—but the widow and the orphan."

Such was the argument of Mr. Choate. He paid small attention to the arguments from public policy, from political economy, with which his adversaries dealt so admirably. He kept close to the Constitution and addressed himself to the interpreting of constitutional principles. And when he sat down every one there present felt that the best that could be said had been said, that the income tax had had its worst blow. If it withstood that splendid assault of close-armored, close-ranked arguments, there was no chance for its overthrow.[11]

When the income-tax or Sixteenth Amendment to the Constitution was finally adopted in 1913, the work of the great conservatives of an earlier generation was undone. No longer was it deemed inconsistent with the rights of property that the power of Federal taxation should extend generally to incomes, from whatever source derived. The battle over the law of 1894 was more symbolic than important, and even those who were most

[11] See Edward Sanford Martin, *The Life of Joseph Hodges Choate* (2 vols., 1920), Vol. II, pp. 9*ff*.

individualistic saw that the modern state had a justified need of greater revenue to perform the functions of a complicated technological society. While men of economic power saw that they would have to surrender a larger part of their income to the state, they did not relinquish their belief in the importance of property in a high type of civilization. The conservative, whether or not a representative of the legal phase of conservatism, continued to present resistance to the growing demand of increased Federal and state power. To illustrate further the function of the law in this aspect of our great nineteenth century society, two significant decisions of the Supreme Court must be noted.

The Supreme Court and Social Legislation. According to some, the Fourteenth Amendment was adopted primarily to protect the Negro, though there is debate as to whether its provisions were intended to protect as well the rights of property and of corporations. At first the Supreme Court in the Slaughter House Cases refused to extend the due-process and the equal-protection clauses of the Fourteenth Amendment to the protection of the rights of property against state action. Gradually the more conservative justices adopted the view that when the amendment declared that no state shall deprive *any person* of life, liberty, or property without due process of law, the word "person" meant any person, natural or fictitious—that is, the protection extended to the rights of corporations. Likewise, the equal-protection clause became a censor on the legislative activity of the states, since any regulatory acts must pass the test of whether the discriminations and regulations are such as to deny to any person the equal protection of the law. It must be remembered that the provisions of the Fourteenth Amendment apply against the states, while the due-process clause of the Fifth Amendment operates against the national government. What the conservatives on the bench did was to read into the due-process and equal-protection clauses certain ideas of freedom in relation to property which were in general accordance with the individualistic conception of economic society. Freedom of contract thus became one of the essential Constitutional guarantees. We can say, subject to certain modifications, that the great period of legal conservatism lasted until the Roosevelt fight against the Supreme Court in 1937; at that time, though Congress defended the Court, the President became able to appoint a number of judges who did not share in the tradition of legal conservatism. The conservatives were in consequence forced to turn again to the legislative and administrative branches of the government for their protection.

In 1905 the Supreme Court decided the famous case of *Lochner v. New York* (198 U.S. 45). New York State had passed a law limiting the hours of labor in bakeries and confectionery establishments to not more

than sixty hours in any one week or ten hours in any one day. Mr. Justice Peckham delivered the majority decision of a divided court, declaring invalid the New York statute as contrary to the due-process clause of the Fourteenth Amendment, since it was an unnecessary limitation on the freedom of contract of workers in bakeries and confectioneries. The majority noted that the Court had frequently sustained the police power of the state, but the question here was: Is this a fair, reasonable, and appropriate exercise of the power of the state, or is it an unreasonable, unnecessary, and arbitrary interference with the right of the individual to his personal liberty or to enter into those contracts in relation to labor which may seem to him appropriate or necessary for the support of himself and his family? Bakers, observed the Court, are in no sense wards of the state; they are not a suspect class of individuals deserving of unusual protection through legislation depriving them of freedom of contract. The law before the Court did not involve the safety, the morals, or the welfare of the public. Hence, the law went beyond a legitimate exercise of the police power of the state. "We think," said the Court, "the limit of the police power has been reached and passed in this case." There was little or no connection between the statute and the interest of the state in the health of the population. "The act is not, within any fair meaning of the term, a health law, but is an illegal interference with the rights of individuals, both employers and employees, to make contracts regarding labor upon such terms as they may think best, or which they may agree upon with the other parties to such contracts."

Minority opinions on the Supreme Court have often become the view of the majority. Mr. Justice Holmes delivered in this case one of the famous dissents in the history of the Court. In part the subsequent overthrow of the view of the Court in the Lochner case was due to the incisive criticism of Justice Holmes. Holmes objected that the majority judges were reading a particular social philosophy, that of Spencerian individualism, into the terms of the Fourteenth Amendment. He defended the right of the state legislature, under the police power, to define in statutes what was necesary for the public health, safety, and morals.[12]

> The Fourteenth Amendment [asserted Holmes in his dissent] does not enact Mr. Herbert Spencer's Social Statics. The other day we sustained the Massachusetts vaccination law. . . . United States and state statutes and decisions cutting down the liberty to contract by way of combination are familiar to this

[12] See *Collected Legal Papers* (1920); *The Dissenting Opinions of Mr. Justice Holmes,* arranged by Alfred Lief (1929); *Representative Opinions by Mr. Justice Holmes,* arranged by Alfred Lief (1931); C. P. Patterson, "Jurisprudence of Oliver Wendell Holmes," *Minnesota Law Review,* Vol. XXXI (1947), pp. 355*ff.*

court. . . . Some of these laws embody convictions or prejudices which judges are likely to share. Some may not. But a constitution is not intended to embody a particular economic theory, whether of paternalism and the organic relation of the citizen to the state or of laissez faire. It is made for people of fundamentally differing views, and the accident of our finding certain opinions natural and familiar, or novel, and even shocking, ought not to conclude our judgment upon the question whether statutes embodying them conflict with the Constitution of the United States. General propositions do not decide concrete cases. The decision will depend on a judgment or intuition more subtle than any articulate major premise. But I think that the proposition just stated, if it is accepted, will carry us far toward the end. Every opinion tends to become a law. I think that the word "liberty," in the Fourteenth Amendment, is perverted when it is held to prevent the natural outcome of a dominant opinion, unless it can be said that a rational and fair man necessarily would admit that the statute proposed would infringe fundamental principles as they have been understood by the traditions of our people and our law.[13]

Adkins v. Children's Hospital (261 U.S. 525) was decided in 1923. An Act of Congress of 1918 had provided for the fixing of minimum wages for women and children in the District of Columbia, and had established a board for that purpose. When the case came before the Court on the question of whether the act and the determinations of the board were Constitutional under the Fifth Amendment's due-process clause, Mr. Justice Sutherland spoke for the conservatives and with a majority of the Court declared the act unconstitutional. Here again the principle of freedom of contract on the part of labor was accepted as a part of the meaning of the relevant provisions of the Constitution. There is no absolute freedom of contract, the Court agreed, but freedom is the rule and restraint of this freedom is the exception. Any abridgement must be justified by the existence of exceptional circumstances. The law before the Court, it was held, was not similar to other statutes that had previously been sustained; it was:

. . . simply and exclusively a price-fixing law, confined to adult women (for we are not now considering the provisions relating to minors), who are legally as capable of contracting for themselves as men. . . . The price fixed by the board need have no relation to the capacity or earning power of the employee, the number of hours which may happen to constitute the day's work, the character of the place where the work is to be done, or the circumstances or surroundings

[13] The reference to Herbert Spencer in Holmes's dissenting opinion may be more of a gibe, or bon mot, than a sober statement of fact. That judges have been influenced by individualistic doctrine, none can deny. Yet the very reference to other regulatory statutes sustained by the Court would at least suggest that the Supreme Court has made no very consistent application of extreme individualism.

of the employment; and, while it has no other basis to support its validity than the assumed necessities of the employee, it takes no account of any independent resources she may have.

Thus the standard fixed by the board is so vague as to be impossible of practical application with any reasonable degree of accuracy. In reply to the view that the morality of women is related to the amount of their wages, the Court tartly observed that "morality rests upon other conditions than wages . . . for, certainly, if women require a minimum wage to preserve their morals men require it to preserve their honesty."

Furthermore, the Court stressed that the needs of the employer were ignored by the statute and the determinations of the board. "It ignores the necessities of the employer by compelling him to pay not less than a certain sum, not only whether the employee is capable of earning it, but irrespective of the ability of his business to sustain the burden, generously leaving him, of course, the privilege of abandoning his business as an alternative for going on at a loss." While the Court admitted the ethical right to a living wage, it also contended that "in principle, there can be no difference between the case of selling labor and the case of selling goods." Nor does the practice of states determine under the national act the Constitutionality of the law. "The elucidation of that question cannot be aided by counting heads." The police power may not be extended to such an extent as to rob the employer of his Constitutional rights. "To sustain the individual freedom of action contemplated by the Constitution, is not to strike down the common good but to exalt it; for surely the good of society as a whole cannot be better served than by the preservation against arbitrary restraint of the liberties of its constituent members."

The Appeal to the People. If we turn from the high enunciation of policy found in the words of the individualistic and conservative justices of the Supreme Court to the more popular expressions of social policy, the same idea is found. One must not think that only those in authority in the United States have taken individualism as the core of the conservative view, for self-reliance, individual courage, attention to duty, and self-responsibility for the outcome of living have been part of the great American dream. Otherwise, how could one understand the popularity of such writings as those of Elbert Hubbard, whose *A Message to Garcia* is estimated to have sold forty million copies, including those issued as regulation equipment to both the Russian and the Japanese soldiers during the Russo-Japanese War? Everyone has his opportunity to carry a message to Garcia, though not always to the secret hold of the Cuban insurrectionary movement, and those who assume personal re-

sponsibility for doing their duty well are rewarded by a clear conscience and a sense of having lived up to the standards of honor, as well as by the esteem of their fellow countrymen. But we carry messages to Garcia under difficult circumstances in every walk of life. Both religion and social philosophy thus combine to present to the individual in the individualistic society a standard of individual self-judgment, which in this view is the substance of a healthy state.[14]

If we probe behind the call to the free individual in the free society, we are impelled to observe the reliance on law or determinism in society. At first glance, individualism and determinism seem an ill-assorted pair, but if we assume that as part of the process of nature those societies are strong and progressive in which the individual is free and in which he appreciates and acts honorably upon this freedom, the contradiction disappears. If Hubbard's appeal was to the inevitable moral dispensation which imposes both freedom and duty on men, those who spoke in the more political and economic reaches of policy were not fundamentally different. For the good society, by the very constitution of nature, was an individualistic society. Herbert Spencer urged the concept of social evolution as law and as inevitable in its control, but the evolution of which he spoke was toward the free society and toward the disappearance of the state, as in his *Social Statics*. Indeed, today we have all but entirely lost the sense of Spencerian individualism, and we cannot understand how this social theory should have so dominated the intellectual life of the generation living in 1900. Even the massive work of John Fiske lies unread upon the shelves, and it is only by courtesy that we read today the ideas of William Graham Sumner, the great apostle of individualism who pontificated at Yale University. The philosophy of individualism on the Spencerian model rose rapidly and brilliantly in the mental firmament in the United States, but it disappeared with equal suddenness. It was like a meteor that plunged across the heavens, dazzling the eyes of men, but only for a moment. Individualism remains today, as ever, in the principle of the moral responsibility of the individual man (as in Christian theory); but in the economic sphere the very determinism of the evolutionary concept has been turned against the individualists, and the determinism of economic process is now seen as overriding the puny will of each individual. Some think that even the state, in spite of its heavy obligations, is unequal to the tasks imposed upon it by the kind of a world in which we live. As men moved in the twentieth century into the colder and more impersonal view of the uni-

[14] See David Arnold Balch, *Elbert Hubbard: Genius of Roycroft* (1940). A more inspirational call to the individualistic attitude toward life than Hubbard's *Little Journeys* can hardly be found.

verse given by science, it was hard to believe in the moral responsibility of each individual for what goes on in the realm of social experience.[15]

William Graham Sumner. In 1906 William Graham Sumner published *Folkways,* one of the profoundly significant works in the history of American social science. The leading idea of this volume, which has introduced the word "mores" into our common speech, is the relativity of cultures, the principle that nothing is right or wrong except in relation to time and circumstance. We may say that the scientific and historical study of manners and morals is a more enduring effort than Sumner's belief that the individualistic society is the highest product of evolution, at least in contrast to more primitive and less individualistic types of culture. The life of society is in the mores; hence Sumner objected to the attempt to develop social policy into an art.

> The philosophical drift in the mores of our time is towards state regulation, militarism, imperialism, towards petting and flattering the poor and laboring classes, and in favor of whatever is altruistic and humanitarian. What man of us ever gets out of his adopted attitude, for or against these new ruling tendencies, so that he forms judgments, not by his ruling interest or conviction, but by the supposed impact of demographic data on an empty brain? We have no grounds for confidence in these ruling tendencies of our time. They are only the present phases in the endless shifting of our philosophical generalizations, and it is only proposed, by the application of social policy, to subject society to another set of arbitrary interferences, dictated by a new set of dogmatic prepossessions that would only be a continuation of the old methods and errors.[16]

The dispassionate observation of human behavior led Sumner, like many another, to be unimpressed by the particular enthusiasms of his age.

In 1883 Sumner published a book entitled *What Social Classes Owe to Each Other,* a work which stated the essential principles of individualism to the best contentment of the conservatives. He took the position, without serious reservation, that government should undertake to protect capital and the conditions under which capital is created. The time had come, he thought, to devise institutions for the protection of property against popular majorities who were representing the abuse of the democratic principle. Sumner assumed that the individual should be a free member of society, and that with sufficient ability and determination one

[15] See Parrington, *op. cit.,* Vol. III, pp. 316*ff.* One recent explanation of the decline of the Spencer–Fiske interpretation of politics is that the frontier theory of individualism took its place. The frontier theory of Frederick Jackson Turner emphasized the individualism of American democracy. See Edwin Mims, Jr., *The Majority of the People* (1941), pp. 205*ff.*

[16] *Folkways,* p. 98. By permission of Ginn and Company.

might rise in the economic scale. Government interference is robbing Peter to pay Paul, and the "Forgotten Man," the private citizen who minds his own business and pays his taxes, is the victim of social experiments by governmental meddling. It is immoral to make the rich pay for whatever the poor may want. In Chapter X of his *Social Classes,* Sumner turned his attention to the common vice of both rich and poor to ask the government to help them out:

Jobbery is the vice of plutocracy, and it is the especial form under which plutocracy corrupts a democratic and republican form of government. The United States is deeply afflicted with it, and the problem of civil liberty here is to conquer it. It affects everything which we really need to have done to such an extent that we have to do without public objects which we need through fear of jobbery. Our public buildings are jobs—not always, but often. They are not needed, or are costly beyond all necessity or even decent luxury. Internal improvements are jobs. They are not made because they are needed to meet needs which have been experienced. They are made to serve private ends, often incidentally the political interests of the persons who vote the appropriations. Pensions have become jobs. In England pensions used to be given to aristocrats, because aristocrats had political influence, in order to corrupt them. Here pensions are given to the great democratic mass, because they have political power, to corrupt them. Instead of going out where there is plenty of land and making a farm there, some people go down under the Mississippi River to make a farm, and then they want to tax all the people in the United States to make dikes to keep the river off their farms. The California gold-miners have washed out gold, and have washed the dirt down into the rivers and on the farms below. They want the Federal Government to now clean out the rivers and restore the farms. The silver-miners found their product declining in value, and they got the Federal Government to go into the market and buy what the public did not want, in order to sustain (as they hoped) the price of silver. The Federal Government is called upon to buy or hire unsalable ships, to build canals which will not pay, to furnish capital for all sorts of experiments, and to provide capital for enterprises of which private individuals will win the profits. All this is called "development of our resources," but it is, in truth, the great plan of all living on each other.[10a]

It is hard to avoid the conclusion that Sumner's individualistic theory was just a dream, for it is to be doubted that such a society has ever existed. In fact, if he contested the desire of the radicals to use the government to reform the mores, he also was forced to contend with the possessors of capital who looked to the government for assistance. The conservatives whom he wished to help considered him dangerous at Yale when he argued against the protective tariff, and equally so might they have objected to the searching criticism of political jobbery in which the

[10a] By permission of Harper and Brothers, New York.

masses as well as the plutocrats were participants. Sumner's individualism was a utopian dream, useful only in part to the living, breathing conservatives of his day. His insistence on the protection of property was, of course, in line with the interests of the effective American conservatives of the late nineteenth century.[17]

Man versus the State. One of the works of Herbert Spencer in which the state and its activities were denounced was *The Man versus the State.* It is difficult to evaluate the influence of this work in the United States, but in 1916 Truxton Beale edited the work, including comments by distinguished American individualists at the beginning of each of the essays reprinted from the original volume. This volume of 1916 is one of the ablest and most insistent of the pleas for individualism in the story of American conservatism. David Jayne Hill wrote in the introduction:

> It is worthy of note that the same illogical, and yet apparently fatally directed, procedure that was in operation in England when Herbert Spencer wrote these essays is at present operative in the United States; namely, the gradual imposition of a new bondage in the name of freedom. In both cases this procedure was originally inspired by a desire to substitute voluntary co-operation for social compulsion; but, relying upon State authority as a means of accomplishing this liberation, the result has been the increasing subjection of the citizen to the growing tyranny of officialism.

When Elihu Root considered Spencer's essay "The New Toryism," he was impressed by the rapidity with which we in the United States were passing from a regime of free contract to one of status. While we must be aware of many necessary changes in Spencer's view, Root insisted that we still should subscribe to the principle of individual liberty and be against the easy acceptance of an increasing amount of governmental interference with our liberty. Not only are there many state laws which improperly invade individual liberty, but the steady increase in the power of the national government will but buttress the tendency already shown in state legislation. Senator Henry Cabot Lodge agreed with Spencer's proposition that socialism would mean the enslavement of the individual to the rulers of society.

> The words "individualist" and "individualism" of late years have been treated in our current political discussions as if what they signified was little short of criminal. "Individualism" has been cursed as amply as the Jackdaw of Rheims in *The Ingoldsby Legends* when he stole the Cardinal's ring. None the less in these times it is a good thing to read the individualist argument, never better

[17] See also William Graham Sumner, *War and Other Essays,* ed. by A. G. Keller (1911); *The Forgotten Man and Other Essays,* ed. by A. G. Keller (1919); *The Challenge of Facts and Other Essays,* ed. by A. G. Keller (1914).

put than by Herbert Spencer, although the destruction of individualism since his day has gone to extremes which he probably did not contemplate, even if they were among the possibilities he depicted.[18]

Judge E. H. Gary discussed with approval Spencer's condemnation of "Over-Legislation."

As to over-legislation, so brilliantly discussed by Herbert Spencer, it has been the curse of nations, the cause of their downfall; it has interfered with liberty and human progress for as many years as we have records, and many more years undoubtedly. Over-legislation is the abuse of power, self-conceit written into laws, and the arbitrary "You shall do it because I say so." The struggle of men under Autocracy has been to obtain freedom from over-legislation. In Magna Charta, the English got from the King the most valuable thing they possess. And it was nothing but a guarantee against over-legislation, a limiting of the King's right to tax, dispossess, murder or otherwise oppress them in the name of the Law.[19]

Continuing his argument, Gary declared:

There is a dangerous excess of law-making at the present time, especially in the States, though they have no monopoly of it. Almost every conceivable form of bill is introduced and too many of them passed; and as to a large percentage of them, there is much waste of time and expense in determining whether or not they are constitutional or practical. The adjournment of legislatures brings a general sigh of relief.[20]

In commenting on another of Spencer's essays, Augustus P. Gardner surveyed the history of the "hundred or more" socialist experiments—that is, the socialist communities or settlements. They have all failed, he points out, yet the dismal story goes on, and men are still trying to convince others that socialism should be given a chance. Indeed, it has already had its chance and it has failed. Gardner did not believe that socialism would come, so long as the ambitious boy could see a reasonable chance of getting his share of property; and if government ownership proceeds to a point where the tax burden becomes excessive the American people will repudiate it. There are, he contended, few extreme socialists in the United States and few extreme individualists. By the law of human nature, socialism is bound to fail.

Nicholas Murray Butler approved of Spencer's attack on sovereignty, "The Great Political Superstition." He did not believe that a government, in the name of sovereignty, could do as it likes with the life, the

[18] Herbert Spencer, *The Man versus the State*, ed. by Truxton Beale (1916), p. 32. By permission of Argus Books, Inc., New York.

[19] *Ibid.*, pp. 71–72.

[20] *Ibid.*, p. 81.

occupation, and the property of each individual. On the other hand, Harlan F. Stone agreed with Spencer to the extent of saying that "Now, as then, it may be justly asserted that no function of government is on the whole carried on with as little study of its essential problems, with as slight regard for proper methods or for consequences, as is that of legislation." [21] Hence, the great increase in legislation in the United States has not been accompanied with an increase in the quality of the statute.

The contributions of Charles W. Eliot and William Howard Taft to this volume show by implication that many American conservatives were not doctrinaire individualists. They admitted that the function of the state was necessary in the orderly operation of the economic life, but they did not wish to see the owners of property denied their reasonable rights in the name of perfectionist schemes, which they believed could only fail in the end. Perhaps most American conservatives would agree that as long as some degree of equality of opportunity exists, the system of private property and its protection by the government is socially beneficial. The economic type under these circumstances is performing the function it should perform in a progressive society. In 1915 when Elihu Root addressed the Merchant's Association in New York on the Constitutional Convention, he stated the issue very clearly. "There are great parts of the people of the United States who feel that the man who makes any money by successful business is a robber, and it is time that that feeling was dispelled and that that view should become a vagary of the past." Further on in his address he remarked that:

> The business man of America has been at a heavy discount in recent years. All other elements of our population have organized and been active in their own behalf. The agriculturalists have organized and their representatives have been heard from. The labor men have been organized and their representatives can be seen day by day in the galleries of the two Houses of Congress, watching the men who are making the laws to see whether they shall win the great prize of the labor vote or lose it by independence.[22]

Herbert Hoover. Among the leaders of the American people who will be remembered long for their defense of the principle of individualistic conservatism is Herbert C. Hoover, President of the United States from 1929 to 1933. Hoover followed a line of policy more individualistic than some other Presidents committed to the same cause. But he expressed himself in two books, *American Individualism* (1922) and *The Challenge*

[21] *Ibid.*, p. 237.

[22] Elihu Root, *Addresses on Government and Citizenship* (1916), pp. 156–157. By permission of the Harvard University Press.

to Liberty (1934), which stand out as late and important defenses of the right of the businessman to conduct his affairs without abusive governmental regulation. It is clear in the writings of all individualists, Hoover included, that they do not believe in a system in which the government takes no account of anything that businessmen may do. There must be regulations to prevent dishonesty and to enforce the social responsibility of business. However, a progressive economy is one in which there is free investment of capital and full opportunity for that investment to gain a reasonable return. To the conservative it is no argument to point out that individualists accept some government control of business, for the defender of business accepts such regulation. The point is that government regulation must not be used to destroy the system of free economy or free enterprise with a view of substituting for it the bureaucratic management of the state. For to the mind of the conservative there are, in the end, only two possibilities: either the economy must be geared to the principle of freedom as far as possible, or it must be directed toward state planning and regimentation as the ultimate aim.

In 1922 Hoover saw that five or six great social philosophies were struggling for dominance as the aftermath of the First World War. Communism, socialism, syndicalism, capitalism, and autocracy were making their bid for the support of the disconsolate and war-torn masses.

> For myself [he said], let me say at the very outset that my faith in the essential truth, strength, and vitality of the developing creed by which we have hitherto lived in this country of ours has been confirmed and deepened by the searching experiences of seven years of service in the backwash and misery of war. Seven years of contending with economic degeneration, with incessant political dislocation, with all of its seething and ferment of individual and class conflict, could but impress me with the primary motivation of social forces, and the necessity for broader thought upon their great issues to humanity. And from it all I emerge an individualist—an unashamed individualist. But let me say also that I am an American individualist. For America has been steadily developing the ideals that constitute progressive individualism.[23]

Hoover must be given credit for seeing the impending crisis and for his honest effort to maintain the individualistic principle in the United States. Thus, American individualism stands in his mind for equality of opportunity and for a fair distribution of the products of American industry. Individualism ultimately can only be defended because it is the safe avenue to further human progress. No doctrinaire, Hoover admitted or insisted that men are unequal in ability, in character, in intelli-

[23] *American Individualism* (1922), pp. 7–8. Copyright, 1922, by Doubleday and Company, Inc., and used by permission.

gence, and in ambition. Our system is not perfect, but in comparison with others it seemed to Hoover to offer the largest scope for the development of individual capacities. Needless to say, he did not defend in the slightest the irresponsibility or criminality of any businessman, though the type and the system of free enterprise were in his mind the only way to maintain a growing system of production and a growing system of free men.

By 1934 the essential outlines of the New Deal attack on the American businessman had become clear. American conservatives realized that the new policies might, if carried to their logical conclusion, mean the end of the system that has prevailed in America since the founding of the republic. Liberals and radicals hailed the change; the revolution for some had come; while to others it was simply the carrying into effect of many liberal ideas which had been stated by earlier Presidents, both Republican and Democratic. If New Dealers might blame to some degree the economic crisis beginning in 1929 on the businessmen, the American businessman pointed out that the economic crisis was world-wide, that it had arisen from world conditions resulting from the First World War.

Such an argument presented by Hoover in defense of his administration did little to stem the tide of discontent against the prevailing system. For the time being, the Democratic landslide had swept from governmental influence the leaders of the American industrial system. For the first time in our history they found themselves in the position of a minority, defending against attack what had seemed to them the immutable pillars of American political life. If Americans did not adopt the name "socialism," they did, in the conservative view, accept many of the basic "immediate demands" of the socialist program. The defense of liberty, economic and otherwise, presented by men like Hoover fell on deaf ears. On the other hand, it is true that when the program for national defense was begun in 1940, the businessmen were called back to Washington to reorganize American industry.

Thus Hoover saw, in *The Challenge to Liberty,* that all over the world the principle of individual liberty was under attack—in the United States as well as in the authoritarian states. We can control the forces at work in the world, thought Hoover, but it is yet to be demonstrated that we will be free after the control has been established. Hoover was particularly afraid of the consequences of national regimentation under the New Deal, the foundation stone of which he believed was a vast centralization of power in the executive. Under the NIRA we had a regimented industry and commerce; under the agricultural program the farmer was brought under the control of the government; government

itself began to compete with private industry, as in the Tennessee Valley Authority; the currency was reduced from a sound monetary policy to a managed currency—the prelude, as in Europe, to further fiscal adventure; and these measures in turn entail a managed foreign trade. At this time it was, of course, too early for Hoover to comment on the rise of the public debt. In his mind, to speak of "national planning" did not escape the long-run consequences of regimentation under the control of government; a fair word can hide an evil condition. To Hoover a bureaucratic state must in the end cease to be a democratic one.

> The alternatives, National Regimentation, Fascism, Socialism, or Communism, lead only to bureaucratic tyranny. Within the domain of Liberty is the sole system in which the dynamic forces of freedom of expression can give life to opposition and effective correction to abuse, whether from business or from bureaucracy. There is no doubt that the weeds of economic abuse will grow in the garden of Liberty. The fertile soil of this garden also produces fine blossoms of enterprise and invention. Evil as the weeds are, it is far better to expend the labor to extirpate them than to lose the whole garden through the blight of tyranny.[24]

Conclusion. In this chapter we have attempted to formulate the essential aspects of American conservatism. That conservatism faced, in 1929 and to the present, a crisis such as it had never faced before. But it was a crisis that extended beyond the frontiers of the United States and throughout the world. It will be another generation before the extent of the social change going on in the United States can be accurately assessed. Some, like Hoover, fear the worst if the present tendencies continue. It may be that most political tendencies stop before they reach all of the implications seen at the beginning. It may be that if the world can recover the blessings of peace for an extended period of time, as in the nineteenth century, the broken parts of progress toward a great, productive economy can be gathered together and a new start made. So Hoover hoped, at any rate, in *The Challenge to Liberty.*

Selected Bibliography

Abbot, Lyman: *America in the Making* (1911).
Adams, Henry: *The Education of Henry Adams* (1918).
Allen, Frederick L.: *The Lords of Creation* (1935).
Beard, Charles A., and Mary R. Beard: *The Rise of American Civilization* (2 vols., 1927–1930).
Beard, Miriam: *A History of the Business Man* (1938).
Carlson, Oliver: *Brisbane: A Candid Biography* (1937).

[24] *The Challenge to Liberty* (1934), pp. 166–167. By permission of Charles Scribner's Sons, New York.

CARNEGIE, ANDREW: *Triumphant Democracy* (1896).
CARPENTER, WILLIAM S.: *The Development of American Political Thought* (1930).
CLARK, J. S.: *The Life and Letters of John Fiske* (2 vols., 1917).
COCHRAN, T. C., and WILLIAMS MILLER: *The Age of Enterprise* (1942).
COMMONS, JOHN R.: *Legal Foundations of Capitalism* (1924).
COOLEY, THOMAS N.: *A Treatise on the Constitutional Limitations Which Rest Upon the Legislative Power of the States of the American Union* (1868).
CORWIN, EDWARD S.: *The Twilight of the Supreme Court* (1934).
CURTI, MERLE: *The Growth of American Thought* (1943).
DORFMAN, JOSEPH: *The Economic Mind in American Civilization* (2 vols., 1946).
FAIRMAN, CHARLES: *Mr. Justice Miller and the Supreme Court, 1862–1890* (1939).
FISK, ETHEL F.: *The Letters of John Fiske* (1940).
GABRIEL, RALPH H.: *The Course of American Democratic Thought* (1940).
GETTELL, R. G.: *History of American Political Thought* (1928).
GHENT, WILLIAM J.: *Our Benevolent Feudalism* (1902).
GODKIN, E. L.: *Unforeseen Tendencies of Democracy* (1898).
HAINES, CHARLES G.: *The Revival of Natural Law Concepts* (1930).
HARRIS, JOEL C.: *Life of Henry W. Grady* (1890).
HENDRICK, B. J.: *The Life of Andrew Carnegie* (2 vols., 1932).
HOFSTADTER, RICHARD: *Social Darwinism in America Thought, 1860–1915* (1944).
HOLMES, OLIVER WENDELL, JR.: *Collected Legal Papers* (1920).
———: *The Dissenting Opinions of Mr. Justice Holmes* (1929).
HOOVER, HERBERT: *American Individualism* (1922).
———: *The Challenge to Liberty* (1934).
JACOBSON, J. M.: *The Development of American Political Thought* (1932).
LEWIS, EDWARD R.: *A History of American Political Thought from the Civil War to the World War* (1937).
LUDOVICI, A. M.: *A Defense of Aristocracy: A Textbook for Tories* (1915).
MERRIAM, CHARLES E.: *American Political Ideas, 1865–1917* (1920).
MILLS, OGDEN L.: *Liberalism Fights On* (1936).
MYERS, GUSTAVUS: *History of the Great American Fortunes* (Modern Library, 1936).
NEVINS, ALLAN: *The Emergence of Modern America, 1865–1878* (1927).
———: *John D. Rockefeller: The Heroic Age of American Enterprise* (2 vols., 1940).
NOCK, A. J.: *Our Enemy the State* (1935).
PALM, F. C.: *The Middle Classes, Then and Now* (1936).
PARRINGTON, V. L.: *Main Currents in American Thought* (3 vols., 1927–1930).
POUND, ROSCOE: *The Spirit of the Common Law* (1921).
RIPLEY, W. Z.: *Main Street and Wall Street* (1927).
ROOT, ELIHU: *Address on Government and Citizenship* (1916).
SCHNEIDER, H. W.: *A History of American Philosophy* (1946).
SHANNON, FRED A.: *America's Economic Growth* (2d ed., 1940).
SPENCER, HERBERT: *The Man Versus the State*, ed. by Truxton Beale (1916).
SUMNER, WILLIAM G.: *Folkways* (1906).
———: *What Social Classes Owe to Each Other* (1883).
TARBELL, IDA M.: *The Nationalizing of Business, 1878–1898* (1936).
WILSON, F. G.: "A Theory of Conservatism," *The American Political Science Review*, XXXV (1941), 29*ff*.
WRIGHT, B. F.: *A Source Book of American Political Theory* (1929).

Chapter 14

MANIFEST DESTINY

> And yet after all, unanswerable as is the demonstration of our legal title to Oregon—and the whole of Oregon, if a rood!—we have a still better title than any that can ever be constructed out of all these antiquated materials of old black-letter international law. Away, away with all these cobweb tissues of rights of discovery, exploration, settlement, continuity, etc. To state the truth at once in all its neglected simplicity, we are free to say that were the respective cases and arguments of the two parties, as to all these points of history and law, reversed—had England all ours, and we nothing but hers—our claim to Oregon would still be best and strongest. And that claim is by the right of our manifest destiny to overspread and to possess the whole of the continent which Providence has given us for the development of the great experiment of liberty and federated self-government entrusted to us.—from the *New York Morning News,* December 27, 1845.[1]

The United States a Great Power. We have left to this later moment in our study of the American political mind the problem of the march of the United States to fellowship with the great or dominant powers of the world. For we must remember that there are not many "great" powers in the world—perhaps six or seven—and that the United States for over a generation has been one of these states. Many a coinciding factor has gone into the making of the present destiny of the American people.

The United States has become a world power. We must examine briefly what a world power is, but in modern thought two general explanations of how such powers originate are presented. One theory insists upon the intention, character, or will of a people in its rise to empire. In earlier centuries, as in the work of Dante, it was customary to explain the rise of the Romans in part by their virtue and character, which were pleasing in the sight of God. Thus, those who deserved empire were aided by Providence in the search for their destiny. In our own history, many an American speaker and writer has felt the heavy drive of destiny, deserved greatness, weighing upon the will of the American people. As we believed in freedom, so God was on our side. As generous and free men, we deserved the republic we gained.

[1] Cited in Albert K. Weinberg, *Manifest Destiny: A Study of Nationalist Expansionism in American History* (1935), pp. 144–145.

On the other hand, many in the last few generations have been inclined to see more or less objective factors at work in the building of state power in the new world. The dominance of Europe and America in the world is seen as a factor in the development of the higher technology of war and commerce. Others may stress the climate and geographical factors. And as modern industrial society began to emerge, it was more and more clear that those countries having sufficient raw materials and technology under their control must be great powers in the end. Therefore, the technologically and commercially proficient peoples were led to expand, though it has been assumed that backward peoples were being aided by the more advanced. Undoubtedly, in the history of the United States many factors have been at work. Not only our location and wealth in the raw materials of industry and in commerce have played their part, but also the capacity to organize politically and to establish durable governments has been important.[2]

If we follow for a moment the theory of Brooks Adams, a great power is one that is powerful in both economic competition and war. Life and organization must be preserved, and the contingencies of the struggle must be foreseen. Since the end of the stone age, Adams insists, no active nation has been able to do without a supply of relatively cheap metals. Mines in turn have influenced the direction of travel, and to get the metals necessary to strength, men have been forced either to trade or rob—that is, make war. On the whole, they have preferred to trade, since it is cheaper. But there must be markets and there must be travel to and from the terminus of the highway of trade. The highway itself is simply the path of least resistance, and owing to the need of keeping a highway effective there develop administration, supervision, and policing of the trade route. States develop particularly at the junction of trade routes. "Therefore," he says, "the state or the empire is the outgrowth of trade, and usually spreads along the lines of converging trade routes." New ways of travel may be found, or mines producing metals may lose their value. If disturbance can be dealt with in no other way, war results, since war is simply the logical end of economic competition. When trade routes shift, markets move, and the seat of empire is changed. But the seat of empire, thinks Adams, does not stay for very long in one place; it is on the move, following essentially the necessary supply of metals. As of old, the technology of a society is the imperative factor.

[2] Walter R. Sharp and Grayson Kirk, *Contemporary International Politics* (1940), Chs. X, XI.

In 1850, he urged, the seat of mineral production lay in Great Britain; the great trade routes converged at her ports. Europe was the center of the world's physical and intellectual energy. But in 1849 the first California gold reached Liverpool, and the international career of the United States as a vendor of metals was begun. Finally, in 1897 the United States gained supremacy in iron and steel. Europe was at the point of decline; while Asia, in degree because of the stimulation of the United States, was ready to begin her part in the competition for the wealth there is in trade. Although Germany advanced to a certain point in the nineteenth century, she was menaced, according to Adams, by the rise of the United States. American engineers were increasingly in demand throughout the world. Meanwhile, France was almost retiring from international competition as Japan was launching her remarkable modern military career. So in 1902 Adams concluded that the world had reached agreement on the economic supremacy of the United States. Should the same movement continue for another fifty years, Adams concluded that we would outweigh in power any other empire or combination of empires in the world. "The whole world will pay her tribute. Commerce will flow to her both from east and west, and the order which has existed from the dawn of time will be reversed." But again, one must remember that the world is moving fast; the equilibrium is unstable. The resources of China, he urged, are not inferior to ours; we may be compelled to cross the Pacific in order to preserve our own economic position.[3]

Modern war is a technological problem. Reflection on the First World War (1914–1918) and on the Second World War, beginning in 1939, might indicate that without the aid of the United States no power or set of powers in the world is capable of winning a territorially extended and prolonged war. The resources of the United States make it, in spite of itself, the momentary arbiter of the affairs of the world. Perhaps the British would admit that however great their empire might be, it cannot

[3] See Brooks Adams, *The New Empire* (1920), pp. 195*ff*. In *The Law of Civilization and Decay* (1896), Adams pictured the development and expression of social energy. A race must sooner or later reach the limit of its martial energy, at which time it enters the period of economic competition. Here we have the dominance of the economic type, *i.e.*, the usurer or businessman, and a corresponding centralization of social power. On the other hand, economic competition dissipates the energy amassed by war. When the high point of economic centralization is reached, a stationary period may come, which will be ended by war. If a highly centralized society disintegrates under the pressure of competition, it is because the race has been exhausted. Adams was impressed, likewise, by the small effect of conscious purpose in the course of history. See the Preface, *passim*. See also *The Theory of Social Revolutions* (1913).

win against existing combinations of powers without the direct or indirect alliance of the United States. It is an empire that has been saved by its erstwhile rebel child. A great power, to some, is a power that can fight a first-class war. And thus the investigation of great powers leads into the examination of raw materials and their control. It can be argued that by an extreme effort of war the Germans have tried twice in the twentieth century to break the world controls of raw materials—metals and oil especially—which prevent them from becoming as dominant a power in the world as the United States, or the British with the aid of the United States. While the level of technology may change, the details of competition, its pattern, remain much the same. It may be alloys today, which are in many cases compounded of metals outside the United States, and thus if we are to continue to be great we cannot let the world control of these alloys slip through our fingers. Our destiny may be dark, but in quality it is the same as from the start. We are an expanding nation; we must be so, to be what we have been in the past and hope to be in the future. Brooks Adams would have us believe that the same broad forces control us today as when men struggled in the stone age.[4]

Morality in International Politics. But the factors in the international situation of which we have been speaking are not the ones uppermost in popular thought. There may be laws governing the course of great nations; and the uncertain destiny of the United States may lead it to the far sections of the earth. Yet the American people have believed in the high purposes of the United States. The American people have been against the aggressor and the invader. There has been a "mission" behind our growth. Indeed, to carry freedom and progress to those who sit in darkness is not, by definition, imperialism or aggression. Imperialism is governed by self-interest. In degree, however, our benevolence has grown out of a belief in our own superiority—racial superiority, if one will. We have not believed that the Negro was equal to the white man, and the South considered this important in its justification of slavery. Our attitude toward the Indian has not always been kindly, since we have not recognized his use of land when the white man wanted it. We have taken the view that the Mexican was unworthy of the lands he once held in Texas and on toward the Pacific Ocean. At the turn of the century we viewed the Filipino as an inferior being, to whom we owed a debt of moral responsibility. Assuming a Protestant moralism, the idea of

[4] See Frank H. Simonds and Brooks Emeny, *The Great Powers in World Politics* (1939); Brooks Emeny, *The Strategy of Raw Materials: A Study of America in Peace and War* (1936).

democratic freedom, and our own racial superiority, the average American has accepted the responsibility of empire.[5]

Expansion and American Leadership. Now it is clear that with few exceptions the ruling groups in the United States have accepted the principle of continental expansion. For example, in the years before 1861 when North and South were contending for greater influence in the control of the Union, both sections turned west. Both sections accepted the idea of westward expansion; it was in no small degree the fact that the South perceived westward expansion was to be unequal between the sections that led it to accept Secession and possible civil war. The great compromises before the war did not work as their framers had anticipated they would. But as the South itself was being excluded from the great western territory gained by the Louisiana Purchase and the war with Mexico, it developed imperialistic impulses in other directions. Southern leaders looked toward Cuba as an area for the expansion of the plantation system; they turned to Nicaragua and even to Brazil as possibilities. The gaining of Texas as a slave state was, of course, a clear incentive for expansion at the cost of Mexico's national freedom.[6] If the Southern dream of expansion failed, the North after the Confederate War took up the fallen torch. Under the aegis of Northern capitalism the South itself became the plaything of exploitation, while that same capitalism through vigorous leadership favored the immense adventure of empire wherever there might be opportunity.

Expansion policy in the United States has been uneven in direction and in intensity. From the outset and even during the American Revolution, attention was turned toward the west; and until we had finally rounded out our holdings to the Pacific Ocean, including the Oregon Territory, one can say that this was the most consistent effort of American expansion. We were agreed that finally American holdings should reach the Pacific. This path toward democratic empire produced conflict with

[5] When Lincoln Steffens was trying to convince President Wilson that his Mexican policy was wrong, he gradually admitted to himself that he could not change the President's mind. Steffens was persuaded that war again with Mexico was inevitable, for he had seen how wars were made in Mexico and he had attained a vision of the economics of empire. Steffens was convinced that "the American flag will go to Cape Horn."—*The Autobiography of Lincoln Steffens* (1931), p. 736.

Or take the earlier view of De Tocqueville. The United States, he argued, was decentralized in a military sense and it could not fight distant wars. Yet it had no enemies, since it was too far from Europe. On the south, the United States touched Mexico, however; and it was from there, he said, that great wars will come, when Mexico is stronger.—Alexis de Tocqueville, *De la Démocratie en Amérique* (14th ed., Paris, 1864), Vol. I, pp. 285–286.

[6] See Jesse T. Carpenter, *The South as a Conscious Minority, 1789–1861*, pp. 178*ff*.

Spain, France, England, and Mexico; but in each case we were able to insist on our own wishes and to annex the territory in question, whether it was Florida or the Oregon Territory. In some of these adventures the leaders of New England were critical, as in the Mexican War, but on the whole it can be said that there was no sustained or well-led opposition. The great turning point in expansion, however, came as a result of the Spanish War at the end of the nineteenth century. Almost without knowing it, we found ourselves becoming dominant in the West Indies or in the Caribbean, and with an Asiatic empire centered in the Philippine Islands. In addition, we became conscious of the long-standing commercial interests we had in relation to Japan and China. In the end, however, our foreign interests, whether in the Americas or in Asia, became entangled with the political condition of Europe, for it was in Europe that most of the "great powers" were located. A disturbance of the balance of power in Europe *must* produce disturbance in our own arrangements elsewhere in the world.

In Asia all of the great powers have been interested in the economic gains to be secured from the Chinese, and a new direction to conflict in Europe could renew struggle for influence in the Americas. Indeed, it can be said that long before we had our last disagreement with the British Empire in 1895 over Venezuela, the peaceful expansion of our foreign interests was dependent on a continuance of the existing balance of power in Europe. We did not wish to see the British disturbed by other claimants to the wealth of the Indies or the gold of Cathay. Since we have expanded beyond the confines of the North American Continent, the relation of the United States to the British Empire in Europe has been an important factor in our own enjoyment of international position and influence. The logic of imperialism is *de facto;* it hardly needs to be expressed.

Thus, in spite of ourselves an over-all consistency in foreign policy has emerged since 1900. In spite of strong prejudices against the Old World system, against which we rebelled, we find ourselves in the twentieth century becoming one of the arbiters of Europe. It was so in 1917 when we entered the First World War on the side of the Allied powers. The struggles for the control of Europe, that have spread by necessary implication to all parts of the world, have affected American security, and we have been led back to Europe, whence a little more than a century before we had escaped. As a great power, we must be capable of making war; and to be able to make war we must be as industrially powerful with our allies as any probable combination of powers on the other side. But there are difficulties in the fact that the world's greatest industrial center north of the Ohio River and east of the Mississippi River depends

on alloys and other products that come only from the far reaches of the world. To keep this section going we must have tin and rubber, chiefly from the Dutch East Indies, and from other regions we must have alloys. We must try to restrain disturbances in these sources of supplies; perhaps this is one of the factors the leaders of the United States saw in the months before our entry into the First World War. Unfortunately, however, the American people did not see that a League of Nations could, in preserving international peace, serve these essential interests of the United States; they therefore tried for a time to withdraw from Europe, only to be pulled back when the next challenge should arise.

American Neutrality in Europe: Westward Expansion. The American policy of neutrality was announced before the coming of the machine age. It came before the full development of modern technology, before our society had come to be dominated by the imperative of the machine. If today we realize that our great industrial system cannot live unless the metal alloys of the remote corners of the world are under our more or less immediate control, such was not the case when President Washington declared that we should be neutral in the struggle between the British and the French. Europe was at war, but we who represented the new system of ideas would have nothing to do with wars which continued to arise out of the competitions which we had foresworn. In 1793 Washington admonished all American citizens that we would pursue a friendly and impartial course of conduct toward all belligerents.[7] Later, in the Farewell Address, he stated the view that the United States had a separate and distinct set of interests to protect and defend in relation to the wars of Europe. While we should maintain a friendly relationship with all countries, we should not become involved in the quarrels of Europe; particularly should we avoid permanent alliances with any foreign power. We should neither love nor hate any foreign country to excess. It was Jefferson who later condemned entangling alliances.[8] Our history is to show, perhaps, that the more powerful elements in our leadership seldom believed that the United States had a distinctly different set of interests from those of Europe. And today, those who assert Washington's proposition are regarded by the predominant influence in the United States as simply ignorant of the world around them.

If the United States began its national career by asserting its lack of concern with what took place in Europe, it was not the same with the territory to the west. For here the American from the very start believed was a natural field for the expansion of our national territory.

[7] James D. Richardson, *A Compilation of the Messages and Papers of the Presidents, 1789–1897* (10 vols., 1897), Vol. I, pp. 156–157.

[8] *Ibid.*, p. 323.

The nationalists looked upon the west as the natural addition to the United States, and many of them believed also that an integrated national economy could be created with this enlarged domain. After the close of the War of 1812 Henry Clay propounded his "American System," which was a form of economic nationalism and looked by implication to what we would call today in the twentieth century "autarchy." He urged a tariff to protect the war-born industries of the United States. His plan would provide a sufficient *Lebensraum* for the American people. Clay and his political friends were supported on the intellectual side by Mathew Carey, who waged unceasing war for a true economic nationalism. It may be added that one of the chief points of attack was the danger of British competition and the flood of British goods which poured into the country after the War of 1812 had been brought to a close. It was British supremacy in manufacturing which was keeping the United States from maturing its economy, and thereby denying to the American freeman the opportunity which should be his in a democratic society. We must have more than agriculture and commerce in the United States.

The battle of Henry Clay and Mathew Carey was carried on by Carey's son Henry, and by the German economist Friedrich List, who came to the United States in 1825. Instead of accepting the international *laissez faire* of the now dominant classical economists in England, these thinkers demanded what we would today call simply "economic planning." Instead of the determinism of Malthus, who proclaimed the inevitability of poverty because of the pressure of population, and instead of taking the laws of economic distribution propounded by the British economists, the Careys demanded that the state intervene on behalf of the individual. They asked that the formation of the national economic system be shaped by tariff and monetary policies which would diversify opportunity within the United States. After the Confederate War it was possible for the principle of economic nationalism to be generally accepted by the American people. Our own economy became the focal point of our interest.[9]

The Monroe Doctrine. Thus, along with the belief in the peculiar character of the mission of the United States and the denial of our interest in European affairs, we insisted on the necessity of moving westward and in controlling the destiny of the New World. While there was little systematic development of expansionist ideas, there was, nevertheless, a wide diffusion of ideas justifying our movement westward and to the

[9] See Gabriel, *op. cit.*, Ch. 7; K. W. Rowe, *Mathew Carey: A Study in American Economic Development* (1933); A. D. H. Kaplan, *Henry Charles Carey: A Study in American Economic Thought* (1931).

south. The most distinguished utterance maintaining this viewpoint is the memorable Monroe Doctrine issued in 1823 by President Monroe. This doctrine is in line with the policy of neutrality in relation to Europe and sharp interventionism in relation to the two American continents. The Monroe Doctrine insists on the ideological difference between the New World and the Old, and it proclaims that European interests and systems, being contradictory with ours, are inimical to the United States. If Washington's Farewell Address is one side of the shield, the Monroe Doctrine is the other. In the period of which we speak, the defense of our political institutions, democracy and republicanism, implied to the mind of the ruling order a separation from Europe, while today the same interest seems to indicate a sharp interventionism, or even war waged on the battlefields of the Old World.

The Monroe Doctrine forms simply a part of the Seventh Annual Message of President James Monroe on December 2, 1823. The President declared:

It was stated at the commencement of the last session that a great effort was then making in Spain and Portugal to improve the condition of the people of those countries, and that it appeared to be conducted with extraordinary moderation. It need scarcely be remarked that the result has been so far very different from what was then anticipated. Of events in that quarter of the globe, with which we have so much intercourse and from which we derive our origin, we have always been anxious and interested spectators. The citizens of the United States cherish sentiments the most friendly in favor of the liberty and happiness of their fellow-men on that side of the Atlantic. In the wars of European powers relating to themselves we have never taken any part, nor does it comport with our policy so to do. It is only when our rights are invaded or seriously menaced that we resent injuries or make preparation for our defense. With the movements in this hemisphere we are of necessity more immediately connected, and by causes which must be obvious to all enlightened observers. The political system of the allied powers is essentially different in this respect from that of America. This difference proceeds from that which exists in their respective Governments; and to the defense of our own, which has been achieved by the loss of so much blood and treasure, and matured by the wisdom of their most enlightened citizens, and under which we have enjoyed unexampled felicity, this whole nation is devoted. We owe it, therefore, to candor and to the amicable relations existing between the United States and those powers to declare that we should consider any attempt on their part to extend their system to any portion of this hemisphere as dangerous to our peace and safety. With the existing colonies or dependencies of any European power we have not interfered and shall not interfere. But with the Governments who have declared their independence and maintained it, and whose independence we have, on great consideration and on just principles, acknowledged, we could not view any interposition for the purpose of oppressing them, or con-

trolling in any other manner their destiny, by any European power in any other light than as the manifestation of an unfriendly disposition toward the United States. In the war between those new Governments and Spain we declared our neutrality at the time of their recognition, and to this we have adhered, and shall continue to adhere, provided no change shall occur which, in the judgment of the competent authorities of this Government, shall make a corresponding change on the part of the United States indispensable to their security.

The late events in Spain and Portugal show that Europe is still unsettled. Of this important fact no stronger proof can be adduced than that the allied powers should have thought it proper, on any principle satisfactory to themselves, to have interposed by force in the internal concerns of Spain. To what extent such interposition may be carried, on the same principle, is a question in which all independent powers whose governments differ from theirs are interested, even those most remote, and surely none more so than the United States. Our policy in regard to Europe, which was adopted at any early stage of the wars which have so long agitated that quarter of the globe, nevertheless remains the same, which is, not to interfere in the internal concerns of any of its powers; to consider the government *de facto* as the legitimate government for us; to cultivate friendly relations with it, and preserve those relations by a frank, firm, and manly policy, meeting in all instances the just claims of every power, submitting to injuries from none. But in regard to those continents circumstances are eminently and conspicuously different. It is impossible that the allied powers should extend their political system to any portion of either continent without endangering our peace and happiness; nor can anyone believe that our southern brethren, if left to themselves, would adopt it of their own accord. It is equally impossible, therefore, that we should behold such interposition in any form with indifference. If we look to the comparative strength and resources of Spain and those new Governments, and their distance from each other, it must be obvious that she can never subdue them. It is still the true policy of the United States to leave the parties to themselves, in the hope that other powers will pursue the same course.[10]

These statements, apparently incidental in a Presidential message to Congress, have become one of the keystones in the foreign policy of the United States. The Monroe Doctrine is a doctrine enunciated by the United States alone, and not until the administration of Franklin D. Roosevelt was a serious effort made to continentalize the Monroe Doctrine, or make it a joint doctrine with the other states of Latin America which it so intimately concerns. Naturally, as different situations have arisen, new interpretations have been placed on the doctrine, but such interpretations have generally tended to broaden the control of the United States in the New World. It has not been a principle of American self-denial. Nor in the event has it been held to prevent our "inter-

[10] Richardson, *op. cit.*, Vol. II, pp. 217–219.

position" in European affairs when the government has thought it expedient; but it has always been a doctrine used against the ambitions of European powers when they showed an interest in Latin America deemed by us to be more than ordinary. It has not served in any sense to limit the expansionist activities of the United States.

In 1895 when we had our last major difference with the British, the Monroe Doctrine was asserted in authoritative tones. The government of Venezuela asked for the protection of the United States since, it asserted, the British were using a boundary dispute to expand their territory in South America. Secretary of State Richard T. Olney demanded in that year that the British submit the matter to arbitration.

> Today the United States is practically sovereign on this continent [proclaimed Olney], and its fiat is law upon the subjects to which it confines its interposition. Why? It is not because of the pure friendship or good will felt for it. It is not simply by reason of its high character as a civilized state, nor because wisdom and equity are the invariable characteristics of the dealings of the United States. It is because in addition to all other grounds, its infinite resources combined with its isolated position render it master of the situation and practically invulnerable against any or all other powers.[11]

Nor, on the other hand, can it be considered surprising that President Theodore Roosevelt should assert, in his Annual Message of 1904, the principle that the United States under the Monroe Doctrine had an international police power, or duty, to maintain the conditions of civilized government in the two continents. Growing out of his dealings with the Dominican Republic, a victim of bad government and financial imperialism, Roosevelt was led to declare to Congress:

> It is not true that the United States feels any land hunger or entertains any projects as regards the other nations of the Western Hemisphere save such as are for their welfare. All that this country desires is to see the neighboring countries stable, orderly, and prosperous. Any country whose people conduct themselves well can count upon our hearty friendship. If a nation shows that it knows how to act with reasonable efficiency and decency in social and political matters, if it keeps order and pays its obligations, it need fear no interference from the United States. Chronic wrongdoing, or an impotence which results in a general loosening of the ties of civilized society, may in America, as elsewhere, ultimately require intervention by some civilized nation, and in the Western Hemisphere the adherence of the United States to the Monroe Doctrine

[11] See Samuel F. Bemis, *The American Secretaries of State* (1928), Vol. VIII, p. 306; R. G. Adams, *A History of the Foreign Policy of the United States* (1924); T. A. Bailey, *A Diplomatic History of the American People* (1940). For President Cleveland's message on this problem, see Richardson, *Messages and Papers*, Vol. IX, pp. 655*ff*.

may force the United States, however reluctantly, in flagrant cases of such wrongdoing or impotence, to the exercise of an international police power.[12]

The Justification of American Expansion. From the outset of our national history, expansion on the North American Continent was recognized as justified or necessary by our leaders. In general, westward expansion was defended with doctrinal simplicity. In the beginning we had to make claims against the British to the north and west of the territory of the United States. In the south and west, the claims of France and Spain impeded our expansion; finally, against Mexico we insisted upon our right to acquire Texas; and against British and Mexican claims we advanced to the Pacific Coast. Frequently, there were assertions that Canada formed naturally a part of the United States, while Cuba was seldom out of our range of vision. On the other hand, it can hardly be urged that such expansion had as much significance as the great change which came with the Spanish-American War at the close of the nineteenth century.

From the days of the American Revolution, our leaders insisted that it was our natural right to have security, even if this security for our freedom meant the denial of it to others. Some insisted that Canada must be brought into the United States because it would assure our security; it was believed that the God of nature had ordained, on geographical considerations, that the peoples of the Mississippi Valley should be under one sovereignty. Part of this feeling was associated with the idea that there were natural geographical boundaries; Congressmen and other leaders were convinced that nature had destined such areas as Florida to be part of the United States. The natural boundary, interpreted by reason, was an early and fundamental justification of American growth.

Side by side with the principle of "geographical predestination," as Weinberg expresses it, moved the idea that the superior peoples had a right to the utilization of the soil which destroyed the title to use vested in inferior peoples. From the beginning of American colonization, Americans had felt that the Indians' claims to land should not stand in the way of the American farmer, and thus Indian treaties were abrogated and the Indians removed; thus the settlers in Texas and on the Pacific Coast had no compunctions about the rights of Mexicans to the land. When it came to the full international expansion of the United States, we could argue that Filipinos had no right to forestall the white man's use of natural resources. Such a doctrine implies the admitted superior-

[12] See Richardson, *op. cit.*, Vol. IX, p. 7053; Albert K. Weinberg, *Manifest Destiny: A Study of Nationalist Expansionism in American History* (1935), p. 428.

ity of one state over another, and in the end it is a two-edged sword which may be turned against the imperialist powers themselves.

During the years after 1840, in the debate over the annexation of Texas, American leaders feared the intrigue of foreign powers, especially of the British in Texas. They insisted that since Providence had given to the American people a free system, it was their duty to protect it and to extend it to other peoples. Freedom should be given to those whose governmental system was not as high as that of the United States. While interest (say of the Southern states in extending slave territory) assisted in the desire to obtain Texas, no one need question on the other hand the sincerity of those who believed that Providence intended American freedom to be enjoyed in Texas. Americans believed in their destiny and they were prepared to follow it. Finally, the true title to the lands now in the United States, including the Oregon Territory, was simply the manifest destiny of the American people. That destiny was not, however, man-made, for it was given to us by God. Such a belief, however, meant that when international law or treaties stood in the way of the American people, there must be an appeal to a higher title. The cobwebs of international law should not be allowed to deter us in our march to the manifest boundaries of the American Republic. Americans dreamed of the time when a vast population would be citizens of the United States, and it was necessary to prepare for them as freemen of a great, free state. On the other hand, it is common during war for strong powers to believe that their victory will be a benefit to the conquered. Thus, during the Mexican War there was a brief period in which many leaders in the United States spoke of regenerating the Mexican people, of raising them to the standards of freedom enjoyed by Americans.

In the generation and a half before the war with Spain, as a result of which we actually launched ourselves as a world power, there were many proposals for expansion. For a time we were interested in the West Indian region, and it was generally recognized that Cuba in the end must become a part of the United States; an early attempt to purchase the Danish West Indies, or Virgin Islands, was blocked by the Senate; Alaska was purchased; our interest in the Hawaiian Islands blossomed; men continued to speak of the forthcoming annexation of Canada by the United States; and others turned their eyes on additional areas of Latin America.

Americans became accustomed to thinking of the natural growth of the United States—the United States being a kind of national "organism" growing along biological principles. From the early days of Western intellectual history, thinkers have repeatedly asserted that a nation either

grows or dies; it does not simply stand still. There were American leaders, publicists and Congressmen, who believed that the natural growth of the United States implied a fairly continuous series of steps in expansion. Furthermore, expansion was justified on the ground of "political gravitation," a term first used by John Quincy Adams in 1819 when he argued that Europe's North American colonies were destined to become part of the United States. This doctrine was prominent after 1850. Leaders argued that Cuba would be drawn to the United States by such a "gravitation," that Hawaii was being drawn to us; and the idea was applied in other directions whenever it seemed a suitable type of argument.

In spite of opposition to expansion in the early years following the Confederate War, the expansionists finally had their way. The critics might deny that our destiny was manifest, but those who urged expansion insisted that we must follow the tide of events, as did Admiral Mahan. The leaders of the Republican party particularly were convinced of the inevitability of American expansion. It was inevitable that we should take Hawaii, and when we bowed at the end of the Spanish-American War to the necessities of events, we took the Philippines (or so it was said)—unwillingly, but with a sense of duty to the role that the United States must play in world politics.

On the other hand, when the Philippine insurrection broke out, it was clear that the tide of fortune had met an obstacle that must be met by other argument. In consequence, the principle of the "white man's burden" found its way into our thinking about expansion. It was the obligation, the burden of the more civilized Americans to take over the Philippines on humanitarian grounds. As we had saved the Cubans from oppression, so must we save others. It was the duty and the manifest destiny of the United States to civilize and Christianize the Filipinos. Or so thought President McKinley. Such leaders as Senator Henry Cabot Lodge, however, made it clear that one reason for bearing the burden was the benefit which came to the bearer of the burden. This was, said Weinberg, the Lodge doctrine of the white man's burden.[13] McKinley was obviously more the presumed humanitarian in his interpretation of the principle. After the suppression of Aquinaldo and his followers, unlike other states, we decided to give the Filipinos their freedom. Thus, in 1946, after a ten-year period of preparation, the Philippine Republic became the newest of the world's independent states.

The unfavorable reaction among American leaders to the war against the Filipinos seemed to end, for a time, the enthusiasm of the United States in Asia. We may say that although the influence of the United

[13] *Op. cit.*, p. 314.

States has increased since the war with Spain, and although one may see on every hand the possibility of American expansion in order to guarantee national security, a general American expansion is unlikely. That some writers predict it must remain, for the moment, simply a matter of record. But even if the process of acquiring territory had slowed down, the significance of the United States in world affairs had increased with accelerating tempo.

In the discussions over the Panama Canal, completed in 1914, American leaders asserted the paramount interest of the United States, and from this the principle was extended to the Caribbean. If Congress did not secure, in the end, preferential rates for American ships passing through the canal, we nevertheless made it clear that the military interest of the Canal to the United States was paramount in relation to other states. Furthermore, the purchase in 1917 of the Danish West Indies marked a definite step in the American conception of what is necessary to American military and naval defense. While the principle of political affinity between the United States and Canada was once urged as a reason for the "admission" of Canada into the American Union, the alternative policy was an insistence upon a development of freer and reciprocal trade relations with the Dominion. President F. D. Roosevelt finally extended the protection of the Monroe Doctrine to cover the political independence of Canada.

The doctrine of self-defense, so effective in the case of the Virgin Islands, has been a powerful force in expanding the territory of the United States. It has a long history, and much early expansion eastward and southward was defended in part on the ground that it was essential to our national security. Thus the leasing of Atlantic and Caribbean naval bases from the British Government during the Second World War is but a continuation of a policy already familiar to the White House and the Department of State. We may yet acquire islands in the Caribbean and other areas for the defense of the United States.

As the international confusion of the twentieth century has emerged, however, the white man's burden has been transformed into the doctrine of an international police power—first under the Monroe Doctrine relating to Latin America and the Caribbean, then as to Asia for the protection of the Chinese against the Japanese, and finally as against other powers which may violate the principles of international order. To the internationalists, the international police power since 1918 has been a principle of trusteeship for peace and order, or indeed a principle of responsible world leadership as altruistic in its import as the white man's

burden of the previous generation.[14] Likewise, President F. D. Roosevelt in the early days of his administration adopted the "good neighbor" policy toward Latin America and sanctioned through action by the Pan-American Conference the "continentalization" of the Monroe Doctrine, which declared its opposition to armed intervention in the Americas. The doctrine of manifest destiny became, under the international and anti-expansionist theory of Woodrow Wilson and F. D. Roosevelt, the doctrine of America's mission to give moral leadership to the world.[15]

1900: The Turning Point. In historical retrospect the year 1900 will probably assume increasing importance in American history. For it was in that year that one of the chief issues in the Presidential campaign was America's adventure into world politics. William Jennings Bryan fought the expansion of the United States into Asia, while the Republican party under the leadership of William McKinley and Theodore Roosevelt supported it. It is easy, on the one hand, to take the deterministic position of Mahan and others, in the light of which it was argued that the United States really had no choice in its new phase of growth. Such a position comforted, no doubt, the industrial and financial leaders of the northern and eastern parts of the United States who, it seems, directed the policy of the Republicans. The Democrats, on the contrary, insisted that it was a matter of policy, to be adopted or rejected in a democracy as the people might think best. From a psychological point of view, certainly, the representatives of economic power in the United States were prepared fully for all eventualities, even to the suppression of the effort for Philippine independence under the leadership of Aquinaldo. To the Democrats, however, it was disturbing that the humanitarianism of the white man's burden could be enforced only as a result of the concentration camp and the water-cure for rebellious Filipinos. There was, indeed, no benevolence in Republican policy, if the Democratic opposition had the correct interpretation.

There can be no question that many in the United States have regarded the Filipinos as an inferior race, just as the Indians, Negroes, Mexicans, and Orientals had been so treated in the past. Popular acceptance of expansion was no doubt made more palatable by this belief. Such popular ideas were important in winning the election of 1900, but no sober student of American nationalistic expansion can argue that the United

[14] *Cf.* Scott Nearing and Joseph Freeman, *Dollar Diplomacy: A Study in American Imperialism* (1925); W. F. Sands and J. M. Lalley, *Our Jungle Diplomacy* (1944); Lyman Abbott, *The Rights of Man* (1901), Lecture IX; Luther H. Evans, *The Virgin Islands: From Naval Base to New Deal* (1945).

[15] See Weinberg, *op. cit., passim,* for a decisive examination of the processes of American thought on the problems of expansion.

States wanted the "open door in China" or the possession of the remnants of the Spanish Empire simply to do the less technologically advanced peoples a good turn. We have in no small degree inherited the economic values of the disrupted Spanish Empire. America was becoming in the years following the Confederate War the great industrial power of the world. The international market has been the symbol and the reality of the industrial era, of the period of the triumph of modern capitalism.

Excluding for a moment the dubious argument that imperialism is simply for the mutual benefit of the conquerors and the conquered, what remains? There is a responding chorus from the critical minds of the last fifty years: imperialism has been fostered because it is thought it will pay; because it expands the market of an industrial nation; because, under more recent conditions, it provides the essential raw materials for the conduct of modern technological warfare. The function of the government is to support business, abroad in this instance, but at home if necessary. Business is the lifeblood of the state. The United States is industrially great because there is a profitable market for the products of American industry. It may be added that there has not been in most modern states a sustained and effective popular opposition to expansion. If conflicting imperialisms lead to war, the people may be called upon to support their state; in sober truth they can hardly do anything else, even upon the most calculating grounds. Wherever American expansion has been blocked by the expansion of other rising industrial powers, international friction has developed immediately.

The debate of 1900 was long preparing. The American people had been expansionist for a century, and they were faced with consequences of the Spanish-American War that they had not foreseen. If they entered the war to save Cubans from oppression, they found themselves at the end of it with an empire on their hands and with the American army suppressing insurrection in the Philippine Islands. Such consequences or ends of their conduct were disquieting. According to Charles A. Beard:

> The era of universal American jitters over foreign affairs of no vital interest to the United States was opened in full blast about 1890 by four of the most powerful agitators that ever afflicted any nation: Alfred Thayer Mahan, Theodore Roosevelt, Henry Cabot Lodge, and Albert J. Beveridge. They were the chief manufacturers of the new doctrine correctly characterized as "imperialism for America," and all of them were primarily phrase-makers, not men of hard economic experience.[16]

[16] Charles A. Beard, *Giddy Minds and Foreign Quarrels* (1939), pp. 15–16. Copyright, 1939, by Charles A. Beard. Used by permission of The Macmillan Company. Karl Schriftgiesser, *The Gentleman from Massachusetts: Henry Cabot Lodge* (1944).

Opposition to Imperialism: William J. Bryan. We need not tarry long with the socialist opposition to nationalistic expansion, since the ideas of socialists had little influence in stirring up opposition to the principles accepted by men of political and economic power in the United States. In times of peace at any rate, socialism has regarded the wars of modern capitalistic states as growing out of the conflicts generated by imperialism. Lenin's analysis of *Imperialism,* for example, is regarded by Marxians as one of his chief contributions to socialist thought. American socialists have not differed widely from peace-time socialist analysis in Europe, though it must be admitted that the actual approach of war has usually split the socialist ranks. American socialism has regarded our expansion as an expression of capitalism at its worst, for which in the end the workers must pay with blood in war and a disorganized economy in peace.

If socialism was not a true opposition to American imperialism, such was not the case with the Democratic party under the leadership of Bryan. While Bryan faced one defeat after another for the Presidency, he did have a small vindication, since he wrote the antiimperialist plank in the Democratic platform and started anew the Filipinos toward their independence.[17] In his struggle against expansion, Bryan used the imagery of the Bible. One of his earliest protests against colonialism was delivered in Denver, where he used as his "text" the story of Naboth's vineyard. To Bryan the issue was greed and covetousness, the question of Naboth's vineyard—not, as Beveridge insisted, "the rising star of empire." Wars of conquest arise from greed, and while imperialism might expand the nation's territory, it would contract the nation's purpose.

> It is not a step forward toward a broader destiny [urged Bryan], it is a step backward, toward the narrow views of kings and emperors. . . . We cannot afford to enter upon a colonial policy. The theory upon which a government is built is a matter of vital importance. The national idea has a controlling influence upon the thought and character of the people. Our national idea is self-government, and unless we are ready to abandon that idea forever we cannot ignore it in dealing with the Filipinos.[18]

In 1899 Bryan rejected the concept of a destiny leading the United States into a colonial policy that was contrary to the principles of free government.

[17] See Wayne C. Williams, *William Jennings Bryan* (1936), p. 238; and *The Memoirs of William Jennings Bryan,* by Bryan and his wife, Mary B. Bryan (1925), pp. 500*ff*.

[18] See *Speeches of William Jennings Bryan,* rev. and arr. by himself (2 vols., 1909), Vol. II, pp. 6–8.

The people [he said] have not voted for imperialism; no national convention has declared for it; no Congress has passed upon it. To whom, then, has the future been revealed? Whence this voice of authority? We can all prophesy, but our prophecies are merely guesses, colored by our hopes and our surroundings. Man's opinion of what is to be is half wish and half environment. Avarice paints destiny with a dollar mark before it; militarism equips it with a sword. . . . Whether the Spanish war shall be known in history as a war for liberty or as a war of conquest; whether the principles of self-government shall be strengthened or abandoned; whether this nation shall remain a homogeneous republic or become a heterogeneous empire—these questions must be answered by the American people—when they speak, and not until then, will destiny be revealed.[19]

The forcible annexation of the Philippines, he said, was not necessary to make the United States a world power, since for ten generations it had already been one. When Bryan accepted the Democratic nomination in 1900, he declared:

When I say that the contest of 1900 is a contest between Democracy on the one hand and plutocracy on the other I do not mean to say that all our opponents have deliberately chosen to give to organized wealth a predominating influence in the affairs of the Government, but I do assert that on the important issues of the day the Republican party is dominated by those influences which constantly tend to substitute the worship of mammon for the protection of the rights of man. . . . Even now we are beginning to see the paralyzing influence of imperialism. Heretofore this Nation has been prompt to express its sympathy with those who were fighting for civil liberty. . . . The forcible annexation of territory to be governed by arbitrary power differs as much from the acquisition of territory to be built up into States as a monarchy differs from a democracy. . . . A colonial policy means that we shall send to the Philippine Islands a few traders, a few taskmasters and a few office-holders and an army large enough to support the authority of a small fraction of the people while they rule the natives.[20]

Yet Bryan was no critic of the impulse, largely agrarian, that had led to our continental development under the idea of Manifest Destiny.

The Defense of Imperialism: Alfred T. Mahan. The great intellectual leader of the defense of overseas imperialism was Alfred Thayer Mahan, who was a captain in the United States Navy and later became a Rear Admiral. It was his general thesis that the course of history had been

[19] *Ibid.*, pp. 9, 11.

[20] *Ibid.*, pp. 17*ff*. Bryan's position is reminiscent of S. S. Nicholas, *Conservative Essays* (1863), Vol. I, Ch. IV, who argued that the United States should adopt an amendment permitting states to secede and to prevent the acquisition of more territory. Our danger, Nicholas said, is in too much territory and too much population. Our real manifest destiny "is to be conservators of civil liberty."

directed by those who held the command of the sea, who were able to protect their expanding commerce by naval guns. Naturally, Mahan's ideas were influential in naval circles, but they were also of importance generally among the publicists and political leaders of the generation that reached maturity at the time of the Spanish-American War.

When Mahan published in 1890 his *The Influence of Sea Power Upon History, 1660–1783,* he became an internationally known figure. While his status in the naval bureaucracy placed him under the command of superiors, political leaders in Europe, especially England and Germany, took up his ideas. Some even argue that at the beginning he was more influential abroad than in the United States. Mahan represented the forces of nationalism, and nations were individuals in a world of force. It was the rising nationalism of Europe that saw in him the prophet of a new trend toward big navies. It may be added also that the tension between Germany and England was beginning to be felt, and leaders in both countries saw that part of the mutual challenge was to be upon the sea. Mahan felt indeed that the British navy was part of the scheme of security upon which our state rested, but he was afraid that perhaps the British might not be able to defend their empire.

In brief, Mahan stood for the expansion of commerce, the development of shipping, the acquisition of colonies, and a navy large and powerful enough to protect the trade and territory of the expanding national state, especially along the sea lanes between the home country and the outposts of empire. We may say today that the naval officer does not willingly accept the burden of policing the world and that the magnificent vista sketched by Mahan is not as welcome as it was when the first great efforts to increase naval appropriations were being made. In addition, new weapons may make the fighting ship less effective than it has been in the past.

As the placid acceptance of imperialism was challenged by those who resented the imperialist expansion of the United States and by those who began to think of ordering the world under international law, Mahan, the prophet of nationalism, came to the defense of force as the arbiter of international politics. International rivalry was a struggle for power, the nation was a kind of fort or garrison which should be adequate for the purposes of that struggle. But in the struggle for power the control of the sea had peculiar and vital importance. If Mahan did not, in modern views, give adequate consideration to the force of armies in making international decisions, he nevertheless did not neglect entirely the problem of the modern army. But what of treaties of arbitration? In the end a nation, like an individual, has a conscience which cannot be subordinated to what it deems to be wrong. On the one hand, he was defending

ethical absolutism, and on the other the idea of international relations as unregulated power. If the nation is placed at the summit of ethical experience, such a reconciliation is possible, since the national state expresses the height of the moral reaches of mankind. As between nations, Mahan argued, there is an equilibrium of natural forces which formal international law cannot sufficiently express. The competition between national states makes, in the end, for the betterment of the whole international community.

As he viewed the expansion of the United States, he saw it was the result of forces over which public opinion opposed to imperialism had no control. The United States, he urged in 1902:

> . . . is confronted, in short, by a general movement of the nations resting upon a spirit spread among their peoples, which seeks to secure commercial advantages in all quarters of the world; peaceably, if may be, but, if not, by pressure. In this collision of interests, force will have a determining part, as it has in all periods of the world's history; and force, in such remote localities, means necessarily naval force. It is upon the spread of this spirit and the action ensuing from it, that the necessity for a great navy rests, and not upon the fact of having assumed oversea charges. Porto Rico, Hawaii, the Philippines, and if there be any other acquisition at present, have not created the necessity; on the contrary, they have reduced the weight of the burden, by contributing to support it.[21]

Albert J. Beveridge. In most political argument the attempt is usually made to discredit the opposition. The opponent is ignorant or misinformed; he has other motives for opposing a just policy than those which are expressed; or it may be that the opposition is futile, since "events" have already predetermined the course of history. In the debate on the great expansion of the United States, those who defended imperialism had little patience with the ignorance or the astigmatism of those who did not believe in taking the fruits of the Spanish-American War in the spirit of the sad acceptance of national duty.[22] One of the ablest of the challengers of Bryan in the debate on imperialism was Albert J. Beveridge of Indiana. His speech in September, 1900, called "The Star of Empire" was the official Republican answer to Bryan's speech of acceptance in which the argument for stopping the tide of imperialist expansion was stated.

[21] Mahan, *Retrospect and Prospect: Studies in International Relations Naval and Political* (1902), pp. 52–53. By permission of Little, Brown & Company. Gabriel, *The Course of American Democratic Thought* (1940), pp. 344*ff.*; Harold and Margaret Sprout, *The Rise of American Naval Power* (1939); Captain W. D. Puleston, *Mahan: The Life and Work of Alfred Thayer Mahan* (1939). See also Mahan, *Armaments and Arbitration: or the Place of Force in the International Relations of States* (1912).

[22] See, for example, Whitelaw Reid, *Problems of Expansion* (1900).

"Westward the Star of Empire takes its way," declaimed Beveridge. But it was not the star of kingly power, nor of autocratic oppression. It was the empire of which Washington and Jefferson spoke, the empire that was in the mind of Marshall. It has not been the American principle that all peoples are equally entitled to self-government; consider the American Indians, who were denied the right to hold this continent. Who will say that it was not in the interest of progress and civilization that this was so? If Bryan is right, the English should withdraw their benefits from India, and the colonizing mission of all of the great powers should be relinquished. "The sovereignty of the Stars and Stripes can be nothing but a blessing to any people and to any land." It is not alone from commercial reasons that America follows the star of empire, for "the master argument of the progress of civilization, which under God, the American people are henceforth to lead until our day is done," shall prevail. "It is destiny that the world shall be rescued from its natural wilderness and from savage men."

Beveridge was convinced that a colonial policy would not engender militarism. He believed that if the European powers would turn their energies toward the mission of civilized powers, the military establishments of Germany, Austria, and France might be reduced to the level of the English. Obviously, Beveridge did not consider the importance of the British navy, nor the possibility that expansionism might create conflicts between great powers in the territory of the backward peoples. But speaking of the struggle involved in imperialism, he asserted:

> This is no unprecedented struggle. It is the ever-old and yet the ever-new, because of the ever-elemental contest between the forces of growing nationality and those who resist it; between the forces of extending dominion and those who oppose it; between the forces that are making us the master people of the world and those who think that our activities should be confined to this continent for ever. It is the eternal duel between the forces of progress and reaction, of construction and disintegration, of growth and decay.

In Beveridge's mind it was destiny and the hand of God that were leading us. For God's hand has been at work in the rise of the American people.

> His plans were working out their glorious results. And just as futile is resistance to the continuance today of the eternal movement of the American people toward the mastery of the world. This is a destiny neither vague nor undesirable. It is definite, splendid and holy.
>
> When nations shall war no more without the consent of the American Republic: what American heart thrills not with pride at the prospect? And yet our interests are weaving themselves so rapidly around the world that that time is almost here. . . .

When the commerce of the world on which the world's peace hangs, traveling every ocean highway of earth, shall pass beneath the guns of the great Republic: what American heart thrills not at that prospect: Yet that time will be here before the first quarter of the twentieth century closes.

When any changing of the map of earth requires a conference of the Powers, and when, at any Congress of the Nations, the American Republic will preside as the most powerful of powers and most righteous of judges: what American heart thrills not at that prospect? And yet, that prospect is in sight, even as I speak.

It is the high and holy destiny of the American people, and from that destiny the American bugles will never sound retreat. "Westward the Star of Empire takes its way." American institutions follow the American flag.[23]

The debate between the Democrats and the Republicans in 1900 is, as has been suggested, a turning point in the history of the United States. Beveridge won over Bryan, and the leadership of Theodore Roosevelt and Henry Cabot Lodge was given free rein. The virility of American nationalism was expressed in the policy of expansion and policing conducted by the first President Roosevelt. While Roosevelt was taking the Panama Canal and giving moral instruction to the Caribbean republics, Lodge was explaining that Washington's Farewell Address did not prevent the United States from participating in European affairs in the interests of commerce and peace, and that such action was not contrary to the principles of the Monroe Doctrine.[24]

The European Issue. But leadership in the Western Hemisphere and a tentative expansion in the Far East were not to be the only issues in the position of the United States. Objectively, we can point to the results of the policy of the United States during the first quarter of the twentieth century. Upon the more elemental facts there can hardly be much disagreement. But upon the meaning of the new world adventure, intellectuals must disagree. If one has a philosophy leaning toward determinism and inevitability in the course of events, the force of leadership, ideas, and education is minimized; if one, on the other hand, regards the course of history as directed primarily by the will or prejudices of

[23] See Albert J. Beveridge, *The Meaning of the Times and Other Speeches* (1908), pp. 118*ff*. The mission of the United States was expressed likewise in the imperialistic slant of foreign missionary activity in Protestant Christianity. Josiah Strong, a Congregationalist preacher, rejoiced in the assumption by the United States of the white man's burden. He believed in general that the rulership of the world by the superior Anglo-Saxon peoples was the prelude to the conversion of the world, to the coming of the Kingdom of God. As America goes, so goes the world, in all that is vital to its moral welfare. See *Our Country* (1885); *Expansion* (1900).

[24] See Henry Cabot Lodge, *A Frontier Town and Other Essays* (1906), pp. 265*ff*.; see also his *The Senate and the League of Nations* (1925).

the leaders of political society, then the course of our adventure is always morally contingent and subject to some degree of reversal at any time. As our historical development began as a result of the expansion of Europe, our destiny is to be determined, it seems, by the course of events in the Old World as well as in the New. Asia in turmoil may cast a long shadow, but it is not more deep or impenetrable than that thrown by the prolonged and chameleonlike crisis of Europe in the twentieth century.

An inspection of our foreign policy in the light of European affairs will show no very consistent attitude. Within the circles of leadership in the United States, the debate on our attitude toward Europe has gone on without very much relaxation from the days even before the actual break with Britain. Utterances like those of Washington and Jefferson are subject to a variety of interpretations, and likewise the leaders of divergent points of view in the United States have not agreed on the proper interpretation of the actual, factual situation in world affairs.

Certain factors seem fairly clear. Europe in the twentieth century approached a crisis in economics, politics, and culture that flared in war, beginning in 1914. That crisis was interrupted by the peace from November, 1918, to September, 1939. In retrospect, the happy years of prosperity between the German Wars—about six of them before 1929—are a short and exceptional swing of the pendulum. The drift of the European world from the years immediately before 1914 to the present has been one of disintegration of the nineteenth-century society that gave all Western men a sense of security, optimism, and mission in an ever improving world.

Since it came into being the United States has lived in the shadow of the British Empire, an empire with which we were sometimes at odds, but one which profoundly influenced the leadership of the United States. When Washington issued his proclamation of neutrality, he was saying in a certain sense that we refused to fight the British. The leadership of those who brought about the War of 1812 must be regarded as an aberration in the sustained policy of the United States. For one of the most profound of the forces in American international politics has been the sympathy of large sections of our country for the British people. Whether we consider lawyers with their admiration for the common law, whether we consider businessmen and financiers with their admiration for the world success of British capitalism, whether educators who have regarded the English university as the model, whether the American writer with his passion for the greatness of English literature, or humble men with ancestors long since buried in English churchyards—the story is the same. In the twentieth century it has become clear that we are

committed in crisis to the preservation of the British people—that is, we accept this unspoken commitment which becomes clear in the heat of international controversy. Such is the international and often warlike heritage of the United States as one of the English-speaking communities of the world.

Therefore, the British Empire may be singular in this respect, that it was saved in the First World War by the only part of that empire which had conducted a successful rebellion against the mother country. It may be the same now, and yet again. Intellectually this proposition is stated in moral terms, in terms of saving civilization for democracy or from militarism.

Our declaration of war in 1917 was the end of a bitter debate. Socialists interpreted the war as a conflict of capitalistic imperialisms which could not possibly benefit the working class. But most intellectuals, liberals, preachers, and professors accepted the crusade on behalf of democracy and against militarism. Randolph Bourne was, for example, a lonely figure protesting against what he called the lies, the propaganda, the exaggerations, and the distortions of fact which led the American people to support the interpretation of the war given by President Woodrow Wilson. After the war the great days of propaganda were to be analyzed with critical acumen,[25] but that was not for the days of war themselves. There was a period of unexampled hope and enthusiasm in the history of the American people when they could support the Fourteen Points laid down by Wilson for the reorganization of the world, and in the League of Nations System proposed by Wilson they could see the consummation of the manifest destiny of the United States. The League of Nations was the instrument through which the purposes of the war to end war would be realized. Naturally, also, the League was to be an agency by which the savagery of the German people would be held in check in the future.

International Society. No state can ignore for long the existence of other states and peoples. International society, whatever may be its form, is inevitable, and political thinkers in nearly all periods have admitted the existence of obligations between states. The United States grew rapidly from a comparatively weak nation into a strong world republic. Two trends of thought march side by side in American political history. On the one hand, we have felt that the occupation of continental United States was inevitable and necessary to the American people; on the other hand, we have been willing most of the time to favor the de-

[25] See Harold D. Lasswell, *Propaganda Technique in the World War* (1927); James R. Mock and Cedric Larson, *Words That Won the War: The Story of the Committee on Public Information, 1917–1919* (1939).

velopment of peaceful relations between us and other states. In American opinion there has been strong advocacy of international arbitration, and institutions such as international courts which use the existing principles of international law. Finally, at the end of the war in 1918 there was, under the leadership of President Wilson, a burst of enthusiasm for the reorganization of the world in order that peace might be preserved. The League of Nations became a great symbol of the kind of world for which the American people had been fighting.

But the idea of the League of Nations was a culmination of a line of thought which had been present for centuries. The theoretical justification of the League of Nations system is simple; yet a variety of ideas, or types of thought, can be traced in the words of the Covenant of the League and in the writings of those who supported it. Nor can one say that the basic defense of the League was profoundly different from the defense of earlier and less complete types of international institutions. From the earliest times of civilization, humane thinkers have insisted that men should live in peace. They have insisted that men should live in peace in their own groups or nations, and that states and nations should resolve their differences without resort to violence. Christian thought since the time of the Church Fathers, notably St. Augustine, has insisted that peace is the proper state for the good life; and the development of a tradition of international law in the West in the sixteenth and seventeenth centuries has had a profound influence upon political leaders. With few exceptions war has been condemned by all thinkers, except when it has been waged for a just cause. Christians have recognized from the beginning that there are occasions when it is necessary for men to fight in their defense, but it is the moral duty of men to be sure that the wars they fight are necessary and just. The League System and the institutions before it were built upon the idea that peace is one of the noblest of social values. It was also built upon the idea that only by a system of procedures and institutions could this great value of human justice be attained. It may be added that when the League of Nations System was established at the end of the First World War, it had behind it the experience of other attempts to organize effectively an international society.

As we look back today upon the passion for international justice in 1918 and the years immediately following, we witness one of the tragic periods in the history of our culture. The League System failed—that is, the states in the League failed—to prevent the outbreak of world war a second time in the twentieth century. But it would not be fair to say that the mere procedures and institutions established in Geneva and The Hague were at fault. On the one hand, the great powers in the League failed to recognize and adjust the conflicts in international society; and,

on the other hand, certain powers, such as Japan, Italy, and Germany, resorted again to the principle of aggression and national expansion by violence. It may be urged cogently that had the powers in the League been willing to exercise international police measures against incipient aggression, the whole story of the breakdown of peaceful relations might have been different. Others urge that had the United States been a vigorous member of the League, we might have assisted the European powers in stopping the march of aggression. In any case, the hopes of the post-war period after 1918 did not materialize as had been thought possible.

Early in the history of the United States we showed ourselves willing to accept arbitration to settle international disputes. Particularly has this been the case in our disagreements with the British. At the outset we arbitrated under the Jay Treaty certain questions remaining from the Revolutionary War; we arbitrated claims which grew out of British action during the Civil War; disputes as to fishing rights have been settled peacefully; and, broadly, we have been able to reach agreement with the British concerning our interests under the Monroe Doctrine. At the end of the nineteenth century we took a leading part in the establishment of The Hague Court of arbitration, and on numerous occasions we supported treaties for the arbitration of international disputes between us and other states. It was natural, therefore, that during the war beginning in 1914 we should move on to the theory of the formal organization of a great League of Nations. Our diplomacy has moved on two levels; one is the sure assertion of our national rights, and the other is the principle of compromise and agreement between us and other countries.

When the Treaty of Versailles, which included the Covenant of the League of Nations, was presented to the United States Senate for ratification, there was no reason, under the American diplomatic tradition, why it should not have been ratified. Even if it is admitted that the League would fail ultimately because of great-power rivalry, the United States might well have set an example of cooperation in trying to solve international problems. On the one hand, the defenders of the Covenant pointed to our long diplomatic tradition of arbitration, our support of The Hague Court, and our intervention in the First World War against militarism and aggression. On the other hand, the opponents of the Covenant argued the principle of abstaining from the rivalries of Europe, the obvious weaknesses of any international organization, and the probable loss of national sovereignty in the declaration of war, should we become a member of an effective League of Nations. But the whole controversy in the Senate became clearly involved in the conflict of personalities between such men as Senator Lodge and President Wilson. The discussion of the Treaty was colored by the effort of the Democrats and Re-

publicans to get ready for the Presidential election of 1920, and by the interpretation of Democratic losses in the Congressional elections of 1918. Foreign policy and the protection of the international interests of the United States were landed squarely in the midst of domestic political controversy. A vigorous participation of the United States in the League of Nations might have delayed or even stopped the course that led to war in 1939, and it might have assisted in the solution of economic and cultural conflicts that ravaged Europe after 1919. Our failure to give every support to international cooperation after 1919, by membership in the League, is one of the tragic errors of American international policy.

Whatever one may say of the origins of wars and conflicts between states, our thinkers interested in international affairs asserted during the First World War and in the years following that the salvation of modern civilization depends on the elimination of war as a constant threat to a progressive life. The problems President Wilson attempted to solve were enormously complex, and we can in retrospect, perhaps, admit that the first consistent effort to organize international society might easily fail. The founding of the United Nations in 1945 and the dissolution of the League of Nations in 1946 is but the continuation of the effort to establish institutions that will preserve the peace of the world.[26]

Selected Bibliography

Bailey, Thomas A.: *A Diplomatic History of the American People* (1940).

———: *Woodrow Wilson and the Lost Peace* (1944).

Bartlett, R. J.: *The League to Enforce Peace* (1944).

———: *The Record of American Diplomacy* (1947).

Beard, Charles A., and Mary R. Beard: *The Rise of American Civilization* (2 vols., 1927–1930).

Bemis, Samuel F.: *A Diplomatic History of the United States* (1940).

Berdahl, Clarence A.: *The Policy of the United States with Respect to the League of Nations* (1932).

Birdsall, Paul: *Versailles Twenty Years After* (1941).

Bonsal, Stephen: *Unfinished Business* (1944).

Carey, Henry C.: *The Past, the Present and the Future* (1856).

———: *The Harmony of Interests* (1856).

Clark, Grover: *The Balance Sheets of Imperialism* (1936).

Colby, C. C., ed.: *Geographic Aspects of International Relations* (1938).

Emeny, Brooks: *The Strategy of Raw Materials: A Study of America in Peace and War* (1936).

[26] See Frank M. Russell, *Theories of International Relations* (1936), and the literature cited, for a comprehensive effort to state the theoretial foundations of the international movement. See *The Public Papers of Woodrow Wilson*, ed. by Ray Stannard Baker (6 vols., 1925–1927); Gabriel, *op. cit.*, Ch. 27; Clarence A. Berdahl, *The Policy of the United States with Respect to the League of Nations* (1932); Sharp and Kirk, *op. cit., passim.*

FORMAN, GRANT: *The Last Trek of the Indians* (1946).
GABRIEL, RALPH H.: *The Course of American Democratic Thought* (1940).
GETTELL, R. G.: *History of American Political Thought* (1928).
HENDRICK, B. J.: *The Life and Letters of Walter H. Page* (3 vols., 1922–1925).
HOOVER, HERBERT: *America's First Crusade* (1942).
LATANE, JOHN H., and DAVID W. WAINHOUSE: *A History of American Foreign Policy* (2d rev., 1940).
MAHAN, ALFRED THAYER: *Retrospect and Prospect: Studies in International Relations Naval and Political* (1902).
———: *Armaments and Arbitration: Or the Place of Force in the International Relations of States* (1912).
MATHEWS, JOHN M.: *American Foreign Relations: Conduct and Policies* (rev. ed., 1938).
MOON, PARKER T.: *Imperialism and World Politics* (1926).
NEARING, SCOTT: *The American Empire* (1921).
NOBLE, G. BERNARD: *Policies and Opinions at Paris, 1919* (1935).
PERKINS, DEXTER: *Hands Off: A History of the Monroe Doctrine* (1941).
PRATT, JULIUS W.: *Expansionists of 1812* (1925).
———: *Expansionists of 1898: The Acquisition of Hawaii and the Spanish Islands* (1936).
RICHARDSON, JAMES D.: *A Compilation of the Messages and Papers of the Presidents, 1789–1897* (10 vols., 1897).
ROOSEVELT, THEODORE: *The Winning of the West* (1896).
SCHNEIDER, H. W.: *A History of American Philosophy* (1946).
SIMONDS, FRANK H., and BROOKS EMENY: *The Great Powers in World Politics* (1939).
SPYKMAN, N. J.: *America's Strategy in World Politics* (1942).
STONER, J. E.: *S. O. Levinson and the Pact of Paris* (1943).
TUGWELL, R. G.: *The Stricken Land* (1947).
WEBB, W. P.: *The Great Plains* (1931).
WEINBERG, ALBERT K.: *Manifest Destiny: A Study of Nationalist Expansion in American History* (1935).
WHITTLESEY, DERWENT: *The Earth and the State* (1939).
WILLIAMS, BENJAMIN H.: *American Diplomacy* (1936).
WILSON, WOODROW: *The Public Papers of Woodrow Wilson,* ed. by Ray S. Baker and William E. Dodd (1925).
WOOFTER, T. J.: *Races and Ethnic Groups in American Life* (1933).

Chapter 15

SOCIAL SCIENCE COMES OF AGE

> The purpose of the study of political science is the maximum of good government for the people. As in the case of medicine, the pure science of politics needs to be advanced tremendously before much greater progress can be made in practice. Too much science or too much knowledge is a contradiction in terms. Therefore the *first* goal of political scientists is the constant increase of knowledge about government and the perfection of the science of politics. . . . A *second* function of political scientists is, therefore, to spread as widely as possible a knowledge of what good government is and what its benefits are to all citizens.—The Postwar program of the American Political Science Association (1947).

The Nature of Intelligence. If one were to ask what has been the most influential single development in the social sciences since the beginning of the twentieth century, the answer should be the secular or scientific theory of intelligence. Such a theory of the functioning of the mind emerged only slowly from eighteenth- and nineteenth-century science and scientific theory. But it has been the basis on which the social sciences, including political science, have made a claim to be heard in the discussion of social problems and in the making of political decisions. For this theory aims at nothing less than a science of intelligence; and it may be said, for example, that the logical theory of John Dewey is, to some, the best contemporary expression of this idea. Reason must be explained, in this theory, as a purely natural outgrowth of animal intelligence. Reason and the functioning of mind is a selective, and to some extent a conscious, product of evolution. The biological foundation of man's mind is the whole history of the evolution of animal forms, and human psychology may be studied in important respects at almost any level of animal intelligence. There is no distinction, then, between natural and moral sciences; there is no moral order dependent on the intelligence and will of God; and the proof of any proposition whatever can in the end be only scientific or empirical. Proof comes from science, and science emerges from the study of experience, for even the operations of the mind can add or subtract nothing from nature. The working of the mind is, in itself, part of the process of experience. The story of this development in American philosophy is summarized in William James's *Psychology,* published in 1890, and in the more recent work of John Dewey.

From naturalism in biology and psychology we come to pragmatism and instrumentalism in politics.

While many theologians of the late nineteenth century sought to find the meaning of God in evolution and in the emergence of social consciousness, the scientific theory of intelligence found no necessity for any theological baggage at all. To many scientists, the theologian and the biologist who might use as their text "Some call it evolution, others call it God" were merely trying to save what they could of older systems of philosophy. Any assumptions beyond the propositions of an empirical approach were not scientific and had no real basis in nature. While the first reactions to Darwin were the formulation of cosmic philosophies in the work of Herbert Spencer in England and his disciple, John Fiske, in the United States, philosophical biology and biological theology gave place to other trends of thought. In particular the new study of social psychology and sociology sought to give genetic accounts of social institutions, of forms of thought, language, customs, and political systems. Social history showed, in these theories, the adaptation through evolution of institutions to needs of the times and to the social environment. Since thinking is a product of mental evolution, it shows not law but instability. And history is left without law. Among the thinkers who were powerful in developing this general attitude one might cite William James, William Graham Sumner, Lester F. Ward, James Mark Baldwin, and the Chicago school of geneticists, including Albion Small, John Dewey, James H. Tufts, George H. Mead, W. I. Thomas, and Thorstein Veblen. Or, on a different level, George Santayana told something of the same story in *The Life of Reason*.[1]

The consequence for politics of the newer developments in the theory of intelligence was not only the study of politics in terms of experience, realism, empiricism, and the emergence of quantitative studies, but also a widespread attack on social reconstruction, reform, and an identification between the older aspirations of liberalism and the newer pragmatic and scientific method. Thus, while new techniques of research in political science, as well as in all of the other sciences, were surging to the foreground, it was assumed by such men as Charles E. Merriam that these new approaches to politics were the sure foundation of a future democracy. It was believed that on the basis of what men had learned in the twentieth century especially, new programs of political reform might be adopted that would bring to realization the age-old aspirations of man-

[1] Herbert W. Schneider, *A History of American Philosophy* (1946), devotes the latter half of his volume to the development of the modern secular or scientific theory of intelligence, showing particularly the later stages of American philosophical idealism.

kind for greater health, happiness, security, and human progress. But these new trends in social science, its contemporary coming-of-age, have faced likewise a great crisis in civilization. The positive benefits of government, the political fostering of progress, and the planning of a new society were formulated as ideas in an age of war and integral social disruption.

To critics of the new theory of intelligence and the aspiration of social scientists to help govern society, the great weakness of social theory in our time has been its failure to explain the actual course of experience or to offer techniques or means whereby war, economic debacle, totalitarianism, and cultural disintegration might be held in check. The critic might say that functional psychology has not touched the frustration and fanaticism of modern nationalists; that genetic explanations of institutions may just as well be preliminaries to retrogression as to progress; that the moral relativism of sociology and anthropology, or cultural study in general, has left little room for a sense of obligation; and that such a theory of morals ends in reducing public policy to material concerns and forgets the intangibles upon which much of civilization has been built in the past and, indeed, the present. Yet both the critics and the defenders of the new theory of the nature of intelligence might agree that intelligence, whatever it may be genetically, must be defended against myth, word magic, and the forces of modern irrationality. To save civilization, intellectual values must be saved, just as aspiration and morality must be saved.[2]

The Legacy of Versailles. Yet in the early days after the First World War, there seemed to be some reason in the optimism of the newly matured social sciences. It seemed that perhaps they had the proper answer to the issues of Western society. The great statements of war aims, summarized in the Fourteen Points and the speeches of President Woodrow Wilson, became the bill of rights of the new world. The war to end war had been fought, and even the German democrats could look toward their future with some degree of assurance. The hopes of humble men and women centered on the magnificent gathering of plenipotentiaries at Versailles, where the new charters of freedom were to be framed.

All assumed in those days that the world would take up the march toward progress where it left off in August, 1914. Few, it seems, anticipated the economic disorganization that was to follow the war. J. M. Keynes, for example, wrote a little book called *The Economic Consequences of Peace,* on which his reputation as an economist blossomed. In this work he denied the possibility of making Germany pay the cost of the war. But as the work of the Peace Conference progressed, an increasing num-

[2] See Ernst Cassirer, *The Myth of the State* (1947).

ber of critical voices were raised, for the peace was turning out to be the average performance of victors in armed struggle. German democrats were soon to learn that the Fourteen Points, the basis of the armistice, were not to be incorporated in the Treaties. Woodrow Wilson fought stubbornly for intelligence in the peace, and he believed that the only way to make the peace viable was to include the Covenant of the League of Nations and the Charter of the International Labor Organization in the Treaties. Since Americans had fought for democracy and a better world, we were not interested in territory as were the other victorious powers; for we were concerned, or thought we were, with the foundations, institutional and moral, of an ordered world.

In spite of the liquidation of the nineteenth-century system in Europe, the United States was to enjoy, for a short time further, a prosperity such as the leaders of that remarkable century had often dreamed. While there was a short economic "recession" soon after the war, the industrial system of the United States got on its feet and succeeded in demobilizing the armies of the United States and liquidating its war industries. We thought we had escaped the crisis into which the rest of the world had plunged. It was futile to point out that the prosperity of the United States did not have a sure foundation; that purchases from our industries were being financed by loans from Americans; or that the high tariff policy of the United States made it impossible for either European or South American governments to pay back the loans we made so freely.

If there was public scandal in the national administration under President Warren G. Harding, it did not disturb the tranquil confidence of Americans in "the American way." The public debt was being reduced by the Republicans after the war, there was little unemployment, and technology was making advances, such as the widespread introduction of the radio and broadcasting. The development of more efficient means of mass production and labor-saving machinery was displacing workers, but the classical conception prevailed which held that new machinery by enhancing production made in the end new opportunities for labor in other industries.

While there was serious effort to enter the Permanent Court of International Justice, the compromise failed finally under President Coolidge. Signs of disturbance in Europe were minimized. When Mussolini marched on Rome in 1922, Italian Fascism was first regarded as Mediterranean political comedy. Some believed that business would not be disciplined by the Italian system, though labor would. Hence, Mussolini had perhaps done a good job for Italy, though the system was peculiar to that country. Again, the menace of communism that had clouded the happy victory of 1918 began to fade; the danger of world revolution was pass-

ing, and the Communist party in the United States gradually came to be regarded as a small group of unbalanced individuals. International liberalism in the United States looked with favor on the Washington Conference in 1921, which brought about a regulation of the naval armament race between the United States, Great Britain, Japan, and other countries. And if the United States could not be lured into the League of Nations or the Permanent Court, others sponsored the movement for the outlawry of war which resulted in the almost universal signing of the Briand-Kellogg Peace Pact in 1928 by which the nations renounced war as an instrument of national policy.[3]

The years before the autumn of 1929 were, therefore, happy ones for intellectuals as well as political leaders of the United States. Small injustices could be magnified into great ones, and the critics of a triumphant capitalist democracy could announce in prosperity the doom of the system. It was easy for economists to discuss the impending disaster from foreign loans to Europe and South America, and to emphasize the depressed condition in American agriculture. Free-traders could urge that a great economic crash was making, but in the full tide of American prosperity no one dared to "sell America short." Somehow we believed that the land boom of over a hundred years would continue, that wages would always rise, that urban real estate would increase in value, that population and cities would grow as in the past. If the frontier and an ever expanding population (through immigration and the birth rate) were not so sure in the future, we turned to the new frontier of human need that is inexhaustible. Luxury business boomed, and the cost of distribution rose; lucky strikes and huge profits were still being made. And meanwhile the signs of international and domestic disturbance were regarded as minor irritants to the inevitable forward march of modern business society.

Criticism of Democracy. For the intellectuals it was therefore a time of detachment and debunking. It was safe to criticize institutions because the institutions denounced were safe beyond criticism. Democracy came under the hammer, but few doubted the permanence of parliamentary institutions in Europe and America. Influential people apparently enjoyed being laughed at. The citizens of Main Street bought avidly Sinclair Lewis's *Main Street,* and young intellectuals continued to read Upton Sinclair's *Brass Check* and *The Jungle.* Merz could describe in flamboyant terms *The American Bandwagon,* and critical authors could with profit expose the fallibilities of national heroes. In

[3] See James T. Shotwell, *War As an Instrument of National Policy and Its Renunciation in the Pact of Paris* (1929).

the jubilant satire of H. L. Mencken in *The American Mercury* the weaknesses of American democracy were paraded before an appreciative democratic audience. In his *Notes on Democracy* (1926) he stated that the democratic envy of the Iowa swineherd leads him to vote against the carnalities of Chicago and Atlantic City. The democratic citizen votes negatively, against the ruby life he cannot enjoy; the inferior men are always against those who are their betters. Intelligent writers and thinkers must appeal to the civilized minority.[4]

Some scientists likewise turned their guns against democracy and the conventional faith of the average American. Under the impact of the new technique of the "intelligence test," first used on a wide scale during the First World War on Americans drafted for military service, it was discovered that the mental age of our citizenry was not all that it should be. Most of us, it might seem, were little better than children.[5] As the psychologists spoke, "the great democratic conspiracy" against ability was again, and as of old, discovered. Democracy, it was urged, cannot work without an intelligent electorate, and some effort must be made to give the intelligent a fair share of political power.[6] Studies of superior children revealed that they came mostly from the more favorably situated families. The argument became clear that such inequalities arose from differences in mental ability, while the reply from the environmentalists insisted that those more favorably situated have a greater opportunity to learn how to decipher the abracadabra of intelligence tests.[7]

In similar vein the popular eugenists began their attack on the carelessness of democracy in the breeding of its citizens. The birth-control movement struggled against the Christian demand that the law frown upon the dissemination of information on contraceptives. Eugenists sought and secured laws for the sterilization of the criminal and unfit. And in reply other biologists insisted that such eugenic programs would have little relation to the biological improvement of the level of democratic citizenship. If earlier eugenic studies attempted to show the

[4] *Cf.* George Santayana, *Character and Opinion in the United States* (1934); Francis W. Coker, *Recent Political Thought* (1934); Vernon L. Parrington, *Main Currents in American Thought* (1930), Vol. III.

[5] See C. S. Yoakum and R. M. Yerkes, *Army Mental Tests* (1920); C. C. Brigham, *A Study of American Intelligence* (1923).

[6] See N. J. Lennes, *Whither Democracy?* (1927); A. M. Ludovici, *A Defense of Aristocracy: A Textbook for Tories* (1915); Irving Babbitt, *Democracy and Leadership* (1924). *Cf.* H. E. von Holst, *The Constitutional and Political History of the United States* (8 vols., 1881–1892).

[7] See Lewis M. Terman, *Mental and Physical Traits of a Thousand Gifted Children,* Genetic Studies of Genius (2 vols., 1925–1926). See also Terman's extended work on mental tests.

intelligence and superiority of Anglo-Saxons, later eugenists were not so sure. The problem became one of difference between individuals in the same racial or class groups.[8]

Attacks on the rationality of men meant the liquidation of the eighteenth-century tradition of the Enlightenment. They meant that science suggests that all men are not equally subject to the processes of education. They tended to prove the basic inequality of men, and that only some men are capable of enjoying the fruits of reason. They suggested also that there are forces at work in social relations over which we have no control and which a well ordered society should take into account. They meant that the optimism of nineteenth-century American democracy must be tempered in a scientific age.

The idea of the objective study of society is in itself a principle of the Enlightenment, advocated by Voltaire and others; it was a principle which its early proponents believed could have no other result than to defend the rights of men against the historic enslavement of institutions.[9] The initial rationalism of the Enlightenment and the common-sense philosophy of the British was materially stimulated by the impact of the theory of evolution propounded by Darwin and Wallace. Evolution, whether in natural or social science, came to dominate much of the thought of the nineteenth century. While social evolutionists like Herbert Spencer in England and John Fiske in the United States believed that evolution was working for the good of mankind, there was, it is clear, no fundamental reason why this should be so. Social science might just as well lead to social pessimism, unless one assumed on metaphysical grounds, like Kant, that reason is working in the end for the victory of the good. The optimist must, for the most part, believe that the present is exceptional and that its vices will be overcome, while the pessimist

[8] See E. G. Conklin, *The Direction of Human Evolution* (1921); *Heredity and Environment* (1927); J. B. S. Haldane, *Heredity and Politics* (1938); *The Inequality of Man and Other Essays* (1932); Franz Boas, *The Mind of Primitive Man* (1938); *Race, Language and Culture* (1940); P. Popenoe and R. H. Johnson, *Applied Eugenics* (1918); Earnest A. Hooton, *Up from the Ape* (1931); *Apes, Men and Morons* (1937); *Why Men Behave Like Apes, and Vice Versa* (1940); Frederick Osborn, *Preface to Eugenics* (1940).

On racial theory, see Lothrop Stoddard, *The Rising Tide of Color Against White Supremacy* (1920); *The Revolt Against Civilization* (1922); *Racial Realities in Europe* (1924); Madison Grant, *The Passing of a Great Race* (1916); *The Conquest of a Continent* (1933); Paul Radin, *The Method and Theory of Ethnology* (1933); *The Racial Myth* (1934); Ruth Benedict, *Race: Science and Politics* (1940).

[9] See C. L. Becker, *The Heavenly City of the Eighteenth-century Philosophers* (1932); Elie Halévy, *The Growth of Philosophic Radicalism,* trans. from the French (1928); Guido de Ruggiero, *The History of European Liberalism,* trans. from the Italian (1927).

may be led to believe that the present is completely typical of the whole social and historical process of development.[10]

Idealism and Determinism. Thinkers like Josiah Royce, William E. Hocking, and Norman Wilde tried to introduce to the American mind the conception of political and philosophical idealism: that the community is by its nature the embodiment of morality and the individual attains his full moral stature in being an obedient and receptive citizen. But idealism has not taken deep root in American thought,[11] as it did in Germany in the nineteenth century and, to a lesser degree, in England during the same period. Idealism saw freedom in the context of the spirit, and it varied in its immediate judgment of the particular material conditions under which men lived.[12] Idealism is, therefore, not to be the American answer to the impact of the social world upon the individual.

In the period we now face, the dissatisfaction of Henry Adams with the ideals of the Gilded Age, the era of triumphant capitalism, becomes symbolic. When Henry Adams died in 1918, having lived since 1838, his work *The Education of Henry Adams* was published. He sought, partially under the influence of Brooks Adams and partly under the influence of his own historical studies, a dynamic law of history. He came to see forces all around him, and that in the modern world those who controlled were not men of ideals but men who manage the forces operating in society. The work of domestic progress, he urged, is done by masses of mechanical power, and society is controlled by those who control these forces, such as coal or electricity. In his search for unity he turned to *Mont-Saint-Michel and Chartres,* and as a lover of the Middle Ages he understood why he and his family had not been friendly with the Puritan capitalism of his native Massachusetts.

From the world of physics he drew the second law of thermodynamics, the principle of entropy—that is, the dissipation rather than the conservation of energy. In modern society the dissipation of force is accelerated, and thus the dream of a progressive, materialistic society runs against the determined course of the universe. The corruption of the Grant administration was simply incidental; it was repeated a thousand times throughout democracy, but Adams was trying to point to the course

[10] F. G. Wilson, "Pessimism in American Politics," *The Journal of Politics,* VII (1945), pp. 128–144.

[11] Schneider, *op. cit.,* discusses fully the late nineteenth-century movement in the United States. It is not discussed here because its political impulse was not strong.

[12] Josiah Royce, *The Hope of the Great Community* (1916); *The Philosophy of Loyalty* (1918); *The World and the Individual* (1901); William E. Hocking, *Man and the State* (1926); *The Lasting Elements of Individualism* (1937); Norman Wilde, *The Ethical Basis of the State* (1924).

that would be followed in the future. He was so sure that Americans of the Progressive age would be uninterested in his work, his protest against the world that was America, that he would not permit either of these books to be published immediately; yet when they were, they became surprisingly popular.[13]

When Adams suggested that the degradation of energy might be the counterforce to that suggested by the theory of evolution, he was moving against most of the axioms of the social scientists of his own and our generation. To suggest as he did that thought might reach the limits of its possibilities, say by 1921, would be shocking enough to the social theorist.[14] But Adams was too mellow to be a wailing prophet.

> To educate—one's self to begin with—had been the effort of one's life for sixty years [he observed]; and the difficulties of education had gone on doubling with the coal-output, until the prospect of waiting another ten years, in order to face a seventh doubling of complexities, allured one's imagination but slightly. The law of acceleration was definite, and did not require ten years' more study except to show whether it held good. No scheme could be suggested to the new American, and no fault needed to be found, or complaint made; but the next great influx of new forces seemed near at hand, and its style of education promised to be violently coercive. The movement from unity into multiplicity, between 1200 and 1900, was unbroken in sequence, and rapid in acceleration. Prolonged one generation longer, it would require a new social mind. As though thought were common salt in indefinite solution it must enter a new phase subject to new laws. Thus far, since five or ten thousand years, the mind had successfully reacted, and nothing yet proved that it would fail to react—but it would need to jump.[15]

Optimism in Social Science. The optimism of the political ideas of social science, however, did not reflect the remote skepticism of the late descendants of the Adams family. Political science began in the latter part of the nineteenth century, under the influence of German and English ideas, to turn first of all to the historical approach as reflected in Francis Lieber, Woodrow Wilson, and John W. Burgess. Political science was, indeed, primarily the study of public law and political institutions. It was not concerned until later with the question of scientific method and the capacity of students of society to indicate what course might be followed. In general, political science has wavered between the ethical or purposive approach and the attempt to describe what is actually hap-

[13] See Henry Adams, *The Degradation of the Democratic Dogma*, with an introduction by Brooks Adams (1919).

[14] *Ibid., p.* 308.

[15] *The Education of Henry Adams* (Modern Library ed.), p. 498. By permission of Houghton Mifflin Company.

pening in the process of social existence.[16] In the years following the end of the First World War, however, significant developments in the study of politics took place. These developments suggested the well-rounded outlines of a mature social science, but it was a maturity that was searching for the fundamental factors which were shaping the topography of history.

During the eighteenth century, in both France and England, social science emerged with the belief that people can do what they will with the contours of society. Such was the theory of Helvetius, Voltaire, and even to some degree of the great Montesquieu; and such was in measure the theory of the physiocrats and the English classical economists led by Adam Smith, who published his *Wealth of Nations* in 1776. While all of these thinkers would admit laws in the operation of society, they nevertheless believed, like Plutarch and the ancients, in the importance of human wisdom or prudence. Men like Godwin, who believed in the ultimate elevation of the human mind, met and combated determinism in the thought of Malthus, who insisted on the inevitability of disagreeable checks on the growth of population, and who, therefore, questioned the assurance of progress. Christianity, likewise, has always insisted on the power of the right will of men to direct their course on this world as well as toward the next.

Western social science at the height was, therefore, in large measure a search for process which in implication conditioned and limited the human will and human purpose in history. Marxian thought by 1850 had taken over the Hegelian law of history and had made it the basis for the ultimate victory of the proletariat, *i.e.*, the attainment of real progress; the evolutionists in the nineteenth century had shown, or tried to, that the world was working toward a better system, and even historical jurists like Sir Henry Sumner Maine saw that the course of progressive societies was from status to freedom of contract. It may be added that university, or scholarly, social science in the years after 1918 hardly questioned the inevitability of progress through the guiding hand of science. But political science was in fact based on a kind of radical empiricism—that is, that what one sees or feels is real. Political scientists have not been troubled with the ultimate implications of metaphysics, and the arguments of those who see a philosophical reality beyond the statistical facts of politics have not disturbed the political publicists.

One of the earlier searches for law in society arose from the impact of evolution as applied through the study of primitive society. Herbert Spencer's study of evolution, the principles of Comte, and the general

[16] See Anna Haddow, *Political Science in American Colleges and Universities*, ed. by William Anderson (1939).

development of American anthropology suggested the idea that there might be a pattern of growth from the primitive to the more civilized forms of social organization.[17] Indicating the impact of the Darwinian hypothesis on the study of politics, Henry Jones Ford outlined a naturalistic concept of the state. The evolution of man, he urged, cannot be accounted for by the individualistic notion in biological evolution; an interpretation based on social evolution alone will account for the life of man in communities, for man is a product of the community and society. But the social hypothesis makes the state an organism, though not on the basis of organic analogy. The state is an organism distinct in type from the animal or vegetable organism, for every order of organic life develops its own forms in its own way.[18]

Science in the Study of Society. It was not, however, the scientific history of society which drove forward American political science. It was a point of view that was a combination of nineteenth-century moralism or optimism and the new concept of a science of society, partly statistical, partly psychological, and partly economic. It all added up to a wavering between a realistic description of what was happening and a statement of the purposes to be realized in the future. In the world of journalism, literature, and art after 1920, we have seen that the disillusionment of a post-Versailles generation took seriously the savage attack on the vulgarity of American capitalistic prosperity. But that atmosphere did not penetrate with respectability in the writings of the American political scientist. The optimism of William James in his *Pragmatism* and the common-sense philosophy of John Dewey, who propounded a pragmatic instrumentalism, gave promise to the student of politics of a happy and not a grubby future for democracy.[19] When Charles E. Merriam published his *New Aspects of Politics* (1925) bringing together the impact of statistics, psychology, and other new approaches under the banner of optimism, he was expressing more completely than the escapist the hopeful tone of American social science. Behind the proposition that political prudence might guide us, lay the view that, properly consulted, the social scientist might instruct the new generation in attaining a future of security. It was an atmosphere in which the chastened progressivism and reformism of a previous generation has come to rest in the academic chair. Intelligence, reason, and scientific method in the social studies could solve

[17] On the influence of nineteenth-century science, see *The Letters of John Fiske*, ed. by his daughter, Ethel F. Fisk (1940).

[18] Henry Jones Ford, *The Natural History of the State* (1915).

[19] See, for example, John Dewey, *The Public and Its Problems* (1927). See also *Intelligence in the Modern World: John Dewey's Philosophy*, ed. by Joseph Ratner (Modern Library, 1939).

the problems facing society.[20] Political science had gone beyond the calm historicism of Woodrow Wilson and W. W. Willoughby, whose *The Fundamental Concepts of Public Law* in 1924 represented what is perhaps the last of the great efforts to interpret the state in terms of a juristic theory of state personality endowed with a sovereign will.

In the belief of a reconstructed world after 1918, liberal thought adopted to some degree in the United States the principles of political pluralism which had been developed in German, French, and English thought. While Harold J. Laski was teaching in the United States, he argued that the concept of sovereignty had no further utility for political science, and that the state should be founded upon the groups and associations which naturally form in any society. On the one hand, the idea of sovereignty was unreal, since no state had every really been sovereign in the juristic sense; and on the other hand, the idea of sovereignty was a menace to the liberal organization of a free society.[21] There was for a time a general appreciation of pluralistic thought in American political science. This appreciation faded, however, with the end of the era of prosperity and the rising shadow of the authoritarian state after 1930.[22]

Among the most impressive of the post-Versailles movements in thought was the use of psychology in the study of politics. The French thinkers, such as Tarde, Le Bon, and others, had studied the problems of group behavior, and Le Bon particularly condemned the quality of human action when it is expressed in crowds or mobs. Graham Wallas in England had written, early in the twentieth century, his *Human Nature in Politics,* which brought into clear relief the irrational factors, emotions, and instincts in political action. Wallas's book was to have a profound influence in the study of politics, and nearly all American political scientists recognized that the pure rationalism of liberalism could not describe adequately the course of politics. For a time "instinct" psychology was applied to politics, and there was a serious attempt to examine, in social psychology, the pattern of mass or group behavior.[23]

[20] *Cf.* Morris R. Cohen, *Reason and Nature: An Essay on the Meaning of Scientific Method* (1931).

[21] See Harold J. Laski, *Authority in the Modern State* (1919); *The Foundations of Sovereignty and Other Essays* (1921); *A Grammar of Politics* (2d ed., 1931).

[22] See G. H. Sabine, "Pluralism: A Point of View," *The American Political Science Review,* XVII (1923), 49*ff.;* M. P. Follett, *The New State* (1918); W. Y. Elliot, *The Pragmatic Revolt in Politics* (1928).

[23] In C. E. Merriam, H. E. Barnes, and Others, *Political Theories Recent Times* (1924), Ch. X: "Social Psychology and Political Theory," by C. E. Gehlke; Coker, *op. cit.,* Part II; Richard T. La Piere, *Collective Behavior* (1938); William McDougall, *Is America Safe for Democracy?* (1921); *The Group Mind* (1920); W. H. R. Rivers, *Psychology and Politics* (1923); E. D. Martin, *The Behavior of Crowds* (1920).

Freud argued that the subconscious mind in each individual influences conduct, but the impact of this mind on conduct is indirect and has to be discovered by the trained analyst through the symbolism of dreams, eccentric behavior, and other aspects of action. By the method of free fancy, rather than a logical approach to the problem, the individual may be brought to see the real forces directing his conduct. By probing into the background of individuals, the roots of various types of political personality may be discovered. The work of Harold D. Lasswell showed the characteristics of the political leader, the administrative type, and the grounds for certain convictions. By implication, the convictions and forms of activity an individual may have are not to be stated solely in terms of the arguments or the logical apparatus that a person may use. Thus a radical may be simply a person with certain forms of psychological maladjustments, just as the administrator may be explained in part by his early reaction to the family environment. While analytic psychology has as its object the therapeutic restoration of balance in any individual, the broader implication is that most individuals are to be explained on other grounds than the obvious and logical statement of reasons.[24]

Of long-run significance in the study of politics, the psychological approach has urged the importance of the analysis of propaganda. During the First World War the force of propaganda in sustaining and breaking morale was of immense value, but when the war was over, it was discovered that governments and official information bureaus had not been too careful about the truth of their statements. Influencing opinion and arousing the hatred of men against the foe had, therefore, become techniques of incalculable political import. By the time of the Second World War, propaganda techniques were recognized by all governments as one of the major aspects of war. The Germans, especially, were regarded as experts in the use of ideas as weapons, quite regardless of whether the ideas were true or false. Psychology had helped, it was said, in the organization of terror as a phase of the broader military engagement.[25]

Social Science and the Law. The idea of a flexible science of society in the post-Versailles years also affected the law. Lawyers, perhaps more than any other group, have offered resistance to the changing

[24] John Dollard and Others, *Frustration and Aggression* (1939); Harold D. Lasswell, *Psychopathology and Politics* (1930); *Politics: Who Gets What, When, How* (1936).

[25] J. R. Mock and Cedric Larson, *Words That Won the War* (1939); Edmond Taylor, *The Strategy of Terror* (1940); William Albig, *Public Opinion* (1939); Harwood L. Childs, ed., *Propaganda and Dictatorship* (1936).

mentality of the world around them. The justices of the Supreme Court continued to be, until the composition of the court was changed by the new appointments of President Roosevelt, the chief and most articulate defenders of the older economic order in the United States. Often the Supreme Court had struck down legislation designed to protect the less fortunate members of society, on the ground that the Constitution of the United States stood for freedom of contract.[26] All over the world the negation of the historic system of liberalism was in process, and the problem in the United States after the beginning of the Great Depression in 1929 was little different. By the time of the outbreak of the Second World War in 1939, the older judges had retired from the Court, and with them had gone the conservatism of the earlier bench. An era of judicial supremacy had passed.[27] Instead, Congress was given virtually unlimited power to do what it might wish to do, and the states gradually ceased to be any barrier against the extension of Federal power.

The way for judicial change after 1930 had been prepared by a distinguished series of critics of the judicial process and the function of law in society. Oliver Wendell Holmes, Jr., long an associate justice of the Supreme Court, had urged an experimental attitude toward the law, an attitude which would assist the law in adapting itself to changes in society. The law could not stand against the trends of history, and the judges should not try, through their power of declaring laws unconstitutional, to read their own convictions into the Constitution as the supreme law of the land. Neither sterile logic nor unimaginative history could enable the judges to be the proper servants of a dynamic society; rather there must be a continually fresh approach based upon facts interpreted in the light of reason. Thus, Holmes was more willing than most of his late nineteenth-century colleagues to permit both Congress and the state

[26] See, in general, Edward S. Corwin, *The Twilight of the Supreme Court* (1934); *The Commerce Power Versus State Rights* (1936); *Constitutional Revolution, Ltd.* (1941).

[27] See Louis B. Boudin, *Government by Judiciary* (2 vols., 1932); Gustavus Myers, *History of the Supreme Court of the United States* (1912); Charles Warren, *The Supreme Court in United States History* (rev. ed., 1937); *Congress, the Constitution and the Supreme Court* (rev. ed., 1935); Charles A. Beard, *The Supreme Court and the Constitution* (1912); Howard L. McBain, *The Living Constitution* (1927); John M. Mathews, *The American Constitutional System* (2d ed., 1940); A. C. McLaughlin, *The Courts, the Constitution and Parties* (1912); Robert J. Harris, *Judicial Review in the United States* (1941); C. P. Patterson, "The Supreme Court: Declarer or Amender?" *Brooklyn Law Review*, X (1940), 48*ff.*; Robert H. Jackson, *The Struggle for Judicial Supremacy: A Study of a Crisis in American Power Politics* (1941); Charles Fairman, *Mr. Justice Miller and the Supreme Court, 1862–1890* (1941).

legislatures to enact laws which seemed contrary to the spirit of democratic capitalism.[28]

If we should mention another of the American jurists who prepared the way for a retirement of the Court from the strict censorship of legislative morality, we would turn no doubt to the work of Dean Roscoe Pound of the Harvard Law School, whose theories of sociological jurisprudence have passed from students to lawyers, and from lawyers to the judges who eventually determine the content of the law. Law is an instrument for the protection of interests, said Pound. These interests may be classified, but the protection of the social interest is undoubtedly the greatest function of the law. The law, therefore, must be acutely conscious of the society in which it operates; and it will hardly do to urge against a need of society the historic value, having little relation to modernity. From a pragmatic approach to legal problems and from a knowledge gained by the social sciences, the weakness of the rule of precedents, *stare decisis,* will be avoided. The law is an agency of social control; but it is a developing agency and it must be conscious of purpose or ideals, continually changing, if need be, through the work of the lawyers and the judges. The work of Pound has been continued, and modified, in the jurisprudential thought of men like Associate Justice L. D. Brandeis and Associate Justice Benjamin Cardozo; but altogether this new trend in juristic thought has enabled the lawyers to accept ideals for the future while they adjust themselves to the facts of a troubled society.[29]

Modern Realism in Political Science. Most works in the field of politics are a combination of ethical judgment and a description of the structure and activity of society. During the period since the armistice in 1918, there has been a trend toward description of what is, rather than what ought to be. Books written on the League of Nations, for example,

[28] See *Collected Legal Papers* (1920); Alfred Lief, ed., *The Dissenting Opinions of Mr. Justice Holmes* (1929); *Representative Opinions of Mr. Justice Holmes* (1931); Silas Bent, *Justice Oliver Wendell Holmes* (1932); Mark De Wolfe Howe, ed., *Holmes-Pollock Letters: the Correspondence of Mr. Justice Holmes and Sir Frederick Pollock, 1874–1932* (2 vols., 1941).

[29] See Roscoe Pound, *The Spirit of the Common Law* (1921); *Interpretations of Legal History* (1923); *An Introduction to the Philosophy of Law* (1922); *The Formative Era of American Law* (1938); *Contemporary Juristic Theory* (1940); Benjamin Cardozo, *The Nature of the Judicial Process* (1921); Felix Frankfurter, *Law and Politics: Occasional Papers* (1939); *The Public and Its Government* (1930); Felix Frankfurter and James Landis, *The Business of the Supreme Court* (1927); Louis D. Brandeis, *Other People's Money* (1914); *The Curse of Bigness: Miscellaneous Papers by Louis D. Brandeis,* ed. by O. K. Frankel (1934); Alpheus T. Mason, *Brandeis: Lawyer and Judge in the Modern State* (1938); *Brandeis: A Free Man's Life* (1946); Moses J. Aronson, "Mr. Justice Stone and the Spirit of the Common Law," *Cornell Law Quarterly,* XXV (1940), 489*ff.*

might describe what the League was doing, but behind them would be the hope of a better ordering of the world; in political controversy, naturally, the element of evaluation and judgment loomed large. In university political science the tendency toward description grew ever stronger until the outbreak of the Second World War, when the statement of ethical purpose and judgment again became predominant.

While the works of such men as T. V. Smith [30] were directed to showing the "promise" of American life—as did those of Herbert Croly, the founder of the *New Republic*—the poetic statement of American politics has not appealed to those who wished to make the study of politics realistic and scientific. In the end the purpose of "realism" itself is to indicate what is, not what ought to be, without much suggestion of the Hegelian identification of is and ought. Graham Wallas's work in political psychology, the examination of human nature at work in the process of politics, was a significant start—if we do not wish to go back to Machiavelli, for example, to find the first great modern inspiration to realism.

A. F. Bentley broke new ground in *The Process of Government* (1908) by describing the heart of the political process as the interaction of groups, while Frank R. Kent undertook to state just how the political leader wins elections through an organized and solidly voting minority of the electorate.[31] The realistic tradition was continued later in the period by Peter H. Odegard who, for example, studied the work of the Anti-Saloon League as a pressure group. Pendleton Herring examined the whirring wheels of democracy at work in *The Politics of Democracy* (1940), and J. T. Salter studied by personal interviews American political leaders and bosses, not with an eye to their condemnation but for the purpose of understanding their minds and the techniques they used in getting the votes that kept them in power.[32]

[30] See T. V. Smith, *The Democratic Way of Life* (1926); *The Promise of American Politics* (1936); *The American Doctrine of Equality* (1927).

[31] *The Great Game of Politics* (1923); *Political Behavior* (1928).

[32] See Peter H. Odegard, *Pressure Politics: The Story of the Anti-Saloon League* (1928); *The American Public Mind* (1930); Peter H. Odegard and E. Allen Helms, *American Politics* (1938); J. T. Salter, *Boss Rule: Portraits in City Politics* (1935); *The Pattern of Politics* (1940); Belle Zeller, *Pressure Politics in New York* (1937); E. M. Sait, *American Political Parties and Elections* (rev. ed., 1939); André Siegfried, *America Comes of Age*, trans. from the French (1927); Donald C. Blaisdell, *Economic Power and Political Pressures*, Temporary National Economic Committee Monograph No. 26 (1941); Harnett T. Kane, *Louisiana Hayride: The American Rehearsal for Dictatorship, 1928–1940* (1941), which studies the career of Huey Long; W. V. Holloway, "The Crash of the Long Machine and Its Aftermath," *The Journal of Politics*, Vol. III (1941), pp. 348*ff*.

There was, likewise, in this period an increasing attention given to the study of public opinion. The early works of A. L. Lowell began to be supplemented, not only by studies in propaganda, but also by efforts to measure public opinion. When Walter Lippmann published his *Public Opinion* in 1922, a new interest was stimulated in the descriptive and realistic approach to the problem of this significant force in the process of politics.[33] While Lippmann indicated the difficulty of any individual in getting a realistic picture of the world around him, the following years saw the development of the "poll" technique of estimating what opinion was at a given time on any specific issue,[34] and at Princeton University *The Public Opinion Quarterly* was established under the editorship of Harwood L. Childs. At the same time the forces shaping public opinion —that is, propaganda—began to be studied, and propaganda analysis became a recognized function of institutional research. In addition, the operation of the means of communication, such as the newspaper, the radio, and motion pictures, came into the limelight as needing examination in a realistic fashion. A vigorous criticism of the "polling" of public opinion emerged, urging broadly that the poll itself was a force in shaping opinion, or directing it toward specific ends.

The basic implication of these developments is that there are methods or procedures in observing political society which give better or more prudent answers than the rule of thumb or careless historical observation used by the untrained. Thus, as a method of political study of a realistic character, statistics or quantitative methods came to the foreground in social investigation, whereas such methods had previously been used only in more restricted areas of study, particularly in the study of economic activity. Statistical analysis is interested in both the past situation and what is likely to take place in the future. While only a few political scientists have undertaken quantitative studies, it cannot be doubted that the use of statistics is a close approach to reality in the social situation.[35] On the other hand, since most of the quantitative

[33] See A. L. Lowell, *Public Opinion and Popular Government* (1913); *Public Opinion in War and Peace* (1923); W. Brooke Graves, ed., *Readings in Public Opinion* (1928); Walter Lippmann, *Public Opinion* (1922); *The Phantom Public* (1925).

[34] See George H. Gallup, *The Pulse of Democracy: The Public Opinion Poll and How It Works* (1940); William Albig, *Public Opinion* (1939).

[35] See, among the literature on this subject, Stuart A. Rice, *Quantitative Methods in Politics* (1928); *Methods in Social Science: A Case Book* (1931); Herman C. Beyle, *Identification and Analysis of Attribute-cluster-blocs* (1931); L. L. Thurstone and E. J. Chave, *The Measurement of Attitude* (1929); C. E. Merriam, *New Aspects of Politics* (1925); H. F. Gosnell, *Machine Politics: Chicago Model* (1937); *Getting Out the Vote: An Experiment in the Stimulation of Voting* (1927); H. F. Gosnell and Norman M. Pearson, "Relation of Economic and Social Conditions to Voting Behavior in Iowa, 1924–1936," *The Journal of Social Psychology*, XIII (1941), 15*ff*.

theory of method is internal in character—that is, it is concerned with the validity of its own procedure—it has not touched the broader range of values involved in political purpose, nor has it stated what seem to be the fundamental factors in the dynamics of social movement.[36]

Capitalism in Crisis. We must turn now to some of the broader facets in the evolution of the American economic system, that emerged in an acute form during the autumn of 1929. We have already seen that American business believed it had solved the problem of a growing economy under the conditions of the post-Versailles world. In the attitude of President Calvin Coolidge, who succeeded Warren G. Harding in 1923, the student of American ideas can see the complacency, the assurance and the optimism of American business society.[37] It was a hopeful time in which the dry inarticulateness of Coolidge and the witticisms of Will Rogers could best express the buoyancy of American economic life. The academic skeptics could and did urge the danger signs ahead, such as the lending program combined with a tariff policy which would prevent repayment, and the slowing down in 1928 of the building trades. But it was the misfortune of Herbert Hoover to be President of the United States when the crash came. It was a misfortune since Hoover was one of the staunchest of American individualists, and he tried to steer the national government toward policies that would have enabled the economy to move forward again after a period of deflation and liquidation.

The depth of the economic disorganization can only be measured by the remedies supported by the American people in the election and reelection of Franklin D. Roosevelt as President of the United States in 1932, 1936, 1940, and 1944, as well as in the outbreak again of war in Europe. From 1929 on, and especially after the rise of Hitler to power in Germany, the consciousness of a vast revolution at work in the world became the most important single fact in the political theory of the modern state.[38] Even now no one can be sure that the contours of the

[36] A powerful stimulus to research in this period was the work of the Social Science Research Council, which undertook not only to assist individuals in their research, but also to integrate the investigations of all of the social sciences. Part of this effort has been, of course, to assist projects that cross from one social science to another; but it has also involved careful studies in research methods and techniques. An example of joint research effort in this period is the Commission on Recent Social Trends, under President Hoover.

[37] See *The Autobiography of Calvin Coolidge* (1929); *The Price of Freedom: Speeches and Addresses by Calvin Coolidge* (1924); William Allen White, *A Puritan in Babylon* (1938).

[38] See Hermann Rauschning, *The Revolution of Nihilism* (1939); *The Redemption of Democracy* (1941); Robert C. Brooks, "Reflections on the 'World Revolution' of 1940," *The American Political Science Review*, Vol. XXXV (1941), pp. 1*ff*.

new world have begun to emerge, or that anything is yet known about the changes that the world must face in the future.

It seemed to the rebel minds of America that all their prophecies were coming true.[39] At last the splendid edifice of capitalism was falling, and the intellectuals, in large part already weaned from support of the old system, were drawn toward accepting the judgments of revolutionary minds in America. If there had been attacks on the businessman as the supreme type in our civilization, the businessmen themselves realized after 1929 that something different had crossed their paths. Business realized that a time of prolonged crisis had arrived, and they too began to see the implications of the past which, if projected into the future, signified revolution.

It seemed in 1933, with the banks closed, millions of unemployed waiting outside silent factories, and the wail of distress from agriculture, that the predictions of novelists such as Jack London and Upton Sinclair were coming true. The Socialist party and the Socialist Labor party had been joined in 1919 by the Communist party in the United States. Thus the protest of Norman Thomas and Harry W. Laidler[40] for the Socialist party was emphasized by the Communist line of party action. Both Socialists and Communists agreed that the capitalist system must be destroyed, but beyond that on questions of tactics there was little agreement. The Communist party was formed in 1919 when a large part of the Socialist party split with the older group and joined ex-members of the Industrial Workers of the World[41] to form a party committed to supporting the revolutionary movement in Russia and affiliated with the Third International, whose headquarters were in Moscow. The party managed to survive the early post-Versailles "red raids" under the administration of Woodrow Wilson, though it was forced underground. It came into the open again in 1922, and grew in strength during the next ten years. In 1932 William Z. Foster, its Presidential candidate, polled more than 100,000 votes. Like the Marxian movements in Europe, the Communist party has suffered a number of splits in the ranks, the most important defection being the supporters of Leon Trotsky. This group

[39] The changes brought about by the Great Depression and the New Deal were, at the time, obviously exaggerated. The gain in strength of the Republicans, and the control they achieved in 1946 of the House and the Senate, show clearly the strength of long-run political ideas. It was a resurgence of the conservative spirit in American politics.

[40] See Harry W. Laidler, *American Socialism: Its Aims and Practical Program* (1937); *A History of Socialist Thought* (1933); *Socializing Our Democracy* (1935); *A Program for Modern America* (1936); Norman Thomas, *America's Way Out* (1931); *After the New Deal, What?* (1936); *Socialism on the Defensive* (1938); Benjamin Gitlow, *I Confess* (1940).

[41] See Paul F. Brissenden, *The I.W.W.: A Study of American Syndicalism* (1919).

joined the Socialist party for a time, but later formed a Socialist Workers' party. On the other hand, the Soviet–German pact in August, 1939, destroyed for a time much of the sympathy gained by the Communists, especially of those who were "fellow-travelers" in the Communist fight against the spread of fascism and fascist movements in the United States. The outbreak of war between the Soviets and Germany in the summer of 1941 restored, however, the broken United Front movement, and the Communists again began to rise in public esteem. The Communists who had opposed American entry into the war in Europe reversed their stand after the German invasion of Russia, demanding that we adopt an energetic European policy.[42]

The voice of protest and prophecy of the new order took many forms. There were fascist and semifascist groups in the United States, those groups being in many cases antisemitic in character and sympathetic with the efforts of the Hitler government in Germany or the fascist regime in Italy. On the rostrum and in his *Social Justice* Father Coughlin denounced the trend toward involvement in European war and the ineptitude of social reform under the New Deal administration of President Franklin D. Roosevelt; and the Silver Shirts demanded, in continuing the work of the defunct Ku-Klux Klan, a Protestant and gentile society devoted to the principles of national planning for the general well-being. In response to these movements, the left-wing elements in American politics urged a vigorous suppression of profascist tendencies, particularly those movements which assailed communism and were antisemitic in character.

Liberals Take Stock. On the more aristocratic and intellectual level, however, serious liberals began to take account of their position. In general they agreed that the nineteenth-century system of American capitalism had to go; but in its place they proposed the democratically planned society, a society which would not differ profoundly from the society proposed by the Socialist party or in the works of Norman Thomas, its Presidential candidate from 1928 to 1948. Naturally, the democratic planned society had to be distinguished from the planned societies of fascism and—with some of the liberals—from that of the Soviet Union. On the other hand, the fellow-travelers felt that the Russian planned economy, the economy of the five-year plans, was a pattern that the United States might follow in getting out of the economic disorganization in which it found itself.[43]

[42] See George Dimitroff, *The United Front* (1938).

[43] *Cf.* Eugene Lyons, *The Red Decade* (1941), for a criticism of Communist tactics in the United States; Max Lerner, *Ideas Are Weapons* (1939); Sidney Hook, *Towards the Understanding of Karl Marx* (1933); *Reason, Social Myths and Democracy* (1940).

In 1939 the *New Republic* gave itself a birthday party celebrating twenty-five years of battle for its kind of liberalism. It reaffirmed the principles of Herbert Croly, and insisted again that there was "promise" in American life. George Soule set the note in the first article of the Twenty-fifth Anniversary number, arguing for the development of the principle of planning under the direction of the national government. But Soule had already written widely on the subject, for in *The Coming American Revolution* (1934) he continued the work already done in *A Planned Society* (1932). Soule believed that gradually America was moving toward another revolution which would do away with the traditional system of inept free enterprise, substituting for it a society in which a careful planning for the needs of the people would raise the general welfare of the nation. On the other hand, he held that the virtue of the New Deal was not effective planning, but an educational effort making the American people ready for more energetic work for the general well-being.[44]

Much the same attitude was expressed by Stuart Chase, who urged passionately the possibility of an economy of abundance. America had the productive power, it had the natural resources and the manpower. All that was needed was intelligence in the organization of these factors. Capitalism, for example, was guilty particularly of wasting the natural resources owned by the American people. Instead of using them for the good of all, they were wasted in order that certain interests might gain a temporary profit, for which subsequent generations would pay in scarcity.[45]

Even in the ranks of the liberals the idea of the planned society did not go unchallenged. Naturally, the conservative forces could not accept such a denial of the long-run benefits of free enterprise. But Walter Lippmann, in *An Inquiry into the Principles of the Good Society* (1937), turned his shafts against all forms of collectivism. Communists, fascists, nationalists, progressives, liberals—all urge that government must direct the path of civilization tomorrow. There is only one purpose, he insisted, to be realized in a society directed by a deliberate plan, and that is war. The collectivist society seeks salvation in the plan, but the liberal society must seek freedom through the wide and uncontrolled market. So Lippmann suggested that liberals take stock of their positions, else they will find themselves, in fighting fascism, in the same ultimate position as

[44] See also George Soule, *An Economic Constitution for Democracy* (1939); *The Strength of Nations* (1942).

[45] See Stuart Chase, *The Tragedy of Waste* (1925); *Government in Business* (1935); *The Economy of Abundance* (1934); *Men and Machines* (1937); *Goals for America* (1942); Jerome Davis, *Capitalism and Its Culture* (rev. ed., 1941), Ch. XXIV; Charles E. Merriam, *The New Democracy and the New Despotism* (1939), pp. 145*ff*.

fascism itself: they will be the founders of an American authoritarian society in which freedom may disappear as effectively as it did in Europe before the fall of Italian fascism and German National Socialism.

On the other hand, if John Chamberlain in 1932 wrote *Farewell to Reform,* he considered reform again in *The American Stakes* (1940) which expressed in clear language the condition of many American intellectuals in the light of eight years of the New Deal and the second outbreak of war in Europe in a generation. To Chamberlain the state was a broker between groups, and the objective of politics was to maintain a balance between these forces rather than to recognize the predominance of any class. Chamberlain had no patience with general planning, since he feared, like Lippmann, that it would bring the end of freedom. He insisted that freedom was to be found in the interstices of the five economic systems which must exist side by side (small enterprise, corporate enterprise, public utilities, government collectivism, and cooperatives). He suggested that we have a new economic policy in the United States in which the small industry should be left free, while the large economic organization should be subjected to government control.

Christian Interpretations. If the publicists were busy trying to draw the blueprints of a new society, so were the leaders in Christian thought. On the Catholic side, the application of the great encyclicals such as the *Rerum Novarum* and the *Quadragesimo Anno,* would provide the basis of a free and responsible reorganization of the social order. To the Christian thinker, as to the others, changes of fundamental import were in the offing, but unless these changes embodied the Christian principles of society, no enlargement of human freedom or welfare could permanently be expected. Thus the rights of labor must be respected along with those of property. Catholic thinkers have supported the right of labor to organize, social legislation designed to give security to the standard of living of the workers, and legislation having as its object the protection of the rights of marriage. Like other Christian thinkers, however, the Catholic social philosophers have drawn their standards of social right from Christian philosophy and not from the pragmatic doctrine of accepting what the majority of the people may want at a particular moment.[46]

[46] In 1886 Cardinal Gibbons, it should be recalled, saved the Knights of Labor from papal condemnation. See John A. Ryan, *Distributive Justice* (1942); John A. Ryan and F. J. Boland, *Catholic Principles of Politics* (1940); Jacques Maritain, *Scholasticism and Politics* (1940); Yves R. Simon, *Nature and Function of Authority* (1940); Wilfrid Parsons, *Which Way, Democracy?* (1939); Goetz A. Briefs, *The Proletariat* (1937); A. J. Abell, "Monsignor John A. Ryan: An Historical Appreciation," *The Review of Politics,* Vol. VIII (1946), pp. 128–134; see also *Proceedings of the American Catholic Philosophical Association.*

On the Protestant side, Christianity was likewise concerned with the social conditions under which men lived. One may say that always Christianity has had a concern for social problems, but the industrial environment of the workers during the nineteenth century forced all religious bodies to take a renewed interest in economic affairs. Many American religious leaders were interested in what might be called social economics from the inception of the post-Civil War industrial development. We might mention Lyman Abbott, Beecher's successor in Brooklyn; Josiah Strong, general secretary of the Evangelical Alliance; George D. Herron, who wrote *The Christian Society* in 1894; and Washington Gladden, the author of *Applied Christianity* (1886) and *Tools and the Man: Property and Industry under the Christian Law* (1893). The Federal Council of Churches, formed by thirty-three evangelical sects in 1908, adopted a social program which demanded a recognition of labor's right to organize, a living wage, shorter hours of work, a six-day week, and old-age insurance, while it denounced child labor and the sweating system. The Council sought the application of Christian principles to the acquisition and use of property.

Walter Rauschenbush was one of the Protestant writers who insisted that Biblical principles, the ideas of the Old Testament prophets as well as of the New Testament, were on the side of social justice; that these principles condemned economic exploitation under the modern industrial system.[47] As the organized Protestant groups took an increasing interest in such problems as the claims of strikers, the minimum wage, and the living conditions of workers, others moved sharply toward the socialist analysis and the socialist remedy for the evils of society. Thus Harry F. Ward and Sherwood Eddy could see in the Marxian analysis a valid interpretation of economic process, and they likewise saw no inconsistency between the techniques of socialism for social change and the social principles of New Testament Christianity.[48]

[47] See Charles H. Hopkins, *The Rise of the Social Gospel in American Protestantism, 1865–1915* (1940); W. A. Brown, *Church and State in Contemporary America* (1938); Walter Rauschenbush, *Christianity and the Social Crisis* (1908); *Christianizing the Social Order* (1914); *A Theology for the Social Gospel* (1917); Vida Scudder, *The Church and the Hour* (1917).

[48] See George Sherwood Eddy, *Revolutionary Christianity* (1939). In this work, Eddy brackets Marx and Henry George in the same theoretical class, much to the disgust of the contemporary single-tax movement; for the socialists often regard Henry George's ideas as a minor phase of the total socialist program. See also Eddy, *A Door of Opportunity* (1937); *Religion and Social Justice* (1927); *The Kingdom of God and the American Dream* (1941); Harry F. Ward, *The Gospel for a Working World* (1918); *In Place of Profit* (1933); *The New Social Order* (1920); *Which Way Religion?* (1931).

As the international crisis deepened during the thirties, theologians like Reinhold Niebuhr demanded that Christianity take a stand against the authoritarian tide which was sweeping Europe.[49] Fascism in Europe was regarded as an attack on the basic freedom of Christianity, an attack on Christians, and an attack on the organized churches. But in this type of thought there was no defense of capitalism as a workable social program. For Christian thinkers, whether Protestant like Niebuhr or Catholic like Christopher Dawson in England, saw that Christianity was older than any existing economic form; and they believed that the destiny of the Christian faith might lead it beyond any of the known political or economic systems.[50] From the American point of view, the old war on Catholicism by a predominantly Protestant society had been quietly pushed aside. While many thinkers of the nineteenth century believed that the Catholic Church was a conspiracy against republican institutions, and while this belief flowered in the Know-Nothing party and in the Ku-Klux Klan, the twentieth-century religious philosophers, whether Protestant, Catholic, Jewish, or otherwise, saw that their common interests were greater than any of their differences, however deep historically they might be. The new paganism might submerge them all.[51]

Answers to Depression. Since the epic hour in 1929 when American prosperity crumbled, following the economic catastrophe of Europe, America has lived through uncertain times. Even as the United States became accustomed to economic experimentation, economic disorganization ripened into international war. The election of Franklin D. Roosevelt to the Presidency in 1932 brought an era of new economic policies and programs not witnessed before in intensity and variety in American history. Naturally, the unemployed made demands on the government, but so did units of government like the bankrupt American city and state governments; likewise employers, financiers, and manufacturers turned

[49] Reinhold Niebuhr, *Reflections on the End of an Era* (1934); *The Nature and Destiny of Man* (1941), Vol. I. *Cf.* Lynn H. Hough, *The Christian Criticism of Life* (1941).

[50] See Christopher Dawson, *Beyond Politics* (1939); *Enquiries into Religion and Culture* (1937); *Religion and the Modern State* (1938). *Cf.* T. S. Eliot, *Idea of a Christian Society* (1940).

[51] Even the charges against Alfred E. Smith in the Presidential campaign of 1928 seemed remote and unreal in the light of the problems of religious leaders after 1930. In *The Atlantic Monthly*, April, 1927, Charles C. Marshall raised, in an open letter to Governor Smith, the question of whether membership in the Catholic Church was compatible with full loyalty to the American system. In May, 1927, in the same magazine, Governor Smith replied, in a statement which has become a classic defense of the Catholic citizens of the United States.

See Ernest Bates, *American Faith: Its Religious, Political and Economic Foundations* (1940), for a defense of the Protestant tradition in the United States.

to the government for assistance. All were unwilling to face the squeezing liquidation that might have started the economy off again with huge losses wiped out by the hitherto customary forms of economic reconstruction.

But beyond the programs actually adopted by the government under President Roosevelt, the advocates of scores of economic panaceas demanded that their proposals should be put into effect. The Technocrats, for example, turned back to the engineering socialism of Edward Bellamy, demanding that the politicians be thrown from the democratic temple to make room for the engineers.[52] Naturally, socialism and communism made their bids for support, but the movements stemming from Karl Marx did not attain mass support in the United States. Huey Long in Louisiana could, with Biblical quotations, argue more effectively that all be given an income of $2500 a year; and the old-age pension movement under the leadership of Francis Townsend could muster its hundreds of thousands of supporters. Upton Sinclair entered the field of California politics with his plan to End Poverty in California (EPIC), while in other states there were old-age pension and production-for-use organizations. Meanwhile, under the aegis of Federal legislation, the labor movement began its march toward the unionization of all American labor; for under the National Labor Relations Act the right of collective bargaining was given to all workers coming under the Federal control of interstate commerce. But the march of labor soon became a civil war, since the Committee of Industrial Organization, led by John L. Lewis, broke with the American Federation of Labor and formed its own system of industrial unions. The C.I.O. was made permanent by organizing it as the Congress of Industrial Organizations. If the battle between the C.I.O. and the A.F. of L. was intense, there was no less intensity in the war on employers who declined to recognize the right of labor to organize and to bargain collectively.[53]

The New Deal. While little was said in the campaign of 1932 about his plans, President Roosevelt began to astound and even to shock into silence his enemies by the audacity of the proposals for legislation he made to Congress. In short retrospect, the New Deal was a continuation of Woodrow Wilson's "New Freedom" or the ideology of the Populists, and the Progressive movement under the Republicans when led by the first Roosevelt. It was simply liberal reformism, extended perhaps to a degree not anticipated by the most enthusiastic supporters of the President. There is one difference, however, which is profound and perhaps theoretically important, and that is the use of the spending power by the

[52] See Stuart Chase, *Technocracy: An Interpretation* (1933).

[53] See Herbert Harris, *Labor's Civil War* (1940).

Federal government to attain ends which otherwise would be outside the range of Federal authority. The New Deal introduced in the United States the principle of deficit financing. It is a rejection of one principle of American conservatism, the principle of sound money and stable credit, predicated always on the proposition that the government is able in the end to pay the debts it has created. President Roosevelt insisted that he was trying to save the traditional capitalistic system in the United States, but the economic leaders who had no influence on the government during the early years of the New Deal felt, no doubt, that if they were being saved it was in spite of themselves and in spite of their conception of the interest of the business.

The program of "industrial recovery" since 1932 has been in part, therefore, the Federal subsidization of groups not theretofore supported fiscally by the national government. In part it has been a series of regulatory measures, and in part it has been the development of powers in the national government and the increase of the power of the executive in relation to Congress and the Supreme Court. The National Industrial Recovery Act imposed codes of fair competition on business, attempting thereby to increase employment and assure wages. The program for agriculture provided for the regulation of crops, in return for which the farmers received "benefits" from the national treasury. The agricultural program was an effort to solve the long-standing agricultural crisis, though Henry A. Wallace, as Secretary of Agriculture, recognized that the program was not a permanent solution of the problem—since unless foreign agricultural markets could be restored, subsidy would not in the end put the farmers on their feet.[54] Under additional legislation the stock market and the issuance of securities were regulated, and large power projects like the Tennessee Valley Authority, the Bonneville and Grand Coulee dams on the Columbia River, and others were initiated. When the first agricultural act was declared unconstitutional, a soil-conservation program was substituted which achieved the same end and avoided the unconstitutional phases of the taxing provisions of the older law. The right of collective bargaining was given to labor, and a minimum-wage law was passed. Among the most popular of the New Deal measures was the guaranty of bank deposits up to a certain amount.

One of the remarkable moves of the New Deal was a series of experiments in unemployment relief, through public works financed with government money and through work projects using the specific talents of the unemployed, such as the youth, the white-collar workers, and various other classes of displaced employables. In pushing the building of houses,

[54] See Henry A. Wallace, *America Must Choose* (1934); *New Frontiers* (1934).

the government undertook to finance home building and to encourage housing projects in communities where the housing of the poorer classes was exceptionally bad. The social-security laws providing for unemployment insurance, old-age pensions, and other benefits marked a sharp change in the relation of the government to the industrial system of the country.

Critics of these measures can point to the fact that all of them do not hang together consistently, and that, for example, the National Industrial Recovery Act encouraged through the codes the formation of monopolies. Then, when this act was found unconstitutional, the government turned for a while to old-fashioned "trust-busting," endeavoring to destroy monoplies created in part under the earlier Roosevelt policies.[55]

Executive and Administrative Leadership. In fine, those political students who earlier thought that the executive should be strengthened would no doubt find that our executive had become sufficiently strong. However, the pattern of executive growth in the United States has been different from the same growth in other countries. Certainly Roosevelt never refused any power that might be gained by Congressional delegation.[56] If the American people at one time feared the growth of executive authority, the popular vote for the President seemed to indicate that the masses of the people would rather trust the single executive than to have Congress debate too much the details of policy. Within the ranks of professional political scientists, the students of public administration have approved this tendency as a means of bettering the enforcement of public policy. And it was clear that if the governmental units of the United States were going to perform all the functions assumed by government, a highly complex and well-organized administrative system would have to take the place of the earlier and more casual attitude toward the public servant. If the administrators may be accused of neglecting the problems of values and ends in politics and the long-run consequences of policy, they nevertheless have moved toward the scientific

[55] On the New Deal and related questions, see Paul H. Douglas, *Social Security in the United States* (2d ed., 1939); Charles A. Beard and G. H. E. Smith, *The Old Deal and the New* (1940); W. Y. Elliott, *The Need for Constitutional Reform* (1935); Walton H. Hamilton and Douglas Adair, *The Power to Govern* (1937); Frank H. Knight, *The Ethics of Competition and Other Essays* (1935); F. D. Roosevelt, *On Our Way* (1934); *The Public Papers and Addresses of Franklin D. Roosevelt* (1938); Walton H. Hamilton, *The Pattern of Competition* (1940); Thurman W. Arnold, *The Symbols of Government* (1935); *The Folklore of Capitalism* (1937); *The Bottlenecks of Business* (1940).

[56] See Carl J. Friedrich, *Constitutional Government and Politics* (1937), for a discussion of the nature of constitutional government.

administration of the new society; they are seeking to express in a technical manner the aspirations emerging from the conflicts of politics.[57]

Ever since the days of the Progressive movement the American business leaders had felt seriously the sting of attack from antagonistic political forces in Washington. Perhaps the period under Presidents Harding, Coolidge, and Hoover must be regarded simply as a breathing spell. In any case under the New Deal the "economic royalists," as President Roosevelt called some business leaders, knew that they were fighting a difficult battle for survival. The pragmatic criticism of business leadership was the debacle of the American economy, the existence of millions of unemployed, a prolonged agrarian crisis, and the increasing concentration of national wealth. The New Deal answer was that the positive state must be introduced to save capitalism, and to get going once again the idle productive power of American industry.[58] When the war crisis beginning in September, 1939, struck the United States, production for national defense was recognized as a primary need, and businessmen were welcomed back to Washington to direct it. New Dealers and businessmen discovered that they could work together in cooperation.[59]

Business Rallies. Business, however, undertook energetically to combat the ill will of the American mass movement. By sustained propaganda directed in part by the National Association of Manufacturers,

[57] See Luther Gulick and L. Urwick, *Papers on the Science of Administration* (1937); Pendleton Herring, *Public Administration and the Public Interest* (1936); Leonard D. White, *Trends in Public Administration* (1933); *Introduction to the Study of Public Administration* (1939); Harvey Walker, *Training Public Employees in Great Britain* (1935); *Public Administration* (1937); C. H. Woody, *The Growth of the Federal Government, 1915–1932* (1934); *Recent Social Trends in the United States* (1933); William E. Mosher and J. Donald Kingsley, *Public Personnel Administration* (1941); Fritz M. Marx, ed., *Public Management and the New Democracy* (1941); Frank M. Stewart, *The National Civil Service Reform League* (1929); Walter Gellhorn, *Federal Administrative Proceedings* (1941); The President's Committee on Administrative Management, *Report* (1937).

[58] See A. A. Berle and G. C. Means, *The Modern Corporation and Private Property* (1932); Temporary National Economic Committee, Monograph No. 11, "Bureaucracy and Trusteeship in Large Corporations," by Marshall E. Dimock and Howard K. Hyde (1940), and literature cited there. The Investigation of the Concentration of Economic Power by the Temporary National Economic Committee must stand as one of the primary sources of information on this problem in the United States for our time. The report of this committee was completed in 1941.

[59] See James Burnham, *The Managerial Revolution* (1941), for an interpretation stressing the inevitability of a new ruling class of managers which will emerge as capitalism fails. *Cf.* the review of this volume by David E. Lilienthal in *Public Administration Review*, I (1941) 390*ff*. *Cf.* Peter F. Drucker, *The Future of Industrial Man* (1942).

the people were to be taught again the merits of free enterprise. This program was well under way when the defense program was launched. The central theme of the argument was that the freedom of the businessman is the pattern of progress; that the United States by offering this freedom had reached a point in the wealth accessible and used by the American people beyond that reached by any other society. In 1941 the National Association of Manufacturers denied that wealth and income in the United States was becoming more concentrated, since wealth that was used by consumers, real wealth, was not in the hands of the few.[60] It was denied that national income can be increased without increasing production; that labor gets only a small share of what it helps produce; that technological improvements create unemployment; or that profits are unnecessary as an economic motivation. In direct attack on the Rooseveltian policy, the Association asserted that economic recovery cannot be achieved by government spending, and that government spending has actually discouraged a greater amount of new private spending than it replaced. Nor was it admitted that the years of depression had shown that the private-enterprise system had failed, since the depression was temporary and business had grown in spite of the resistance of government. It was likewise argued that competition does still exist, bitter and effective competition, rather than the monopolistic control the enemies of capitalism picture. Additionally, it was pointed out that the average man is paying for these government experiments by an increasing level of taxation, and that more rather than less saving for capital investment is necessary.

While the manufacturers and financiers have defended the freedom of the businessman as essential to a progressive society, the farmers from the time of the Granger movement have believed themselves the foundation of society rather than those who manufacture and trade in the cities. While most farmers have been content with government subsidy, more philosophical thought has pictured the growth of a decentralized society with a solid agrarian foundation. Only today there is added the element of agrarian cooperatives and group enterprises, in order to make effective the demands of those who stay on the soil. In the South there was an attempt to revive the agrarian southern tradition of life, though it can hardly be said that such ideas have made much impression on the public at large. More pointedly, as a result of the depression the tenant farmers, especially in the South, have begun the process of organizing to protect

[60] *Cf.* H. Dewey Anderson, *Taxation, Recovery and Defense,* Temporary National Economic Committee Monograph No. 20 (1941).

themselves, very much as the industrial laborer may form a union to secure better conditions of work.[61]

Conclusion. As the American economy faced an uncertain future, with extreme doctrines clashing in the public forum, the middle-class mentality still prevailed, with what might be called a moderate and realistic attitude toward the troubled years. If Lewis Corey, in *The Crisis of the Middle Class* (1935), argued that the property basis of the "petty bourgeoisie" was all but gone [62]—as Marx did in *The Communist Manifesto* in 1848—others could point to the persistence of middle-class mentality in the United States. Though class feelings had undoubtedly grown, it was still true that a large majority of the American people regarded themselves as members of the middle class and were, therefore, immune to the socialist appeal or the fascist cry for a new national socialism. What the import of the world of crisis that began in August, 1914, is, no one can with assurance yet say.[63]

The calm assurance of the middle class and the calm assurance of the scientific study of society had not vanished after 1940. But in addition there was, in counterthrust to both social scientists and materialism or socialism, a return to the fundamental principles of culture and morality on which Western civilization had grown. Among some it was a revival of Christian morality as systematized by St. Thomas Aquinas, and to others it was a return to a stern Christian morality of the Protestant Christian tradition.[64] In the midst of great and impersonal consequences which seemed to be shaping an unhappy world, the question was raised again whether science, in any form, could give us a steadying sense of moral obligation.

SELECTED BIBLIOGRAPHY

ADAMS, J. T.: *Henry Adams* (1933).
ADAMS, HENRY: *The Education of Henry Adams* (1918).

[61] See Leo R. Ward, "The Land, Decentralization and Democracy," *The Review of Politics*, Vol. I (1939), pp. 473*ff.*; Ralph Borsodi, *Flight from the City* (1933); *Prosperity and Security* (1938); *I'll Take My Stand*, by Twelve Southerners (1930); Donald Davidson, *The Attack on Leviathan* (1938); Herbert Agar, *Land of the Free* (1935); *Pursuit of Happiness* (1938); M. L. Wilson, *Democracy Has Roots* (1939); Patrick F. Quinn, "Agrarianism and the Jeffersonian Philosophy," *The Review of Politics*, Vol. II (1940), pp. 87*ff.*; Josephus Daniels, *Tar Heel Editor* (1939); Carey McWilliams, *Ill Fares the Land* (1942).

[62] See also Lewis Corey, *The Decline of American Capitalism* (1934); *The Unfinished Task: Economic Reconstruction for Democracy* (1942).

[63] See Arthur N. Holcombe, *The Middle Classes in American Politics* (1940).

[64] See Mortimer Adler, "A Dialectic of Morals," *The Review of Politics*, Vol. III (1941), Nos. 1, 2, and 3; *Dialectic* (1927); *Saint Thomas and the Gentiles* (1938); Robert M. Hutchins, *The Higher Learning in America* (1936); William E. Hocking, *What Man Can Make of Man* (1942).

BABBITT, IRVING: *Democracy and Leadership* (1924).
BEARD, CHARLES A., and MARY R. BEARD: *America in Midpassage* (1939).
BENTLEY, ARTHUR F.: *The Process of Government: A Study of Social Pressures* (1908).
BINGHAM, ALFRED N.: *Insurgent America: The Revolt of the Middle Classes* (1935).
BORSODI, RALPH: *Flight from the City* (1933).
———: *Prosperity and Security* (1938).
BRIEFS, GOETZ A.: *The Proletariat* (1937).
BROWDER, EARL: *Communism in the United States* (1935).
———: *The People's Front* (1938).
BURNHAM, JAMES: *The Managerial Revolution* (1941).
CARPENTER, WILLIAM S.: *The Development of American Political Thought* (1930).
COKER, FRANCIS W.: *Recent Political Thought* (1934).
COREY, LEWIS: *The Crisis of the Middle Class* (1935).
CORWIN, EDWARD S.: *Constitutional Revolution, Ltd.* (1941).
———: *The President: Office and Powers* (1940).
———: *The Twilight of the Supreme Court* (1934).
CURTI, MERLE: *The Social Ideas of American Educators* (1935).
DAVIDSON, DONALD: *The Attack on Leviathan* (1938).
DEWEY, JOHN, ed.: *Creative Intelligence* (1917).
FAINSOD, MERLE, and LINCOLN GORDON: *Government and the American Economy* (1941).
FILENE, E. A.: *Successful Living in This Machine Age* (1931).
FRIEDRICH, CARL J.: *Constitutional Government and Politics* (1937).
GABRIEL, RALPH H.: *The Course of American Democratic Thought* (1940).
GALLOWAY, GEORGE B., and Others: *Planning for America* (1941).
GARLAN, E. N.: *Legal Realism and Justice* (1941).
GETTELL, R. G.: *History of American Political Thought* (1928).
GHENT, WILLIAM J.: *The Reds Bring Reaction* (1923).
GRANT, J. A. C.: "The Guild Returns to America," *The Journal of Politics*, IV (1942), 303*ff*.
GRIFFITH, ERNEST S.: *The Impasse of Democracy* (1939).
HADDOW, ANNA: *Political Science in American Colleges and Universities*, ed. by William Anderson (1939).
HALL, FORD P.: *Government and Business* (2d ed., 1939).
HOCKING, WILLIAM E.: *Man and the State* (1926).
HOFSTADTER, RICHARD: *Social Darwinism in American Thought, 1860–1915* (1944).
HOLCOMBE, ARTHUR N.: *The Middle Classes in American Politics* (1940).
JACOBSON, J. M.: *The Development of American Political Thought* (1932).
JAMES, WILLIAM: *Pragmatism* (1907).
JOHNSON, F. E., ed.: *Foundations of Democracy* (1947).
KARPF, F. B.: *American Social Psychology* (1932).
KONEFSKY, S. J.: *Chief Justice Stone and the Supreme Court* (1946).
KORZYBSKI, ALFRED: *Manhood of Humanity* (1921).
———: *Science and Sanity* (1933).
LASSWELL, HAROLD D.: *Politics: Who Gets What, When, How* (1936).
———: *Psychopathology and Politics* (1930).
LILIENTHAL, D. E.: *TVA—Democracy on the March* (1944).
LIPPMANN, WALTER: *An Inquiry into the Principles of the Good Society* (1937).
LYNCH, DAVID: *The Concentration of Economic Power* (1946).

LYND, R. S., and HELEN LYND: *Middletown in Transition* (1937).
MANTOUX, ETIENNE: *The Carthagenian Peace—Or the Consequences of Mr. Keynes* (1946).
MERRIAM, CHARLES E.: *New Aspects of Politics* (1925).
———: *The Role of Politics in Social Change* (1936).
PERRY, C. M.: *The St. Louis Movement in Philosophy: Some Source Material* (1930).
Public Policy. Harvard Graduate School of Public Administration.
RAUCH, BASIL: *The History of the New Deal* (1944).
Recent Social Trends in the United States (1933).
RILEY, I. W.: *American Thought from Puritanism to Pragmatism* (1915).
RODGERS. CLEVELAND: *American Planning: Past—Present—Future* (1947).
SABINE, G. H.: "The Pragmatic Approach to Politics," *The American Political Science Review,* XXIV (1930), 865.
SCHILP, PAUL A., ed.: *The Philosophy of George Santayana* (1940).
SCHNEIDER, H. W.: *A History of American Philosophy* (1946).
SWISHER, CARL B.: *American Constitutional Development* (1943).
Temporary National Economic Committee Monographs.
THOMAS, NORMAN: *America's Way Out* (1931).
———: *After the New Deal, What?* (1936).
URWICK, L.: *The Elements of Administration* (1944).
WHITEMAN, LUTHER, and S. L. LEWIS: *Glory Roads: The Psychological State of California* (1936).
WILSON, F. G.: *The Elements of Modern Politics* (1936).
WRIGHT, B. F.: *The Growth of American Constitutional Law* (1942).

Chapter 16

THE REPUBLIC AND WORLD CRISIS

> A nation, like a person, has a body—a body that must be fed and clothed and housed, invigorated and rested, in a manner that measures up to the standards of our time. A nation, like a person, has a mind—a mind that must be kept informed and alert, that must know itself, that understands the hopes and the needs of its neighbors—all the other nations that live within the narrowing circle of the world. A nation, like a person, has something deeper, something more permanent, something larger than the sum of all its parts. It is that something which matters most to its future, which calls for the sacred guarding of its present.—Franklin D. Roosevelt, Third inaugural address, January 20, 1941.

Ideologies in Conflict. The outbreak of war between European powers for a second time in a generation had profound implications for the United States. This new crisis beginning in 1939 was a continuation of the situation that began with the outbreak of the First World War. Indeed, underneath the verbal symbolism of the conflict many of the same arguments and sentiments were as forceful as they had been in 1917. For the ideological battle in both cases was to save the democratic system.[1] It cannot be argued that the conception of democracy has ever been very clear, for it is a protean term like liberty, freedom, justice, or a dozen others that might be selected. But for the Anglo-American consensus "democracy" has meant the preservation of the political and social system that grew up with the rise of both England and America to world leadership and power.

In so far as purpose becomes articulate, in so far as men seek to control the impersonal forces that direct the course of the world, ideology is of great importance. In time of crisis perhaps it is ideology that counts, since ideology looks to action; philosophy is more interested in the general statement of implications, and it looks only indirectly to national or group action.[2] Thus the struggle among the leaders for control turns back to the masses for their support, and this in turn involves a fairly consistent justification of policy.

It is probably only necessary to gather together some of the aspects

[1] See George E. G. Catlin, *Anglo-Saxony and Its Tradition* (1939).

[2] See Karl Mannheim, *Ideology and Utopia,* trans. from the German (1936).

of the rich growth of ideas that has characterized the modern crisis. But in discussing ideas we return to the point at which the intellectual and moral crisis of the Western world became acute: that day in late January, 1933, when Adolf Hitler became Chancellor and Leader of the German Reich—that is, of the Third Reich. While many urged that war would surely come, others relied on the economic crumbling of Germany; and others, notably the British and French, thought that it was possible to reach an agreement with Nazi Germany that would save the peace. If the communist view is correct, the conservative rulers of Britain thought Germany would expand eastward at the expense of the Soviet Union, thus providing a basis of agreement or cordiality with the powers in Central Europe. But war came and those who predicted war between Britain and France against Germany could say they were correct in their analysis of the forces at work in shaping the New Europe.[3]

Dictatorship and Democracy. We must begin by asking ourselves: What have been the differences between the dictatorships and the democracies? Is it a difference in degree, or is it a difference that makes these two modern political and economic systems completely at variance, the one with the other? In the long run the observer may say that all political systems have much in common, even democracy and dictatorship, and with Hans Kelsen we may insist that all regimes rest somewhere between the antipodal forms of autocracy and democracy. It cannot be argued that Italian Fascism during the twenties caused much disturbance to the American thinker; but the rise of Hitler to power demonstrated that democracy was on the retreat, that energetic measures must be taken if Europe was not to become fascist.[4]

Yet it was the Jewish issue specifically which aroused world-wide disapproval of the National Socialist regime. Not only did the Jews in the United States fight against persecution in Germany, but the liberal minded of all economic beliefs came to their assistance. Minority persecution was one of the first test cases against the dictatorships. If Russia had denied, through the dictatorship of the proletariat, the right of the minority to hold property in the democratic and capitalistic sense, the Germans denied the civil rights of a racial and religious group, as well as the civil rights of all who disagreed with the dominant trend in the state. Furthermore, the Nazi regime showed restlessness under the bonds of the Versailles peace; and it was clear in its early stages that there was a danger of war, for it was by war alone that the Versailles system would be surrendered by the victors of 1918. Aggression and violations of the

[3] *Cf.* Nevile Henderson, *Failure of a Mission* (1940).

[4] See Frederick L. Schuman, *The Nazi Dictatorship* (rev. ed., 1936); *International Politics* (3d ed., 1941).

whole system of treaties assuring the existing European nations their rights seemed inherent in the National Socialist menace. As the regimes in Germany and Italy drew closer together, the resentment of democracy became more acute. In August, 1939, when a nonaggression pact between Germany and Russia was signed, the international danger of fascism could no longer be denied. American democracy had reached the point, many thought, at which it would have to fight to survive.

But democracy is more than a climate of sentiment, a spirit of moderation and balance among the social groups of a community; it is also a body of political institutions. It is, supposedly, the operation of the rule of law in the government of the state. The dictatorships, so ran the indictment, destroyed the rule of law and substituted therefor the arbitrary will of the leader and his semimilitary political party, oligarchy, or elite, as the case may be. One of the first changes was the suppression of an independent judiciary that gave the individual juridical protection against the community; [5] another change was the insistence that the representative body surrender by delegation its authority to the "leader"; and a further change was the irresponsible centralization of power by the destruction of all social groups and units of local governments which symbolized the decentralization of power in the state. If the new mass-state was balanced in theory toward the "many," as Pericles said of Athenian democracy, it nevertheless denied the principle of free and federal association, thus destroying the free press, the free trade unions, and the customary freedom of religious bodies. In addition, there emerged a military economy, in which finally all of the energy of the society was devoted to effective organization of the military force of the state. The authoritarian state was a state built on force; just as it recognized the need of violence inside the community, it could not deny the possibility of the use of force in attaining the foreign policies of the state.[6]

The word "dictatorship," however, is used in a variety of ways. Historically, it meant under Roman constitutionalism the emergency power granted consuls for short periods to save the state.[7] In modern terminology it has meant still the temporary power of a group, as in Russia, where it was presumed the dictatorship of the proletariat would disappear with the "withering away of the state." But the new arbitrary and centralized control in Germany, Italy, Spain (after the victory of Franco), Turkey, Greece, and other countries (for example, in South America) has

[5] On the importance of this, see Gaetano Mosca, *The Ruling Class*, trans. from the Italian (1939), pp. 126*ff.*, 157*ff.*

[6] See F. G. Wilson, *The Elements of Modern Politics* (1936), Ch. XIX; Waldemar Gurian, *Bolshevism: Theory and Practice* (1932); *Hitler and the Christians* (1936).

[7] Carl Schmitt, *Die Diktatur* (1928); Frederick M. Watkins, "The Problem of Constitutional Dictatorship," *Public Policy* (1940), pp. 324*ff.*

meant a permanent regime and a permanent system of political power. The only approach to such systems in the democratic countries has occurred during war, when, for example, in the United States the war powers of the President are remarkable in scope.[8]

As the intellectuals viewed this new power of the "elites" in European politics, they struggled to see what it all meant, for none denied the permanent significance of these great changes in the complexion of European power arrangements. Some might take the concept of the elite as descriptive of the general unequal distribution of power and wealth in society, and make the attempt to introduce it into the parlance of democratic politics.[9] But others were more concerned with the implicit anti-intellectualism which sprang from the cult of violence. Georges Sorel, a one-time French syndicalist leader, wrote early in the century a book entitled *Reflections on Violence,* which condemned the intellectual classes as useless to the proletariat, advanced a defense of the proletarian elite, and accepted the ethically creative character of violence and the class struggle, since this was the only way in which the proletariat could attain its just ends. These ideas spread, and they were, it is said, reflected in the principles of Italian fascism under the leadership of Benito Mussolini.[10]

All societies recognize the use of violence—as in the United States we execute certain criminals and we go to war—but it was felt by many intellectuals that European culture was facing the rise of generalized violence which would mean a return of barbarism under the guise of the mass-technological state. One of the principal arguments in this connection is against the ruthless use of propaganda that arises from a lack of liberal respect for the individual personality. In Europe, it was clear, the liberals were on the retreat, and with them the political and economic system that had been established by over a hundred years of national effort.[11]

[8] *Cf.* Clarence A. Berdahl, *War Powers of the Executive in the United States* (1921).

[9] See Harold D. Lasswell, *Politics: Who Gets What, When, How* (1936); *World Politics and Personal Insecurity* (1935); Edwin Mims, Jr., *The Majority of the People* (1941), pp. 243*ff.*; Lawrence Dennis, *The Dynamics of War and Revolution* (1940). *Cf.* Bertrand Russell, *Power* (1939).

[10] *Cf.* Vilfredo Pareto, *The Mind and Society,* trans. from the Italian (4 vols., 1935); Benito Mussolini, *My Autobiography* (1936); "The Political and Social Doctrine of Fascism," *International Conciliation,* No. 306 (1935).

[11] See Guido de Ruggiero, *The History of European Liberalism,* trans. from the Italian (1927), who regarded the middle classes as having a way of life compatible with all classes in society. Harold J. Laski, *The Rise of Liberalism* (1936), however, as a Marxian thinker, welcomed the political and economic exhaustion of the bourgeoisie.

Ortega y Gasset in Spain, in *The Revolt of the Masses* (1932), asserted that the new movements simply meant that the masses, swarming over Europe, had decided to have things their own way; they had revolted against old authorities, and (especially damaging) masses would not listen even to scientists. Huizinga, the Dutch historian, declared in *In the Shadow of Tomorrow* (1936) that for the first time in the history of the West a justification of an anti-intellectual position was being advanced by so-called responsible leaders. Emil Lederer, in his *State of the Masses* (1940), urged, for Americans, the danger of the mass-state, the classless society which can in the end neither achieve its economic purpose of the good life nor recognize the rights of any groups that stand in the way. Rather, there should be a society in which a rich variety of groups and interests are recognized under the democratic system of balance and political equilibrium.[12] The intellectuals generally were convinced that fascism meant a change in the social structure of the world so fundamental as to be a revolution.[13] They were, likewise, convinced that democracy must be saved, but until the outbreak of the war they were not sure just how to save it from the imponderable forces of chaos and change. After September, 1939, the air was more clear, since one way to help save democracy was to enter the war and bring about the defeat of Hitler. The critics of this view were, naturally, inclined to say that Hitler was a symptom of European disintegration in the first place, and that such a view, being purely voluntaristic, did not take account of fundamental psychological and economic factors at work in Europe since before the outbreak of the First World War in 1914. The battle of ideology raged;[14] thus, the defense of democracy, while admittedly necessary, was itself the subject of the most profound political controversy. It is to some of these phases of the argument that we must now turn.

The Defense of Democracy. That a multitude of positions were to be taken in this titanic debate of words and bullets was inevitable. As thinkers realized that the established political systems of Europe were changing, fear, frustration, and anger were more and more apparent in public discussion, though every social group tended to identify its own interests with the good of society. As it was realized that a new economic

[12] See Karl Mannheim, *Man and Society in an Age of Reconstruction* (1940); R. N. Anshem, ed., *Freedom: Its Meaning* (1940); Frances Keene, ed., *Neither Liberty Nor Bread* (1941); Melvin Rader, *No Compromise* (1939).

[13] See Peter F. Drucker, *The End of Economic Man* (1939); J. Donald Kingsley, "The Defense of Democracy," *The Antioch Review*, Vol. I (1941), pp. 5*ff*.

[14] See F. G. Wilson, "The Structure of Modern Ideology," *The Review of Politics*, I (1939), 382*ff*.

organization was emerging, those who benefited by the existing order began to fear the consequences of change and to rush, sometimes hysterically, to the defense of their own situation; and as it was realized that the international structure of national power might be in process of revolution, the existing great powers knew that they must fight as never before in order to retain their position.

For a time democracy in the traditional sense was defended by every political viewpoint outside of the fascist movements. There was a general consensus that fascism must somehow be stopped. While the socialist groups generally demanded that the traditional rights of speech and press be maintained against assault, the communists under the leadership of the Third International established in 1935 the United Front Against War and Fascism, and combined this effort with the Popular Front movement. The United Front sought to combine all Marxist parties in the defense of bourgeois democracy, and to heal the wounds caused by the fight between the parliamentary socialists of the Socialist and Labor International and the newer movement headed by the Communist party of Russia in the Third International. The United Front lasted forcefully until the Soviet–German Pact in the summer of 1939 and the outbreak of the European war. The Russian invasion of Finland sealed its death warrant, but the years before 1939 were certainly the time during which the communists reached their highest point of influence with American liberals. In the Popular Front all liberal groups against fascism were urged to unite to stop the latent fascist tendencies which were sometimes excitedly seen in almost any conservative action. The fall of this significant effort leads to a discussion of Russian foreign policy, which is outside the scope of this volume; but from the Russian point of view it was apparent that the British and French before 1939 wanted Germany to turn on Russia to wage a "holy war" against Bolshevism.[15]

For the American liberals and intelligentsia, however, it was a trying time, since they had pinned their faith on an effort both to avoid war and the spread of fascism. Now it seemed that the defeat of both of these objectives was quite clear, and many intellectuals deserted the socialist analysis of war and became ardent defenders of capitalist democracy. The editors of the *New Republic* and the *Nation* may be cited in this connection, while a whole series of books poured from the press demanding in effect that the United States come to the aid of the embattled European democracies. The fellow-travelers who had vivisected the misery of the United States during the Great Depression beginning in 1929, turned from the pursuits of peace to acceptance of the necessity

[15] The outbreak of war between Russia and Germany in 1941 tended to revive the United Front.

of war. Between the liberals and the capitalist conservatives the gap slowly closed as the United States again moved, under the leadership of President Roosevelt, toward participation in European war. In the interval of formal friendship between Russia and Germany after September, 1939, many writers turned against the communists, and for a time the Soviet Union became the prototype of fascism itself. The communists themselves retorted that these new recruits for counterrevolution had never really understood what socialism meant, and that they were good riddance; they were moving back to the capitalist fold where they belonged.[16]

One of the frequent left-wing charges between 1930 and 1940 was that the capitalist ruling class really sympathized with fascism, first in Italy and later in Germany, as a barrier against the spread of Bolshevism. Indeed, in its early years National Socialism claimed that the rest of the world owed it a debt of gratitude for having hurled back to the east the Bolshevik threat to European culture. It is probably true that many of the conservatives, in the bankruptcy of European conservatism itself, had for a brief period a feeling of sympathy for many of the policies of German National Socialism.[17] But if there was a willingness, for example, under the British conservative government up to 1939 to compromise with Germany, there is little proof that American businessmen desired to substitute the fascist planned economy for the remnants of the American system of free enterprise. Rather it can be argued that American conservatives were being drawn rapidly toward a consciousness of fundamental liberal values embodied in the democratic system. The position of the financial leaders in the United States was not, by the

[16] See Max Eastman, *Stalin's Russia and the Crisis in Socialism* (1940); *Marxism, Is It Science?* (1940); Leon Trotsky, *The Revolution Betrayed* (1937), for an anti-Stalinist stand and for a criticism of Russian policy.

Much of this argument concerned the nature of the political and economic system in Russia. While the Russians claimed that the Constitution of 1936 was a truly socialistic and democratic document, the opponents insisted that the Russian policy of violence and tyranny made Russia ideologically and socially like the other fascist states.

See Max Lerner, *Ideas Are Weapons* (1939); *It Is Later Than You Think* (1938); Lewis Mumford, *Faith for Living* (1940); Waldo Frank, *Chart for Rough Water* (1940); Archibald MacLeish, *The American Cause* (1941); *A Time to Speak: The Selected Prose of Archibald MacLeish* (1941); "Post-war Writers and Pre-war Readers," *The New Republic,* June 10, 1940.

A very able late united-front book is Melvin Rader, *No Compromise* (1939). See also Meno Lovenstein, *American Opinion of Soviet Russia* (American Council on Public Affairs, 1942).

[17] See Yves R. Simon, "The European Crisis and the Downfall of the French Republic," *The Review of Politics,* III (1941), 32*ff.*

outbreak of the war in 1939, much different from that of the more passionate defenders of American liberalism. American business leaders responded energetically to the call of the President for a great effort of national defense.

In the American labor movement, likewise, the European issues of fascism and authoritarianism came to occupy an important position. The conservative American Federation of Labor was willing to defend the democratic system against its decay in Europe; and there was no sympathy for either fascists or Communists in the federation.[18] On the other hand, with the rise of the Committee of Industrial Organization and the Congress of Industrial Organization under the leadership of John L. Lewis of the United Mine Workers, there were charges that this movement was influenced by the communists.

No different in spirit were the large religious bodies. While the Catholic Church with the universal leadership of Pope Pius XII sought to bring about peace on a just basis and to defend religion from the ravages of totalitarianism, it was clear also that Catholic Christianity, through its long history, was not profoundly interested in forms of government if those forms assured to the Christian citizen his rights under moral law. This, of course, was not always the case, and when those rights were invaded by Mexico or Germany or any other power, the voice of the Church was raised in condemnation. If the left-wing elements said that the Catholic Church was really profascist, since it implicitly supported General Franco in the Spanish Civil War that began in 1936, the Church could reply that it would oppose any regime which denied the basis of a Christian civilization. Likewise, the Catholic position in the United States in relation to the Second World War was more cautious than that taken by many Protestant leaders, who openly championed the principle of intervention to bring about the defeat of Germany. Fascism was, clearly, anti-Christian, and it was the duty of Protestant Christians to fight its spread. Thus a number of Protestant theologians, like Harry F. Ward and Reinhold Niebuhr, were among the intellectuals who supported the United Front effort against war and fascism.[19] Naturally, the Protestant Episcopal Church, because of its

[18] See William Green, *Labor and Democracy* (1940).

[19] On the other hand, Christian opposition to war remained strong in both Protestant and Catholic circles. To the end, *The Christian Century* opposed the President's foreign policy. *Cf.* Louis Finkelstein, J. Elliott Ross, and William A. Brown, *The Religions of Democracy* (1941); Jerome Davis, *Capitalism and Its Culture* (1941), Ch. XIX, pp. 392*ff.*, for a critical view. Conscientious objectors to military service came from all religious bodies.

sympathy with the Church of England, could move more easily toward an active support of the British against the Germans following the outbreak of the war.[20]

On the more philosophical side—represented by intellectuals who professed no love for either the socialist or the fascist cause, and who were not defenders of capitalism so much as believers in social and economic reform—there was also a strong and articulate current of opposition to the threat of fascism. These thinkers spoke more of the crisis of democracy and explored the means whereby American democracy might be preserved, though in nearly all cases it was recognized that the defense of democracy was in part an international issue. Without the defense of democracy in Europe it was felt that democracy in the United States could not long survive. If America was to be a civilized country it must be a free country, and that freedom would be made possible only by the defeat of the fascist powers who represented the denial of the historic values of European culture.

In periods of change the historian is driven to compare the present with the past, and the social scientist is moved to offer his interpretations of historical analogy. Thus the fascist and authoritarian movements suggested that the Western world might be passing through a period comparable to the decline of the Greek city-states or the emergence of tyranny and despotism under the Roman Empire. It seemed to some that the present was a time in which the historic system of values was crumbling, and that out of long chaos a new order might arise—but not the "new order" demanded by the powers in opposition to the British and the American states.[21] To Pitirim A. Sorokin the twentieth century was, by sober count, the bloodiest in the history of the West, though it professed at the same time an extraordinary amount of humanitarian sentiment. Sorokin saw nothing permanent in the fascist revolt; it was an outburst of destructive power that had to pass as a new construction of man's place in the universe filtered into the consciousness of leaders. Sorokin was thus bitterly opposed to both the materialism of the Marxian and to the violent destructiveness of fascist power; he believed that the resurgence of

[20] In 1941 a Fight for Freedom Committee was organized which advocated taking the risk of war if necessary in order to ensure a British victory. This committee was led by a bishop of the Episcopal Church.

[21] *Cf.* Ronald Syme, *The Roman Revolution* (1940). It is natural in such times for thoughtful people to turn again to the pages of Gibbon's *Decline and Fall of the Roman Empire*. Arnold J. Toynbee, *A Study of History* (6 vols., 1934–1939), must likewise be counted among the profound works of the time. Neither can one omit Oswald Spengler, *The Decline of the West*, trans. from the German (2 vols., 1932); *cf.* Crane Brinton, *The Anatomy of Revolution* (1938).

the spiritual is to come in a future which will overcome the present dominance of empirical and materialistic interpretations of life.[22]

It was not unnatural that the dean of American pragmatists and instrumentalists, John Dewey, should add his voice to the resentment of the liberal intellectuals against the trend of world affairs. At the age of eighty, Dewey wrote his *Freedom and Culture* in 1939, in which he reaffirmed his belief in the possibility of a world in which men might still lead the progressive and free life. In 1927 *The Public and Its Problems* had stated the pragmatic basis of political society. The public, he held, consisted of all those who are affected by the indirect consequences of action to such an extent that it is necessary to care systematically for these consequences. Thus a theory of the state must start from the consequences of conduct. Dewey has been throughout his long career a firm believer in the use of intelligence, and he has through his writings never wavered in his belief in the principles of a democratically organized society. While he has been the philosopher of common sense and the plain man, he has been likewise a leader of causes which some of his critics have hardly believed arose from the sober consideration of the consequences of behavior. The critics of American pragmatism have been doubtful that the social values of the system arose out of the system itself; rather, it has been charged, the pragmatist must go outside of his theory of knowledge in order to get the standards of behavior which he advocates.[23]

As Dewey faced the world crisis of the thirties and forties, he insisted again that only a free culture, one that is adapted to the flexibility of intelligent men, can produce free men. But the democratic culture will be free, or more free than other organizations of social life. The social philosopher must examine the cultural basis of freedom; he must not be content with thinking that freedom can come alone from political or economic institutions. Freedom extends to the arts, sciences, religion—to the whole range of man's cultural life. Both fascism and communism are rejected, since they are philosophies which deny the moral worth of the individual. Only democracy provides the moral basis of culture. To build a democratic culture, however, the scientific method in social sciences is essential; from science we may reconstruct our system of human values.[24]

[22] See Pitirim A. Sorokin, *Social and Cultural Dynamics* (4 vols., 1937–1941); Ezra Pound, *Culture* (1939); Nicholas Berdyaev, *The Bourgeois Mind and Other Essays* (1934); *The End of Our Time* (1933); *The Destiny of Man* (1937).

[23] For another pragmatic supporter of democracy, see Charles W. Morris, *Pragmatism and the Crisis of Democracy* (1934).

[24] For a one-volume compilation of Dewey's philosophy, see Joseph Ratner, ed., *Intelligence in the Modern World: John Dewey's Philosophy* (Modern Library, 1939).

In a more belligerent vein another American philosopher, Ralph Barton Perry, asserted the inconsistency between American democratic belief in the individual and the totalitarian denial of the rights of personality. There can, therefore, be no real neutrality in relation to the conflict in Europe. At the heart of isolationism, he urged, there will usually be some trace of moral apathy or confusion. It was nonsense that we could at the same time believe in democracy and remain neutral in our hearts when we viewed the conflict between democracy and its enemies in Europe. Democracy, while believing in toleration, must not tolerate to the point of endangering its own existence; and great democrats like Lincoln and Woodrow Wilson accepted the gage of battle rather than suffer moral surrender or permit national suicide.[25]

In a somewhat similar tone Charles E. Merriam came to the defense of modern democracy in 1939 in *The New Democracy and the New Despotism*. While he admitted that the few might organize a government and bring public order, he believed that in the end the leadership produced under democratic conditions was more stable and more responsive to the needs of the many. Continuity in leadership in despotisms, therefore, is a problem that is difficult to solve. On the other hand, the long-run trend of political events has been toward democracy. Science and education have advanced, as has the respect for human personality; the legal order has been expanding from the state to the world; and the modern system of production (a creation of democratic society) promises much for the many. With the emergence of superior forms of public administration, the continued development of education, the production of goods for an abundant life, the growth of democracy in industry, and a greater reconciliation between liberty and equality, the future must belong to the democratic way of life.[26]

On the surface, at least, there was unity in all divergent American philosophies in the defense of democracy. Socialists were willing to defend bourgeois democracy, *i.e.*, capitalism, against the threat of the totalitarian state. During the United Front period communists were at least

[25] Ralph Barton Perry, *Shall Not Perish from the Earth* (1941).

[26] As samples of literature dealing with this problem, see John Corben, *Two Frontiers of Freedom* (1940), who insists on the distinction between democracy and republic—the republic (essentially conservative in character) being the political type established by the framers of the American Constitutional system. Harold J. Laski, *Where Do We Go From Here?* (1940); Edward L. Bernays, *Speak up, Democracy* (1941); Christopher Lloyd, *Democracy and Its Rivals* (1938); H. A. Overstreet, *Our Free Minds* (1941); *The City of Man: A Declaration on World Democracy* (1941); J. Donald Kingsley, David W. Petegorsky, and Others, *Strategy for Democracy* (1942); Carl J. Friedrich, *The New Belief in the Common Man* (1942).

of the opinion that for the time being fascism was the greater menace to the working class. Conservatives, represented largely in the defense of American free enterprise, were likewise determined that democracy should not go down before the totalitarian challenge. And liberals, as we have just seen, believed in the defense of democratic society in order that intelligence might continue its work of progress, of creating a better world for the next generation. But the surface agreement had beneath it some deep disagreements. Socialists continued to analyze war in the light of the traditional analysis of capitalism, and even if democracy was to be defended, it was not by entering the war in Europe that the great objective would be gained. Communists, led by the sober policy of the Soviet Union, were likewise unwilling, until the German attack on Russia, to become the saviors of capitalism by helping in the defeat of Germany and Italy. On the other hand, those points of view which minimized the economic interpretation of history could face less calmly the possibility of a bloody struggle for the continent of Europe. For the liberals felt, like the conservatives, that the preliminary to any future "good society" was the defeat of Hitler and the German people.

The socialist thinker, therefore, was not impressed by the argument that the war must be fought to save the spiritual values of civilization, or in other words, the moral foundations of the world. If religious leaders and liberals came together in defending the spirit, no matter how vaguely defined it might be, the socialist must continue to insist that the fundamental problem of "the wave of the future" is the economic organization society. They would contend that no sound way of life could be built on an economy of armament and glorified public waste; they would argue that mere spending and the economics of J. M. Keynes would not create a prosperity in the future worth the effort of defending by the blood of young men. In the more dispassionate thinking, therefore, many liberals attacked the problem of the economic reorganization of the world, on the assumption that without an economic base no spiritual values, such as freedom and morality, would be there to defend anyway. Many critics of the passionate verbal war for democracy would insist that the liberals deserted in the critical hour the fundamental assumption of social science that there is a process in history, and that they forgot in such a time their previous adherence to the realistic foundations of an organized life. To such minds the defense of democracy became increasingly smoky as the battle became intensified. As has frequently been the case in the past, the international crisis blotted out of the liberal mind the issues of domestic politics, which at other times seemed of transcendent importance.

Only the realistic minds continued to debate the crisis in terms of economics.[27]

Constitutional Government in Crisis. In earlier paragraphs we have indicated some of the problems in political structure and power raised by the challenge of the authoritarian state. For America itself, the newer developments in international affairs presented the Constitutional issue of power. Specifically, the power of the Presidency came to predominate, since President Roosevelt demanded in varied ways a free hand for the executive department in dealing with the issues of the European war. The critics insisted that we, in our defense of democracy, were moving rapidly toward a Presidential dictatorship in the United States; the defenders of the President insisted that under the leadership of the administration the best interests of the country were being served. For the most part, it must be said that the critics of the President were unsuccessful and that the powers of the executive, which had grown so much in domestic affairs, continued to grow under the aegis of the war powers of the President.

Therefore, the growth of Presidential power through administrative discretion and through the rejection of the tradition against Presidents serving a third term, provoked a debate on the meaning of Constitutional government. Those who supported the President in his campaign for a third term regarded executive leadership and majority rule as essential parts of the modern democratic state; his enemies, on the other hand, held to the traditional view that democracy is a system in which Constitutional tradition or limitation may check the majority on certain matters. If those who supported Roosevelt for his third term believed that a crisis, domestic and international, faced the United States, the like of which had not been before, the defenders of the traditional view could argue that Washington and Lincoln, to name only two, faced crises of equal gravity. If Democratic leaders in Washington felt that the people wanted Roosevelt and therefore that there should be no objection to the third term, the opponents could reply that most modern dictators claimed the enthusiastic support of the masses of their subjects.[28]

Behind the argument for a third term was the belief that Roosevelt was pursuing proper policies, and that it was necessary to break down barriers to the forceful leadership of the majority. But particularly Congress should delegate to the executive branch wide discretion in carrying out policies suggested to it by the executive. Men like Harold J. Laski,

[27] *Cf.* Frank Munk, *The Economics of Force* (1941); Herbert Feis, *The Changing Pattern of International Economic Affairs* (1940); Carleton Beals, *Pan America* (1940); *cf.* Horst Mendershausen, *The Economics of War* (1941).

[28] See Fred Rodell, *Democracy and the Third Term* (1940).

who represent the Marxian point of view, were enthusiastic for the positive leadership of the President,[29] while Edward S. Corwin was alarmed at the fact that the President had made himself indispensable by the end of his second term.[30] Since the growth of Presidential power was potentially the matrix of dictatorship, he recommended that a reconstructed Presidential cabinet include leaders from Congress who did not owe their places to Presidential appointment. He suggested that majority leaders of both houses of Congress and the chairmen of important committees be included in the reorganized cabinet.

Classical federalism supported a balance between the states and the nation, a balance between the major departments of the national government, and a rule of law which assured the rights of minorities in a dozen different ways through the constitutional structure. The resurgence of executive democracy in the United States, on the other hand, was based on an informal revolution which slowly but surely modified these traditional principles. To some, the majority in the United States was a proletarian majority, moving under a militant leader, who of necessity exercised some "arbitrary" power.[31] From the standpoint of Constitutional law all this meant that national power must be defined without regard to possible conflict with the powers of the states; that the states have no exclusive or reserved powers which independently limit the national government; that national powers, while limited by the words of the Constitution, may be used to promote on a national scale the same broad and indefinite purposes that the state powers may be used for locally; and that national and state powers may be used together to promote the same purposes without impairing the principles of American federalism. All this, as Professor Corwin said, is to be found in the Supreme Court cases found in Volume 301 of the United States Supreme Court Reports.[32]

Civil Liberty. In the period of the First World War there was both popular and governmental restriction of the right to oppose the war effort of the United States; likewise, in the defense of democracy in the

[29] Harold J. Laski, *The American Presidency* (1940).

[30] Edward S. Corwin, *The President: Office and Powers* (1940); *Total War and the Constitution* (1947). See also Pendleton Herring, *Presidential Leadership* (1940); John T. Flynn, *Country Squire in the White House* (1940).

[31] See Edwin Mims, Jr., *The Majority of the People* (1941).

[32] See Edward S. Corwin, *Constitutional Revolution, Ltd.* (1941). At the same time, American scholars were attempting to restate the basic and historic point of view as to the nature of Constitutional government. For Constitutional government was regarded as essential to the American principle of democracy. See C. H. McIlwain, *Constitutionalism, Ancient and Modern* (1940); C. J. Friedrich, *Constitutional Government and Politics* (1937); Lindsay Rogers, *Crisis Government* (1934).

continuation of the world crisis there were shadows clouding the principle of free opposition to the government. In 1940 fifteen states barred the Communist party from the ballot, forcing back upon the Communists the principle of revolutionary change.[33] Moreover, in a number of states any minority party, including the Socialist and Socialist Labor parties, as well as the Communist, were excluded from the ballot on the basis of the technical restrictions imposed by state law. Such restrictions are based generally on the requirement that a certain number of petition signers or votes cast in a previous election should be shown, before a place on the ballot will be granted. In 1940 the Socialist party had no candidates in Florida, Maine, West Virginia, Nevada, and North Carolina; in addition the Communist party was not on the ballot in Oregon, Nevada, Oklahoma, and South Dakota. For the same reasons there had been no minority party on the Louisiana ballot for twenty years. California used a special law to get the Communist party off the ballot. The Socialist Labor party was likewise denied a place on the ballot in that state because 175,000 signatures were required for the petitions. The Socialist party barely managed to get on the ballot there, even with the endorsement of the Progressive party.

During the emergent period of crisis, as we were becoming involved in the Second World War, the activity of Congress forced the widespread discussion of the principles of civil liberty. Congressman Martin Dies had been engaged in a sustained and spectacular investigation of un-American activities, attacking not only foreign propagandists, such as German and Italian agents in this country, but in particular members and sympathizers with the Communist and other minority parties. It was not alone the Communists who objected to the procedure of the Dies committee, for many liberals rallied to the defense of those who were strictured by this committee of the House of Representatives. It was charged that the procedure of the committee was not balanced and fair, and that much of the evidence gathered was hardly worthy of consideration. Even persons who felt communism to be a menace to American institutions believed that the committee had forfeited a right to a serious hearing before the American people.[34]

With the entrance of the United States into the war, the national government sought to identify and arrest the propagandists and agents of the Axis powers, though little was done at the time about Communists, since Russia and the United States were fighting side by side in the war against

[33] *Cf. The New York Times,* Oct. 13, 1940; see also *The New Republic,* Oct. 21, 1940, "Not So Free an Election."

[34] See Martin Dies, *The Trojan Horse in America* (1940). The committee was called the House Special Committee to Investigate Un-American Activities.

Germany. The House committee, however, continued to insist that Communists should be removed from the Federal service. Mr. Dies urged in 1943 that no funds be appropriated to pay the salaries of thirty-nine Federal employees. A subcommittee of the Appropriations committee, the Kerr committee, finally proposed that no salaries should be paid to three men: Robert Morss Lovett, Secretary of the Virgin Islands; and Goodwin B. Watson and William E. Dodd, Jr., both on the staff of the Federal Communications Commission. A rider was attached to an appropriation bill prohibiting the payment of the salaries of these men, unless they should, before a certain date, be again appointed by the President with the advice and consent of the Senate. The Senate rejected the rider, but was finally compelled to agree, and President Roosevelt stated that he believed the rider unconstitutional.

The three individuals sued in the Court of Claims to recover salary for work performed after payment was prohibited by the Act of Congress, and the case was decided by the Supreme Court in 1946. For Congress it was argued that the power of appropriation is plenary and not subject to judicial review, and thus there could be no justiciable controversy before the Court. On behalf of Lovett, Watson, and Dodd it was argued that the rider was a bill of attainder and an ex post facto law, that it was a legislative usurpation of executive power, and that the discrimination against these men deprived them of liberty and property without due process of law. The Supreme Court held the rider was invalid. Since the rider was designed to bar the three men permanently from government service, it was not a simple exercise of the power to make appropriations. It was in effect a punitive measure and therefore presented a clearly justiciable issue. Moreover, the Court held that the rider was in effect a bill of attainder prohibited by the Constitution, for punishment was inflicted on the three without judicial trials, the punishment in this case being a denial of any opportunity to serve the government. Such an indirect infliction of punishment is prohibited by the Constitution to both the state and the national governments.[35]

The Lovett case illustrates clearly the nature of civil liberty, which is in nature a restriction on the action of government on behalf of the liberty of the individual citizen or group. In this case it was Congress that had overstepped the limitations of the Constitution rather than, as is usually the case, executive officials in the enforcement of the law. But the defenders of civil liberty are equally concerned with the rights of unpopular minorities to make themselves heard. During war, it is gen-

[35] *U.S. v. Lovett*, 328 U.S. 303 (1946). See also Frederick L. Schuman, "'Bill of Attainder' in the Seventy-eighth Congress," *The American Political Science Review*, Vol. XXXVII (1943), pp. 819*ff*.

erally admitted that there is no civil liberty to undermine the war effort; and in theory, likewise, most defenders of civil liberty would agree that subversive and un-American activities are subject to some degree of regulation or restriction. But civil liberty is regarded as a fundamental aspect of the democratic process, as the framework of the competition of ideas, and as essential in the alteration of power by the use of elections.

In the defense of civil liberty, however, there is particular objection to the attack on individuals who are critical of existing institutions and who either speak or write on behalf of economic and social change. Writers of school textbooks, for example, found themselves under attack by those who argued that "liberalism" was equivalent in fact to communism.[36] Even so, to some the surprising fact is the extent of the actual protection of civil liberty that has been provided by the American courts in opposition to what popular sentiment might ordinarily demand in suppression and punishment.[37]

American Foreign Policy. Some statement should be made to outline the debate on American foreign policy that gradually developed after the outbreak of the Second World War in 1939. While Republican leadership prevented our entrance into the League of Nations by refusal of the Senate to advise the ratification of the Treaty of Versailles, international cooperation became more and more acceptable in the years immediately after the war. Under President Harding the Washington Conference in 1921 had attempted to limit naval armament and to provide a basis of settlement of outstanding disputes in the Pacific area. In 1928 the Briand–Kellogg Pact renouncing war as an instrument of national policy was signed by the United States and most of the other powers of the world. President Hoover was active in trying to settle the financial snarl that had grown out of interallied war debts and the reparations imposed on Germany. Meanwhile, a consistent policy of cooperation with the League of Nations had developed under the Republicans, and the United States in 1931 joined in denouncing the aggression of the Japanese in Manchuria. On the other hand, the armament race had not yet begun,

[36] See Harold Rugg, *That Men May Understand: An American in the Long Armistice* (1941), for his defense against a general tide of criticism of his books. The problem of textboks raises the whole issue of civic education. See Charles E. Merriam, *The Making of Citizens* (1931), and the series on this question written under Merriam's direction. See Bessie L. Pierce, *Civic Attitudes in American School Textbooks* (1930).

[37] See Zechariah Chafee, Jr., *Free Speech in the United States* (1941); *Government and Mass Communication* (2 vols., 1947); W. E. Hocking, *Freedom of the Press* (1947); *To Secure These Rights,* Report of the President's Committee on Civil Rights, intro. by Charles E. Wilson (1947); William G. Torpey, *Judicial Doctrines of Religious Rights in America* (1948).

and there was until the rise of Hitler to power a general belief that a relatively lasting peace in the world was possible.

American foreign policy under Roosevelt in 1933 and after, continued the start made by the previous Republican administrations. While neither the Republicans nor the Democrats accepted membership in the Permanent Court of International Justice, in 1934 the United States became a member of the International Labor Organization. But in Europe, as in the United States, the focal problems of foreign policy concerned the distribution of power among the great states, and the corresponding economic factors in this situation.[38] These economic factors involved trade, the exchange of goods, but even more so they involved the control of essential raw materials, scattered in the four corners of the earth, which were necessary to the manufacturing and heavy industries of the great powers. International politics was in no small degree a diplomatic and military policy concerning raw materials. The imperative of the machine and the strategy of raw materials was, in the minds of many, more important than the moralistic arguments of *pacta sunt servanda*.[39] The United States as a world power is dependent on foreign sources for such commodities as tin, rubber, and many rare mineral products.

Therefore, in the Far East we did not wish to see Japan become a stronger power by the conquest of China, or by the seizure of the Dutch East Indies, so rich in tin, rubber, and oil. We were concerned with the expansion of the German economy into South America, and our good-neighbor policy was the humanitarian aspect of a deeper determination that the raw materials of South America should not feed Germany's industrial machine. Correspondingly, we committed ourselves early in the Second World War to aiding the British and their allies.[40]

Such a policy as the establishment of reciprocal trade agreements, pushed by Secretary of State Hull, looked to a time when the liberal, free-trade economy of the nineteenth century would be restored. But the development of the war in Europe in 1940 showed that Germany was

[38] Frank H. Simonds and Brooks Emeny, *The Great Powers in World Politics* (new ed., 1939).

[39] Brooks Emeny, *The Strategy of Raw Materials: A Study of America in Peace and War* (1936). C. K. Leith, "Role of Minerals in the Present War," *Mining Congress Journal*, Vol. XXVI (1940), pp. 34*ff.*, declared: "Hitler's announced purpose is to secure control of raw materials in order to be able to carry out his further ambitions. He is out for a showdown." While the control of the sea is an important factor, Leith believed that the United States must put into motion its weight of materials. See also C. K. Leith, *World Minerals and World Politics* (1931).

[40] *Cf.* Thomas Reveille, *The Spoil of Europe: The Nazi Technique in Political and Economic Conquest* (1941); Cleona Lewis, *Nazi Europe and World Trade* (1941).

likely to win the war. The National Defense Program that came after the fall of France in 1940 was the greatest expenditure of money in time of peace that had occurred in the history of the United States. Peacetime conscription was put into effect late in 1940, and a huge building program of war materials was inaugurated, particularly leading to a mighty navy and those implements of war shown to be important in mechanized conflict. A navy, tanks, and airplanes were symbolic of the defense effort, as well as the conscription of the youth of the nation for military service.[41]

While it was clear that the President's policy was for partial participation in the European conflict, the opponents of the President urged that his policies would lead us to war. Thus, when the President insisted in 1939 that the Neutrality Act of 1937 be amended to permit the export of arms, Senators Gerald P. Nye and Robert M. La Follette, Jr., argued that this was the first step to war, which if taken would lead to others.[42] Those opposing the President insisted that the United States was in no danger of military invasion, since the amount of shipping and other war materials available for such an enterprise as the invasion of the United States did not exist in the whole world. The report of the Senate Committee on Naval Affairs on May 15, 1940, declared that the armies of Europe did not menace the United States. With a command of the seas the armed forces of no nation or group of nations could menace the continental security of the United States. Nor, it was urged, did we need to form military alliances to maintain the balance of power, and large land armaments were not necessary for our security. If we are to remain at peace, we must not become interested financially in the outcome of the war.

If we allow ourselves to become engaged in the war in Europe as we did in the last war, one thing is certain—the whole energies of our people, of necessity, will be ordered, regimented, and directed by a single authority. Everything—manpower, industrial power, wealth, production, transportation, liberty itself—will be at the service of the Government. It makes no difference by what name such a government is called, it will assume absolute power over the life of every

[41] Harold and Margaret Sprout, *Toward a New Order of Sea Power* (1940); George T. Davis, *A Navy Second to None* (1940); Bernard Brodie, *Sea Power in the Machine Age* (1941); Hanson W. Baldwin, *United We Stand! Defense of the Western Hemisphere* (1941); O. G. Villard, *Our Military Chaos* (1939); Fletcher Pratt, *America and Total War* (1941).

[42] The munitions inquiry had tried to show that the influence of American armament makers was definitely on the side of war. See Report of the Special Committee on Investigation of the Munitions Industry, 74th Congress, Senate Report No. 944 (1935–1936). Walter Millis, *The Martial Spirit* (1931); *Road to War: America, 1914–1917* (1935).

citizen. Bills to accomplish the above purpose have already been drafted and are probably ready for presentation to the Congress. If the proposed bills were enacted into law they would take away the individual rights of every citizen and convert this country, within a few days, into a totalitarian dictatorship. . . .[43]

Shall We Go to War? With the establishment of peacetime conscription in 1940, the development of an armament economy, and finally with the passage of the Lend-lease Bill early in 1941, the issue of war or peace was squarely placed before the American public. Likewise, such committees as the Committee to Defend America by Aiding the Allies came, at this time, to the conclusion that it would be necessary for the United States to convoy or "patrol" its supplies to England if they were to have the effect of keeping England able to fight. No responsible person in the United States defended fascism, but there were deep cleavages in public opinion on the best ways by which to preserve our democracy and to stem the force of totalitarianism in the modern world. Some urged, in the days before the attack on the United States by Japan, that we must avoid war and build democracy at home. Others were equally sure that, in the end, there was no alternative to our participation in the war, whatever the consequences might be. Naturally, all participants in a great debate deal frequently with what they believe is going to take place in the future. It is probable that most Americans thought we had more choice about going to war than was actually the case.

The Opposition Speaks. Before turning to the case for active participation in the war, it may be well to state some of the arguments presented during 1940 and 1941 against such a policy. The America First Committee circularized widely a statement by Stuart Chase against our entry into the war.

The people of the United States [said Chase] are in possession of a workable pattern for community survival and well-being. The people of Europe, Asia and Africa are not. I believe that any attempt by the United States forcibly to impose a pattern on the Old World will not only fail, but almost certainly shatter the American pattern. This will leave the world without stability and without hope anywhere. This is a very broad statement at a high level of abstraction. Let us bring it closer to earth. It is composed of four assumptions: 1. That the United States enjoys a relatively stable culture. 2. That communities in the Old World do not. 3. That the United States cannot remodel and stabilize the Old World by armed force. 4. That a serious attempt to do so will destroy the American pattern.

[43] For the Report of the Senate Committee on Naval Affairs, see Report No. 1615; Senate, 76th Congress, 3d Session, Calendar No. 1677, p. 9. On the other hand, the current was moving so rapidly in the other direction that this report received little attention.

In January, 1941, President Robert M. Hutchins of the University of Chicago spoke over the Red network of the National Broadcasting Company against our entry into the war.

> The chances of accomplishing the high moral purposes which the President has stated for America, even if we stay out of war, are not bright. The world is in chaos. We must give our thought and energy to building our defenses. What we have of high moral purpose is likely to suffer dilution at home and cold reception abroad. But we have a chance to help humanity if we do not go into this war. If we do go into it, we have no chance at all. The reason why we have no chance to help humanity if we go into this war is that we are not prepared. I do not mean, primarily, that we are unprepared in a military sense. I mean that we are morally and intellectually unprepared to execute the moral mission to which the President calls us. . . .

When Carleton Beals viewed the situation in 1940, he believed that the British Empire would fall even though it won the war;[44] that Germany would expand in Central Europe, even if the government were democratic; that Italy must gain in the Mediterranean; that Stalin would lose control in Russia and that Russia might be dismembered; that Japanese control will gain in the Far East; that South Africa would control a large part of Africa; that Brazil and Argentina may dominate a large part of South America; and that continental economic blocs will take the place of free trade. He suggested that if we could get our raw materials outside of areas controlled by the British Empire, we would not be committed to defend the British; and thus he would argue that our dependence on British raw material monopolies in tin, rubber, quinine, and other commodities was a constant danger of war. We must have an economy that can stand alone.[45]

Among the elder intellectuals of the United States who had no enthusiasm for intervention at the outbreak of the Second World War was Charles A. Beard. In his *Giddy Minds and Foreign Quarrels* (1939) he directed his shafts against those who saw the European war as our own. But in *The Open Door at Home* (1934)[46] he insisted that the industrialist statecraft of imperialism which sought expansion to develop foreign markets would fail. The world dominance of trade achieved by England could not be repeated without the possibility of a world combination of

[44] This is similar to the position of Lawrence Dennis, *The Dynamics of War and Revolution* (1940). Dennis argued that since the British Empire was based primarily on a vast credit and monopoly structure, the decline of capitalism would end the Empire. With the fall of capitalism a new national socialism would emerge as the dominant order in the United States and other formerly capitalistic democracies. See Dennis, *The Coming American Fascism* (1936); *Is Capitalism Doomed?* (1932); Boake Carter, *Why Meddle in Europe?* (1939).

[45] Carleton Beals, *Pan America* (1940), Ch. 23, pp. 128*ff*.

[46] See also *The Idea of National Interest* (1934).

powers against the United States. Likewise, the areas of easy expansion, *i.e.*, of easy wars, was restricted and insufficient. The maxims of industrial and agrarian statecraft, predicated on the pretechnological age, cannot be made to work in the modern situation. United States lending and United States foreign trade had not solved our problem of balance between manufacturing and agriculture. In further defense of historic American "continentalism," Beard published *A Foreign Policy for America* in 1940. Whenever the American people have had the direct chance to consider internationalism, they have rejected it, as in the case of the Versailles Treaty (the League of Nations) after the First World War. It is a hard fact that the United States does not possess the power, alone or in a coalition, to enforce peace in Europe and Asia, or to assure the establishment of democratic governments on a world-wide scale. Therefore, the leadership of the United States should move cautiously in its European involvements. On the other hand, Beard recognized that "isolation" was an impossibility.

Intervention Defended. From the time of Woodrow Wilson to the present, the principle that it is impossible for the United States to remain aloof from the rest of the world, or to block off an area of the world for its own control, has won increasing support. From the time of the rejection of the League of Nations Covenant by the United States, a group of earnest scholars and writers had seen the path to peace and social stability in the world leading to the doorsteps of those institutions established for international cooperation. Economically, it has been insisted that our foreign trade, though small, is the difference between prosperity and depression; that while our investments abroad have not been very successful, many of them have paid interest and dividends, and had the world been better organized they would have been useful and even essential to the American economy. Beyond the economic argument, the moral resentment against the use of force in international relations has been great, and its highest aspiration was in the League of Nations Covenant, the pacts signed under the League aegis, and the Briand–Kellogg Pact in 1928 for the renunciation of war as an instrument of national policy. As the crisis deepened under the shadow of totalitarian economies, such as those in Russia, Italy, and Germany, it was argued that in a totalitarian world our political and economic system must be totalitarian to survive. In other words, the United States could not afford to sit passively by while the democracies were defeated.[47]

[47] See Raymond L. Buell, *Isolated America* (1940); the moralistic basis of the argument was presented ably by James Brown Scott, *Law, the State and the International Community* (2 vols., 1939); Gerhart Niemeyer, *Law without Force* (1941).

As the crisis became more acute, however, the defenders of the League shifted the symbolism of the argument, for now support of the democracies was regarded as a continuation, in the best sense, of the League of Nations idea. The defenders of peace in the United States since 1919 became the leading exponents of international action even to the field of battle. Behind this move lay the hope that with an allied victory over Germany a new and effective League of Nations might be established, a new world federation which would really be sufficient to keep the peace throughout the world.[48]

It was clear that the force for change in Europe was Germany, even before the outbreak of war in 1939. While extreme proposals have been made, such as that of Kaufman that the German people perish through universal sterilization,[49] most interventionists supported the destruction of Hitlerism and the democratic reorganization of Europe. From the time of the effort to guarantee American neutrality in the coming European struggle by the passage of neutrality legislation, in 1935, 1936 and 1937,[50] the defenders of the League of Nations denied the practicability of such a program. It was argued that the United States in its own interest should assist in the peaceful or warlike reorganization of the world. Clarence K. Streit proposed in his *Union Now* (1939) a scheme for the federal reorganization and union of the democracies of the Western world, and received widespread support for his ideas. Later during the war he suggested *Union Now With Britain* (1941). In order to halt the onward march of tyranny and to save America from invasion, to win the war and to win the peace, union with Britain now was necessary.[51]

The great defense of American interventionist policy from 1937 on came, naturally, from the President and from his leading executive offi-

[48] See Hugh R. Wilson, *Diplomat between Wars* (1941); see *International Conciliation*, June, 1941, No. 371, for statements by American leaders on internationalism.

[49] Theodore N. Kaufman, *Germany Must Perish* (1941).

[50] For convenient information on American neutrality, see *International Conciliation*, Nos. 353, 355, 358 (1939, 1940).

[51] Professor James T. Shotwell of Columbia University headed a Commission to Study the Organization of Peace. One of the basic principles of this group was that the new order must be based on a continuation of the League of Nations. See *International Conciliation*, 1941, No. 369, for the "Preliminary Report and Monographs" of this Commission. See also *The Foundation of a More Stable World Order* (1941), by members of the University of Chicago faculty. Quincy Wright, ed., *Neutrality and Collective Security* (1941); *A Study of War* (2 vols., 1942); W. E. Dodd, Jr., and Martha Dodd, eds., *Ambassador Dodd's Diary, 1933–1938* (1941); Norman Angell, *For What Do We Fight?* (1940); James T. Shotwell, *What Germany Forgot* (1940); Hans Kohn, *World Order in Historical Perspective* (1942); Herbert Hoover and Hugh Gibson, *The Problems of Lasting Peace* (1942); J. B. Condliffe, *Agenda for a Post War World* (1942).

cials, such as Cordell Hull, the Secretary of State.[52] In a series of addresses beginning in the spring of 1940 the President proposed a constantly increasing support of the British and their allies in their war against Germany. His policy was based upon the assumption that measures short of war would be sufficient to secure an allied victory. In the fall of 1939 the Neutrality Act was amended to permit the sale of arms to foreign powers, though still it was provided that American ships should remain out of the war zone. In the winter of 1941 the Lend-lease Bill enabled the President to give aid to the democracies and victims of aggression without requiring them either to borrow or to buy munitions in the United States. Finally, in November, 1941, the Neutrality Act was amended to permit the arming of American merchant vessels and to permit them to enter belligerent ports. These measures supplemented the convoy and patrol system already in use.

We have furnished the British great material support and we will furnish far more in the future [said the President on December 29, 1940]. There will be no "bottlenecks" in our determination to aid Great Britain. No dictator, no combination of dictators, will weaken that determination by threats of how they will construe that determination. . . . I believe that the Axis powers are not going to win this war. I base that belief on the latest and best information. We have no excuse for defeatism. We have every good reason for hope—hope for peace, hope for the defense of civilization and for the building of a better civilization in the future. I have the profound conviction that the American people are now determined to put forth a mightier effort than they have ever yet made to increase our production of all the implements of defense, to meet the threat to our democratic faith. As President of the United States I call for that national effort. I call for it in the name of this nation which we love and honor and which we are privileged and proud to serve. I call upon our people with absolute confidence that our common cause will greatly succeed.[53]

Conclusion. The attack on Pearl Harbor ended, with sudden finality, the debate on whether we should enter the Second World War. Pearl Harbor, the atom bomb, the United Nations, and the development of postwar friction with Russia seem permanently to have altered the international position of the United States. The framework of debate among Americans on foreign policy from the time of Washington to the atom bomb seemed to have vanished, almost overnight; and the controversy of the months immediately before Pearl Harbor might seem as remote from

[52] For a criticism of the Administration's use of international law, see Edwin Borchard, "War, Neutrality and Non-belligerency," *The American Journal of International Law*, XXXV (1941), 618*ff*.

[53] For important speeches on the development of the international crisis, see *International Conciliation*, 1941, No. 367; 1940, No. 365; 1941, Nos. 368 and following.

political actuality as the debate on the nature of the Union and of slavery that preceded the Confederate War. In a prophetic vein, one might say that as the last debate among Americans on whether the United States must take an active part in international affairs, it is worth remembering. But old ideas take new forms, whether the idea involved is the defense of international order or the resistance to foreign entanglement; even if we admit that foreign policy is recognized as American politics at its height, the transformation may still be perceived. In such a case there is continuity of debate, even though the context may be admitted to be fundamentally different. The new internationalism may find itself forced to take its stand beyond the United Nations, and the new isolationism may defend the appeasement of new imperialism or the actual ineffectiveness of existing international organization.

SELECTED BIBLIOGRAPHY

A Free and Responsible Press. The Commission on Freedom of the Press (1947).
AGAR, HERBERT: *A Time for Greatness* (1942).
American Journal of Sociology, The, Vol XLVI (1941), No. 4.
BEARD, CHARLES A.: *A Foreign Policy for America* (1940).
———: *American Foreign Policy in the Making* (1946).
———: *The Idea of National Interest* (1934).
———: *The Open Door at Home* (1934).
BECKER, CARL L.: *Modern Democracy* (1941).
BEMIS, SAMUEL F.: *A Diplomatic History of the United States* (new ed., 1942).
BRECHT, ARNOLD: *Prelude to Silence* (1944).
BROWDER, EARL: *The Second Imperialist War* (1940).
BROWN, STUART G., ed.: *We Hold These Truths: Documents of American Democracy* (1941).
BUDENZ, L. F.: *This Is My Story* (1947).
BUELL, R. L.: *Isolated America* (1940).
CARLSON, J. R.: *The Plotters* (1946).
———: *Under Cover* (1943).
CHAFEE, ZECHARIAH, JR.: *Free Speech in the United States* (1941).
CHASE, STUART: *The Road We Are Traveling, 1914–1942* (1942).
CORWIN, EDWARD S.: *The President: Office and Powers* (1940).
DAVIS, JEROME: *Capitalism and Its Culture* (rev. ed., 1941).
DEWEY, JOHN: *Freedom and Culture* (1939).
EBENSTEIN, WILLIAM: *The German Record* (1945).
ELIOT, T. S.: *The Idea of a Christian Society* (1939).
FRIEDRICH, CARL J., and EDWARD S. MASON, eds.: *Public Policy* (1940, 1941).
GABRIEL, RALPH H.: *The Course of American Democratic Thought* (1940).
HOCKING, WILLIAM E.: *The Spirit of World Politics* (1932).
International Conciliation. Carnegie Endowment for International Peace.
JOHNSON, GERALD W.: *Roosevelt: Dictator or Democrat* (1941).
JOHNSON, HEWLETT: *The Soviet Power* (1940).
JOHNSON, WALTER: *The Battle Against Isolation* (1944).
KNUDSON, JOHN I.: *A History of the League of Nations* (1941).

LASKI, HAROLD J.: *The American Presidency* (1940).
LASSWELL, HAROLD D.: *Democracy Through Public Opinion* (1941).
LAVINE, HAROLD, and JAMES WECHSLER: *War Propaganda and the United States* (1940).
LORWIN, L. L.: *Economic Consequences of the Second World War* (1941).
MACKINDER, H. J.: *Democratic Ideals and Reality* (1919).
MANDER, LINDEN A.: *Foundations of Modern World Society* (1941).
MERRIAM, CHARLES E.: *The New Democracy and the New Despotism* (1939).
MORGENSTERN, GEORGE: *Pearl Harbor* (1947).
NEF, JOHN U.: *The United States and Civilization* (1942).
NELSON, DONALD M.: *Arsenal of Democracy* (1946).
RADER, MELVIN: *No Compromise* (1939).
RUSSELL, FRANK M.: *Theories of International Relations* (1936).
SCHUMAN, FREDERICK L.: *International Politics* (3d ed., 1941).
SIBLEY, M. Q.: *The Political Theories of Modern Pacifism* (1944).
SOROKIN, PITIRIM A.: *Social and Cultural Dynamics* (4 vols., 1937–1941).
SPYKMAN, NICHOLAS J.: *America's Strategy in World Politics* (1942).
STACE, W. T.: *The Destiny of Western Man* (1942).
STALEY, EUGENE: *World Economy in Transition* (1939).
STEIN, EMANUEL, JULES BACKMAN, and Others: *War Economics* (1942).
STUDEBAKER, JOHN W.: *The American Way: Democracy at Work in the Des Moines Forums* (1935).
WALLER, WILLARD, ed.: *War in the Twentieth Century* (1940).

Chapter 17

DEMOCRACY AND THE STRUGGLE FOR WORLD ORDER

> Accordingly Lysander, the Athenians yielding up everything, sent for a number of flute-women out of the city, and collected together all that were in the camp, and pulled down the walls, and burnt the ships to the sound of the flute, the allies being crowned with garlands, and making merry together, as counting that day the beginning of their liberty. He proceeded also at once to alter the government, placing thirty rulers in the city and ten in the Piraeus: he put, also, a garrison into the Acropolis, and made Callibius, a Spartan, the governor of it. . . .—Plutarch's Life of Lysander.[1]
>
> The United Nations Organization is an essentially American product, as the jeep or the atomic bomb. Conceived at Dumbarton Oaks, near the American Capitol, inspired by American ideas, born under American chairmanship on the American West Coast, having decided on a permanent site in America, it is even endowed with an American surname. In fact as in word, there would be no United Nations were there not a United States.—William E. Rappard.[2]

War and Political Theory. It has been said that only one thing is certain about a war: that its outcome and consequences will be different from what one expects at the opening of hostilities. The Second World War of our time is, in this regard, no different from other wars in which we have fought. In the debate over our participation in the war, bold prophecies were made by those who favored and those who opposed our entry, but the events that have followed the war have denied many of the predictions of both sides. The postwar problems that are faced by Americans are so great and so difficult that prewar argument is dwarfed by events. Yet what issues of political theory arise as a consequence of war? Some might say that no new political thought has come from the war, and that only new applications of the older issues in a new postwar historical continuity can be found. Whether or not such a judgment is sound depends, indeed, on a historical perspective that this generation cannot have.

Power politics, the conflicts of the world's superpowers, have continued with renewed force since the end of the actual fighting; but the new and

[1] (Dryden Trans.).

[2] In *The American Political Science Review,* XL (1946), 545. Reprinted by permission.

the overwhelming fact that has emerged is one that few anticipated or believed could be true. It is the fact of the existence of the atomic bomb. In the end, more words will be written and spoken about this new weapon and this new source of energy than have been spoken and written about Hitler, fascism, communism, the defense of democracy, or, indeed, about most of the perils to the spirit of man. The makers of the bomb, the atomic scientists, have tried to become experts on the issues of peace, they have become social scientists; and for the first time, really, the scientist has discovered the problem of war and its whole range of related issues. But the scientists say only what has been said for generations by those who have insisted that war is the overwhelming scourge of civilization: War must be stopped by the intelligent organization of the world. Those who did not make the bomb have talked unceasingly also, but they have said the same thing, and none has an answer for the question of why war has not long since been eliminated from human experience. There is, therefore, a flatness and monotony to "the great discussion" that leaves many with an inarticulate fear of the future. For the first time in American life there has developed a powerful scientific pessimism, a fear and distrust of science at the heart of our social thinking. The issues are continuous, for most of those who speak publicly merely urge with stronger conviction the solutions for the human and political problem that they urged before the final and successful experiment at Los Alamos in arid ranch country in New Mexico.[3]

President Robert M. Hutchins of the University of Chicago has declared that only one subject, the atomic bomb, is now worth discussion. While the battle for the control and direction of atomic energy continues as an overtone of all political questions, the examination of other questions in their postwar setting must go on. First and foremost of the issues of value and behavior that Americans face is our international position, our relations with other states, both victors and defeated. This is American politics at the commanding height, and on the international solutions we reach depend ultimately the other solutions we shall achieve.

In the contemporary revolutionary era that began in August, 1914, with the outbreak of the First World War, the state system of the world has been radically changed. Empires and dynasties have fallen, as have many hopeful experiments in democratic organization. But the fact that

[3] See Henry D. Smyth, *Atomic Energy for Military Purposes: The Official Report on the Development of the Atomic Bomb under the Auspices of the United States Government 1940–1945* (1945); consult the *Bulletin of the Atomic Scientists*, published by the Atomic Scientists of Chicago; Norman Cousins, *Modern Man Is Obsolete* (1945); F. S. Dunn and Others, *The Absolute Weapon: Atomic Power and World Order* (1946).

stands out above the rest is that the structure of the great-power relationships has been revolutionized. The process begun in the First World War has been continued in the Second. In 1914 the Austro-Hungarian dual monarchy was a great power, Germany was one; and likewise Italy and Japan were part of the large-power organization of the world. These powers have ceased to be "great"; that is, they are no longer able to fight a first-class war,[4] but among the victors, too, a toll has been taken. French power has declined, and the British Empire has come near to exhaustion as a result of two world wars. By courtesy China is included among the great powers, but the real issue of the present day is the relation of Russia and the United States. These two powers alone among the great ones have not fought each other, yet both began the postwar period by continuing their old rivalries and by sparring over the results of the late conflict.[5]

It is between the United States and Russia that the new balance of power must emerge, if any balance is to be attained. The aspects of this conflict are central and manifold. They extend from the ideological differences between communism in the Soviet Union to the capitalist or mixed economy of the United States. Two ways of life are in conflict, whatever interpretations may be offered for either system. The interpretations of Russia range from the highest praise of its proletarian democracy to the assertion that Stalinism is the most autocratic tyranny the world has known. American democracy, likewise, is interpreted by some as a façade for a capitalist dictatorship, and by others as the true hope for a future free organization of men. For political theory, therefore, the international politics of the United States and Russia provide a central issue for all who are concerned with liberty and authority.

Such a purified issue of political philosophy, however, is organic with all the other aspects of the problem of the new balance of power. If, in part, we fought the Third Reich because it was destroying the balance of power in Europe, Russia has achieved something like the same end. For the Russian security zone extends to the heart of Europe, and the

[4] *Cf.* John Burnham, *Total War* (1944); Giulio Douhet, *The Command of the Air*, trans. by D. Ferrari (1942); Lynn Montross, *War Through the Ages* (1945); Major General J. F. C. Fuller, *War and Western Civilization, 1832–1932* (1932); *Armament and History* (1945).

[5] William T. R. Fox, *The Superpowers* (1945); Pitirim A. Sorokin, *Russia and the United States* (1944); G. D. H. Cole, *Europe, Russia and the Future* (1942); Sir Bernard Pares, *Russia and the Peace* (1944); David J. Dallin, *The Big Three: United States, Britain and Russia* (1945); *The Real Soviet Russia* (1945); O. I. Janowsky, *Nationalities and National Minorities* (1946); William C. Bullitt, *The Great Globe Itself* (1946); E. H. Zabriskie, *American–Russian Rivalry in the Far East* (1946); M. M. Laserson, *Russia and the Western World* (1946); E. H. Carr, *The Soviet Impact on the Western World* (1947); F. J. Sheed, *Communism and Man* (1945).

American dream of a Europe of free but demilitarized and democratic states has faded before the fact of Russian expansion, whether or not it is justified by the needs of Russian national security. Geopolitics has suggested that whoever controls the "world island" of Europe and Asia will dominate the world.[6] But the Russian position at the close of the war resembled just this, for its jurisdiction extended from the Pacific Ocean to the heart of Europe. On the contrary, there is a geopolitical strategy for a country situated as is the United States, and N. J. Spykman has tried to suggest it. We should regard Japan and Great Britain as in the same relation to us, as bases for future military and naval security operations.[7] But if geopolitical moves and countermoves are finally involved in our international negotiations, we still might ask whether air power and the improved atomic bomb make all of these ideas outmoded. Would America be secure if all of Europe became communist, or if governments in all of Europe were in the Russian orbit of foreign policy? Does our fight for a practical democracy in Europe mean that we must resist Russian expansion at the cost of a third world war? Can we suppress communism at home and let it flourish in Europe?

Part of the scientific pessimism that began to flourish in the United States after the war was a feeling expressed by some political leaders and students of raw materials, that we had, under the present conditions of technology, reached the peak of our power. Not only raw materials are involved; for although the prediction is that the population of the United States will reach its high point before the end of the century, the Slavic populations are still growing with impressive vitality. By the end of the twentieth century our population may be static or declining, like the population of France, while Russia manpower may still be expanding. Some said that never again would the United States be able to raise so young and healthy and so large an army as it did after December 7, 1941, and never again would we be able to lavish such an amount of raw materials in the manufacture of the goods of war. But Russian resources are in process of development, and by her new security system new raw materials are steadily coming within her grasp. Perhaps the great war effort of the future will be that of the Russian people. Perhaps, it was said, the future belongs to the Slavs. But again, the atomic bomb has, perhaps, made all of these ultimate power calculations

[6] H. J. MacKinder, *Democratic Ideals and Reality* (1919, 1942).

[7] N. J. Spykman, *America's Strategy in World Politics* (1942); Hans W. Weigert, *Generals and Geographies: The Twilight of Geopolitics* (1943); Andrew Gyorgy, *Geopolitics: The New German Science* (1944); Robert Strausz-Hupé, *The Balance of Tomorrow* (1945); George Weller, *Bases Overseas* (1945); C. K. Leith, J. W. Furness, and Cleona Lewis, *World Minerals and World Peace* (1943); C. B. Hagan, "Geopolitics," *Journal of Politics*, IV (1942), 478*ff*.

beside the point, for if we develop a new atomic technology we might still remain immeasurably the greatest power in the world.[8] American statesmanship must not only consider the unwillingness of the American people to fight wars in the future in all corners of the earth, but also the broader political and economic needs of the future United States of America.[9]

Demographic, economic, and geographic considerations are not vividly present in the minds of all voters on election day, however important these may be. But the conflicts of political ideology often are. Most Americans can understand the stark simplicity of the issue between our evolving political tradition and the revolutionary drive of international communism. While some American intellectuals have consistently praised and supported all that the Soviet Union has done, their version of the Russian myth since the revolution in 1917 in that country has not impressed the great bulk of the American people. Those who believe in the free communication of ideas said that if we had as effective a system of reporting on the Russian system as there is in most other countries, there would be no problem of the Russian myth of the perfect regime of workers and peasants. If those who support Russia justify whatever is done in the name of political necessity in order to establish the collectivized economy, for most of those who opposed Russianism the issue was the political regime itself.[10]

The defenders of American democracy have never said it was perfect, and the American conservative has an immediate suspicion of those who say that Russian or Stalinist democracy is the best in the world. A sober evaluation of human nature and of political tactics denies this. But those who believe in American democracy do not believe that mere talk of freedom is a substitute for the real freedoms of minorities in politics. Political prisoners, opponents executed, the Iron Curtain across Europe, and censorship of the right of publication all point in one direction—to political tyranny; and that, the American democrat, whether conservative or radical, says, is the true picture of the Russian regime. At the end of the Second World War, fascism in Italy and Germany had risen and fallen. It appeared that fascism might simply be an interlude in the longer controversy between the democracy of the Anglo-American countries and the communism of Russia and her security zone.

Thus rivalry between the Russian and the American systems is related to the economic reconstruction of Europe. Europe, which was once the center of economic and military power in the world, was placed between the forces of the new "superpowers." Was Europe in decay, as

[8] *Cf.* F. W. Notestein, *et al., The Future Population of Europe and the Soviet Union: Population Projections 1940–1970,* League of Nations (1944).

[9] See Harold D. Lasswell, *World Politics Faces Economics* (1945).

[10] *Cf.* F. A. Schuman, *Soviet Politics* (1946).

Oswald Spengler in *The Decline of the West* had argued? Was the civilization of the West past its greatness? Was it now in the long, slow anguish of stagnation? Or should we say that the Marxian prediction of the fall of capitalist society was being illustrated by the wars of the twentieth century, and that the future belongs to those countries in which socialism is accepted as a remedy? For Americans who have believed that the spread and development of a free society is the highest aim of civilization, neither conclusion would be acceptable. True, the American economy after the Second World War was mixed—that is, it had elements of private enterprise, elements of public ownership, and phases of economic activity that were subject to public regulation or control. But such a balance between the free market and the controlled economy did not imply for us that the only logical conclusion is a rigorous collectivism. Americans still believe that there can be a balance between the power of those who own productive property and the rights of the workingman, and that both of these interests must be balanced through democratic procedures against the common interest of all the people in the national economy.

Within a year after the end of the fighting, the lines between Russian expansion into Europe and the resistance to this expansion by the United States, Great Britain, and the other Western democracies seemed stabilized. Europe itself was divided into zones of influence, with a powerful censorship in the Russian areas that prevented us from knowing precisely what was going on there. It was agreed that the chances for peace depended greatly on just such a stabilization, for the alternative was another world war between the United States and Russia and their respective satellites.

However, it was also clear that there was little effort in Europe to restore a free-enterprise system of economics. Collectivism seemed to be the order of the times. While the socialists and communists fought each other and cooperated at times, the issues that divided them were not those clustering around collectivism. The conservative would say that sick societies must turn to collectivism, and he might urge that the rise of the British Labor party to power with a socialist program meant that the English economy was sick enough for people to try socialism as a way out. In France, for example, the dominant parties were agreed on a program of economic collectivism.

What divided the communists from other parties was, in fact, the issue of Russian power, for the noncommunists contended that the predominant idea with a communist was the advancement of the Russian interest as the best means of extending the workers' revolution. The issues in Europe that divided the communists and their enemies were deeper than a mere program of economic socialization; these issues were the whole

question of Russian power, Russian political techniques, and the defense of the Western intellectual and moral tradition.

War Aims and the United Nations. In contrast to the issues we have been discussing, there is the whole vast, generous impulse that the war inspired toward the creation of a better and more ordered world. During the war it had been the function of leaders like President Roosevelt and Prime Minister Winston Churchill to state with glowing eloquence the aspirations of the common man for the new world. Just as President Wilson issued the famous Fourteen Points during the First World War, so the Atlantic Charter expressed, as did other statements of the "big three," the hope that at the end of the Second World War we could have lasting peace and prosperity. Likewise, President Roosevelt's address to Congress in which he listed the "Four Freedoms," freedom of religion and speech, and freedom from want and fear, mobilized millions of people in the crusade against fascism and the aggression of Germany, Italy, and Japan.[11] But how was this century of the common man, as Henry Wallace termed it, to be realized? Obviously, the first war aim, as Winston Churchill said, was the military defeat of the enemy, or their "unconditional surrender." But if that were all that was to be gained by the war, the disillusionment following the conflict would be sharp and complete. So, just as in the First World War, the implementation of the aims of peace was to be found in the organization of peace. It was to be found, as in the Covenant of the League of Nations, in the creation of the United Nations organization and other international bodies to deal with specialized problems. Various plans were drawn up, and a multitude of writers began stating just what the peace organization should be. The realists contended that war is a process that must run its course, and that the idealism of leaders during the war will not be sufficient to eliminate the conflicts between the victors. Granting that the conflicts between the victorious powers have been sharper than was publicly anticipated, the argument for an organization of the world still stands firmly in the minds of its defenders as the one hope of avoiding war.[12]

[11] A convenient source for these wartime documents is *International Conciliation*, which included nearly all of the significant statements of the United Nations leaders.

[12] An impressive literature of "plans" for the postwar organization of the world was published during the war; however, the actual establishment of the United Nations in 1945 destroyed much of the value of this writing. Only a few of the titles can be listed here: Ely Culbertson, *Total Peace* (1943); *The World Federation Plan* (1942); R. M. MacIver, *Towards an Abiding Peace* (1943); Wendell L. Willkie, *One World* (1943); Oscar Newfang, *World Government* (1942); *Comparative Peace Plans* (Pacifist Research Bureau, 1943); Edith Wynner and Georgia Lloyd, *Searchlight on Peace Plans* (1944); Harriet E. Davis, ed., *Pioneers in World Order* (1944); S. J. Hemleben, *Plans for World Peace Through Six Centuries* (1943); Edward J Byng, *A Five-year Peace Plan* (1943); Hans Kelsen, *Peace Through Law* (1944).

The basic plans for the organization of the world were laid first in the personal meetings between the war leaders; they were put down on paper in the meeting at Dumbarton Oaks in Washington; and finally the United Nations Charter was drafted in the historic meeting in San Francisco in 1945. By the end of the year the Charter was ratified, and the organization began to function actively in 1946, with headquarters in the United States. The Charter is, therefore, one of the documents around which center the conflicts and aspirations of the postwar world. And the picture was cleared in 1946 when the old League of Nations held a final meeting to agree upon its own dissolution.

Conservative internationalists hoped that the new organization would be a continuation of the League of Nations, but both the United States and the Russian government seemed to want a new start. Russia had been expelled from the League when, after the outbreak of war in 1939, it had invaded Finland, and the Russians had no desire to return to Geneva. For the United States, the long controversy over ratification of the Covenant of the League must not be revived, for the old symbolism might defeat the new organization in the United States Senate. Moreover, the Covenant had been part of the peace treaties after the First World War. It was decided now to found the new organization before the end of the war and to separate it from the treaties of peace, on the theory that the new treaties of peace might be postponed for a long time. On the other hand, the ideals of peace and cooperation that had graced the Covenant of the League were found in the new Charter, though the critics of the Charter insisted that in comparison with the League there was less emphasis on the settlement of international disputes through the use of international law and adjudication.[13]

Sovereignty. The fighting of the Second World War had hardly begun in 1939 before those concerned with the establishment of world order had started their discussion of what should be done when the Axis was defeated. While the military successes of the Axis made such planning remote from the events of the day, the final military victory of those who opposed Germany and her allies has justified those who insisted that the war would give us another opportunity to build a vital and enduring world system.

Two contradictory views of the new world order began almost immediately to appear. Most of the students of international affairs urged that a world system has to be built slowly and patiently upon the habits

[13] Leland M. Goodrich and Edvard Hambro, in *Charter of the United Nations: Commentary and Documents* (1946), give one of the best summaries of the work of the San Francisco Conference and one of the most incisive commentaries on the specific articles of the Charter.

of the masses of mankind. One must take the advances of previous international organizations, including the League of Nations, the Permanent Court, the International Labor Organization, and other efforts, and build them into the new postwar system. Even then success will be difficult, it was thought, and only after generations can one hope that genuine world government will be constructed. Only then will the sovereignty of the national state be so limited or destroyed that world government will seem as real as the government of the national state. Sovereignty, as national power, cannot be disposed of in a moment of historical exultation, for world order must arise from the conscience of civilized peoples, from the habits of obedience to international authority, and from the gradual atrophy of national loyalty.

In contrast to this view, many others insisted that the only way to establish world order is to take the opportunity given by the war to renounce the war-making state. World federation or world government was held to be the only possible answer, and if federation on a world-wide scale was not possible, then the democratic societies should establish a federation of their own. But there would be no peace in the world as long as sovereignty was not destroyed. Moreover, the model for world federation might be the experience of the thirteen American states in getting together to form the Federal Constitution. In detail, American federalism offered a model because of the specific powers delegated to the national government, such as control over money, commerce, and most particularly the denial to the individual states of any direct control over foreign relations. Thus, the ideal of European federalism might be merged with the practice of federalism in North America, and the two might be the basis of international federalism. The principle of world federation was not originated during the Second World War, for the American model had been proposed during the First World War by James Brown Scott.[14]

The establishment of the United Nations following the San Francisco Conference indicated, of course, that the more moderate and historical solution of the issue was to be adopted. The United Nations Charter recognized the sovereignty of individual states, but it attempted to set up an organization that might preserve the peace, and eventually make possible the creation of a forceful system of law between states. It suggested, likewise, some continuity of experience in working toward a new world order. And it definitely rejected the more drastic and revolutionary solution of trying immediately to destroy the sovereignty of the national state. However, the existence of the United Nations has not prevented

[14] See James Brown Scott, *James Madison's Notes of Debates in the Federal Convention of 1787 and Their Relation to a More Perfect Society of Nations* (1918).

those favoring a world state from advocating an immediate effort to reform the United Nations, nor their insistence that the new organization will in the long run be unable to solve the issues of conflict between the great powers. The answer of those who defend the United Nations is simple: no other solution than the one adopted was at all possible, and any attempt at world federation under present conditions would merely destroy the United Nations itself.

As a concept, sovereignty is protean. Many limitations on the state may be accepted through treaties without the question of sovereignty ever being raised. But the moment it is raised, those who defend the state because of their loyalty and patriotism can unite their forces and defeat any extreme proposals. Sovereignty is both a narrow idea and a very broad one. In public or constitutional law it means, in general, the right of the state, as a juristic person, to say finally what the law is. It does not mean the ability of the government to enforce what ultimately is said to be the law. In this sense, sovereignty is not inconsistent with the limitations of treaties on the national state, and, indeed, almost any concessions might be made to an international body in the interest of world order without completely destroying the notion of sovereignty. Thus, one conception of international law and order is quite compatible with the conception of sovereignty as the supreme legal will of the state.

On the other hand, sovereignty is defined as the power of the state in a legal and physical sense. Limitation on sovereignty is, therefore, reduced to a curbing of the ability of the state to make certain international decisions, notably the power to declare war and to regulate the inevitable contacts between states. International law, in this view, may be regarded as a limitation on the sovereignty of the state, for international law means that there is a legal community superior to the state, and the state in its nature is simply and always a part of it. The limitation on sovereignty does not arise, in this view, from the fact that a state accepts the obligations of a treaty; the obligation to accept the fundamental rules of international law arises before any treaty is signed, and in fact the obligation of the treaty arises from the international community of legal values and not the national acceptance under constitutional law of the treaty itself. It is clear that international documents, like the United Nations Charter, are not sure as to what is meant by sovereignty. However, it can be argued that, even if imperfectly, it is recognized that states live in a community, in the society of nations, and that one of their obligations is the acceptance of the general rules of international law that give rise to the society of nations.

In either view of sovereignty it is quite possible, on the level of policy, to limit the international independence of states. Such limitation can

be achieved through the acceptance by states of extended obligations, one to another, in the form of treaties. A world federation can be established within the traditional forms of international intercourse. In detail, the debate centers on the kind of limitations proposed. But it is a question of what people will accept. Those who defend the United Nations as the future hope of the world believe that the time will come when a world government can be established; the world federationists would say that delay may produce another war that might destroy civilization and the very hope itself of international order.

The Great-power Veto. However, one central issue that has arisen directly from the new Charter is the right of the great powers to veto action in the Security Council. The critics of the organization have said that, as a result, no serious action against any great power can be taken, and that only the smaller nations may feel the sting of the economic and military measures contemplated by the Charter against aggressors. Under the League of Nations, parties to a dispute were excluded from voting on their own case, even though otherwise unanimity was required for action against any state. It was, in fact, the Russians who insisted most firmly on the retention of the veto of the great powers, and it is the Russians who have used it most freely in the Security Council in order to block any action of which they do not approve. One can readily agree that it is the great powers that must assume the chief burden of economic and military measures against a violator of the peace; but if action in the Security Council is clouded as it is by the ideological conflict between Russian communism and the democracies, the difficulties of organizing the future peace of the world are greatly multiplied. When in 1946 the United States proposed a plan to deal with the control of the atomic bomb, one of our demands was that in the control of the bomb and its manufacture the veto power should be surrendered in determining violations of the control agreements. The Russians immediately objected. In any case, the great-power veto is the central problem in the development of law and government under the Charter, and there are few who will defend it as a useful step in the preservation of the rule of law in international relations.

While enthusiasts for international organization might concentrate their attention on the operation of the United Nations, the general stream of thought was bearing in mind the issues that actually were generating rivalry. The United Nations in its early stages had not succeeded in dealing with: the division of Europe into different spheres, the conflict between Russia and the West, the atomic bomb, the continued preparations for war (especially in the United States and Russia), and the restoration of international trade and normal economic relations between

all parts of the world. Few would say that another war would do the world any good, but few also would say that peace might be built in any short period. Moreover, most serious-minded thinkers, like the scientists who made the atomic bomb, proclaimed that atomic warfare was the most dangerous hazard of the human race. Some international system that would eliminate the danger of the use of the new weapons was the most urgent task of the United Nations. On this the future hangs.[15]

Domestic Control of Atomic Energy. Beyond the sheer existence of the atomic bomb, the issue of atomic energy in an industrial society has demanded the most far-reaching discussion. Always, however, the problem of national defense is present in this discussion. If the issues of national defense and the domestic use of such energy can hardly be separated, there are, nevertheless, questions that have been examined by themselves. Should atomic energy and its development be placed under public control, even though other forms of energy are subject to private ownership or to limited public regulations? Should civilians or military representatives exercise control, assuming that public control is accepted? It was decided without long debate that atomic energy was too important and too dangerous a factor in modern life to be left to the devices of free competition without government control. And in the bill that established the Atomic Energy Commission, civilian control against military was chosen by the national government.

Yet it can hardly be denied that these decisions were determined by the military significance of atomic power, and the necessity of maintaining secrecy in military developments. In other words, without government ownership and licensing there would be no assurance that the atomic bomb and its technical development would be an advantage to the United States. Atomic scientists urged that secrecy was impossible to maintain, except during a limited number of years. Yet most public men felt that while international friction was increasing and the danger of war was apparent, and while other states were not able to manufacture

[15] Among the many works on our foreign policy, the following may be cited: Walter Lippmann, *U.S. Foreign Policy: Shield of the Republic* (1943); Sumner Welles, *The World of the Four Freedoms* (1943); *A Time for Decision* (1944); Joseph H. Ball, *Collective Security: The How and Why* (1943); F. A. Hermens, *The Tyrant's War and the People's Peace* (1944); James T. Shotwell, *The Great Decision* (1944); Harry Paxton Howard, *America's Role in Asia* (1943); V. M. Dean, *The Four Cornerstones of Peace* (1946); O. T. Mallery, *Economic Union and Durable Peace* (1943); Henry Morgenthau, Jr., *Germany Is Our Problem* (1945); Karl Loewenstein, *Political Reconstruction* (1946).

Serious criticism has been directed against the power of the United States Senate in advising the ratification of treaties. See Kenneth Colegrove, *The American Senate and World Peace* (1943); Edward S. Corwin, *The Constitution and World Organization* (1944).

the bomb, it should remain under American security regulations. Meanwhile, of course, the government should encourage the greater use of fissionable material for scientific purposes, such as medicine and research, and consider the possibility that atomic power might become a low-cost substitute for other fuels that are used in American industry and by other consumers.

Although the military were denied the control of atomic energy, their interest in national defense in relation to the bomb had naturally to be recognized. However, the long American tradition of the superiority of civilian control over military affairs was certainly applicable in this case, perhaps even more so than in ordinary military matters. It has not been assumed that there will be any slighting of defense needs in relation to atomic energy, but it was also believed that military control might stifle the possible use of nuclear energy in industry and in technological advance. Still, the most important judgment of all was the belief that in atomic energy modern science had developed something that is so dangerous, so imponderable in its final implications, and so intimately related to the international position of the United States that it fell outside of the ordinary conceptions of a free economy. But public control extended, of course, beyond the mere necessity of security regulations, for the men who produced the bomb, the atomic scientists, found themselves to a startling degree placed outside the ordinary class of free scientists. The atomic scientists almost overnight became of profound importance to the security of the nation. Yet as a matter of policy, it was believed that scientific research, even when fostered by Federal money, should fall, as far as possible, within the tradition of free research in time of peace. Modern science, as well as modern scientists, have shown that the survival of a nation may be incompatible with free competition in industry and in the free exchange of research ideas.[16]

Democratic Capitalism. In spite of wartime controls over the economy in the United States, the failure of the early postwar period to see the restoration of economic exchange, and the rise of state-controlled economic systems in Europe and in Great Britain, the prevailing conviction

[16] For the Lilienthal-Acheson Report, see *A Report on the International Control of Atomic Energy*. Prepared for the Secretary of State's Committee on Atomic Energy by a Board of Consultants (1946). See also Senate Document, 79th Congress, 2d Session, Calendar No. 1251, *Atomic Energy Act of 1946*, for material on the history and control of atomic energy. The McMahon Bill, with modifications, became law on Aug. 1, 1946.

For further information on the problem of atomic energy before the United Nations, see *International Conciliation*, No. 416 (1945); No. 430 (1946); No. 430 (1947), and James R. Newman and Byron S. Miller, *The Control of Atomic Energy* (1948).

in the United States remained that the best economic system is free enterprise. Free enterprise, for Americans, did not mean, of course, a system in which competition extends to all types of economic effort, for such a system of complete individualism or *laissez faire* has never in fact existed. What free enterprise means in the American view is that competition ought to be the rule, the free market the predominant one, and that the regulation of competition should be used for the destruction of monopoly and the abuses that may occur in business.

In the fresh days of the New Deal, it was always argued officially that an effort was being made to save capitalism, and President Truman's policy was clearly in the same mold. Few had questioned during the war the necessity of government controls over business and labor as an aid to winning the war; but with the end of hostilities those who favored the free market were insistent that the demand of government officials for a continuation of wartime controls should resolutely be denied. While the President and his advisers argued that controls were to last only during the reconversion period, the charge was made that such controls were in fact a step toward the establishment of a planned economy. Such an economy would, of course, be similar in nature to the economic regimes that in other parts of the world had replaced the principle of economic competition. If the critics argued that continued controls were starting us toward a peacetime regimentation, the government stressed the need of controls until production reached normal demands, the need for controls of prices to prevent inflation, and the need for controls in doing our share to relieve world-wide famine.[17]

The defenders of free enterprise, as the American system, thus objected to bureaucratic centralization, the imitation of socialistic experiments in Europe, and the general adoption of the principle of the planned economy. Part of this argument was, as in previous years, associated with objection to the fiscal theories of the unbalanced, or compensatory, budget. Conservatives could not see, for example, that budgetary manipulation would be necessary to assist in attaining full employment, as Harold D. Smith, the Director of the Budget, argued in *The Manage-*

[17] See Donald R. Richberg, *Government and Business* (1943); Carl Snyder, *Capitalism the Creator* (1940, 1943); Edgar M. Queeny, *The Spirit of Enterprise* (1943); Eric Johnston, *America Unlimited* (1944); F. A. Hayek, *The Road to Serfdom* (1944); George Terborgh, *The Bogey of Economic Maturity* (1945); Ludwig Von Mises, *Omnipotent Government* (1944); Albert J. Nock, *Memoirs of a Superfluous Man* (1943); Henry J. Taylor, *Rugged Individualism* (1943), Isabel Paterson, *The God of the Machine* (1943); Hamilton Vreeland, *Twilight of Individual Liberty* (1944); Joseph H. Schumpeter, *Capitalism, Socialism and Democracy* (1942); Beardsley Ruml, *Government, Business and Values* (1942); H. M. Wriston, *Challenge to Freedom* (1943).

ment of Your Government in 1945. Those who opposed the continuation of New Deal fiscal policy urged that a balanced budget would be neither inflationary nor deflationary, and that more direct devices should be adopted for increasing production and the productivity of those workers whose purchasing power is low.[18] The whole argument moved on to a question of general tax policy. Free enterprisers believed that taxation should be no burden on investment capital, and that the present structure of taxation was so high in its corporate and progressive features that business could not expect fair returns on funds risked in new enterprises. Naturally, the attack on the expanded wartime civil service would involve a general reduction of government expenditures, though the impact of taxation on private initiative seemed to be an even more important phase of the discussion. However, the regulatory activities of the government that had become traditional were not subject to postwar attack, such as the prosecution of monopoly and the prevention of unfair business practices. In this sense, a large part of the legislation called "New Deal" was not objected to.

While the President and leaders of the executive agencies continued the policies of the Roosevelt period, the Congress increasingly represented a revolt against them. However, the situation arose in part because of the peculiar nature of the Democratic party, for the Southern conservatives had little in common with the liberal and radical groups in the North, especially in the great industrial cities, that also supported the Democratic point of view. The President was, as usual, forced to consider the support he would get from Northern workers, while Congress, with a Democratic majority, put itself in opposition to the President. The 1946 fight over the continuation of the Office of Price Administration clearly fell into this pattern of party conflict.

Economists argued, as they did after the First World War, that a period of several years of prosperity would follow the Second World War. But the long-run issue was how to maintain full employment. Henry A. Wallace stated the liberal case in *Sixty Million Jobs* in 1945. In general, the liberal and left-wing argument held that government must assume responsibility for full employment, whatever might be the necessary

[18] For effective presentations of the conservative view of fiscal policy, see the monthly report of the National City Bank and the *Tax Review*, published monthly by the Tax Foundation. See Harley L. Lutz, *Guideposts to a Free Economy* (1946) Harold G. Moulton, *The New Philosophy of Public Debt* (1945); Beardsley Ruml *Tomorrow's Business* (1945); Harold M. Groves, *Production, Jobs and Taxes* (1944) *Postwar Taxation and Economic Progress* (1946). But *cf.* Stuart Chase, *Where's the Money Coming From?* (1943); Sherwood M. Fine, *Public Spending and Postwar Economic Policy* (1944); William Withers, *The Public Debt* (1945); P. T. Homan and Fritz Machlup, eds., *Financing American Prosperity* (1946).

steps. Opposition to an all-out commitment to such a policy appeared in Congress, though Congressmen would not hold that in case of a depression the national government could stand idly by. Though the conservative might say that close attention to the figures of national income was not as important as the amount of actual production, the liberal contended that by government expenditure the national income could be planned for a certain figure, and the maintenance of production would be the most important by-product of fiscal policy. The issue remained, of course, whether in a future depression the traditional devices of government spending, such as public works, could or would be seriously modified. But in order to gain popular support, it was clear that all political leaders had to promise security to the masses of the people, particularly to those engaged in the larger industries.[19]

These measures for assuring full employment are limited in scope in comparison with the issue of the planned economy. F. A. Hayek in *The Road to Serfdom* in 1944 started a vitriolic debate on the ultimate tendencies of planning. Historical analogy is one of the most pervasive forms of argument, and those, like Hayek, who opposed planning and favored competition as necessary to maintain political freedom, relied heavily on the tendencies in Europe toward the decline of economic freedom. While the planners (so the argument ran) promise much, in the end the sick society over which they rule will give the ordinary citizen serfdom and not the expansion and satisfaction of the needs of his personality. In response,[20] the defenders of planning tried to show the differences between the totalitarian systems of Europe and the principles of democratic planning for the common good. Thus the European fascist and "managerial" systems were not analogous to planning in the United States, whether local or national. In a democratic system, liberal and radical thinkers have favored generally the extension of governmental control as a benefit to the ordinary citizen, while those opposed have contended that planning, in spite of its democratic promise, would head eventually toward undemocratic and bureaucratic controls. This central economic issue in the postwar world cannot be solved in a short time, and it is probable that at least a generation must pass before the basic and permanent trends of the contemporary world will be clear.[21]

[19] See Sir William H. Beveridge, *Full Employment in a Free Society* (1945); Leo Cherne, *The Rest of Your Life* (1944).

[20] See Barbara Wooton, *Freedom under Planning* (1945), and Herman Finer, *Road to Reaction* (1945), for two of the more notable replies to Hayek.

[21] On the question of planning, see E. H. Carr, *Condition of Peace* (1942); L. L. Lorwin, *Time for Planning* (1945); Karl Mannheim, *Diagnosis of Our Time* (1944); Charles E. Merriam, *Public and Private Government* (1944); *Systematic Politics* (1945); Seba Eldridge and Associates, *Development of Collective Enterprise* (1944);

Change is recognized as inevitable by almost every student of the modern world, and conservatism, like radicalism, is a theory of change. The defense of free enterprise capitalism and opposition to economic planning has not assumed, therefore, that our capitalistic system must remain unchanged or that it cannot be made more democratic and more responsive to the needs of the consumer and the worker. While the defenders of historic capitalism have pointed out that in the United States we attained the highest productivity and the highest level of well-being known to history, they also have recognized that erratic changes from prosperity to depression and from deflation to inflationary trends have produced widespread crises of mass insecurity, and that these same crises of insecurity have their impact on the world position of the United States. High wages and low costs of production have created the American standard of living. But the primary issue again was how to maintain mass purchasing power, as one factor in the economic situation, and one means by which economic cycles might be leveled and prosperity maintained.

As an example of capitalist thinking of this nature the proposals of David W. Raudenbush, who wrote *Democratic Capitalism* (in 1946), are startling enough. Raudenbush was convinced that unless something is done to reorganize capitalist enterprise, we are heading toward the fulfillment of the prophecies of Burnham in *The Managerial Revolution.* If the capitalistic system is reformed, the sovereignty of the new managerial class may be avoided. Only a thoroughgoing reform will be sufficient to stabilize our economy and to maintain the capacity to buy the products of mass production. Raudenbush proposed that the net profits of corporate industry be divided, probably equally, between the holder of securities, the employees, and the purchasers of the products of each corporation. In this way a continuous stream of last year's profits would flow into the pockets of this year's consumers. Prices and estimates of production can be fixed more accurately, and the common interest that all of us have in the success of industry will be concretely established with the purchases of each consumer. But Raudenbush also argued that only natural persons employed full-time by a corporation should be owners of voting stock. Such a policy, to be realized, would require an enormous reorganization of the financial structure of American business; but he believed that within a reasonable time, with proper tax incentives,

A. P. Lerner, *The Economics of Control* (1944); Frank D. Graham, *Social Goals and Economic Institutions* (1942); A. M. Bingham, *The Techniques of Democracy* (1942); George B. Galloway, *Planning for America* (1941); D. E. Lilienthal, *TVA—Democracy on the March* (1944); I. H. Flamm, *An Economic Program for a Living Democracy* (1944); S. E. Harris and Others, *Postwar Economic Problems* (1943); Norman Thomas, *What Is Our Destiny?* (1944).

it could be brought about. Specifically he suggested that heavy tax exemptions be allowed to those corporations that follow this plan, and that it should be too expensive not to follow it. Employees should be encouraged to buy stock with their share of the profits, and in time he believed that a large part of the employees of each corporation would own voting stock. However, these same policies would tend to decentralize industry, to break up the large financial empires of the present time, and thereby the monopoly problem would be solved. But more important than all of this, American capitalism would be democratized, the tendency toward government control and monopoly would be reversed, and the dangers of the managerial revolution would be avoided by the reversal of an existing historical trend.

Government and Public Management. One of the conflicts of contemporary American thought is, as we have argued, the dispute between the supporters of free enterprise and a minimum of government control and those who contend that in the new era there must be substantial increases in the functions of government. The services of the government are, in this latter view, not merely to protect the citizen from predatory actions by business and labor leaders, but to provide, likewise, a host of services more efficiently and more surely than they can be given under competitive conditions. The service-state comes more and more under the control of the expert civil servant, the person skilled in the techniques of administration, or the professional political manager. The problem is, therefore, the management of government, and the proper use of the skills appropriate to such management.[22]

In a war economy, the control of both economic affairs and ideological trends is accepted as necessary, but with the end of the war in 1945 elective officials of the government showed a distinct restlessness in the face of administrative controls. There was little Congressional desire to continue the war economy into the postwar era, but liberals, left-wingers, and some administrators thought that such control should be extended carefully into the peacetime period, since only in this way, and not through competition, could economic reconversion be completed. Publicly, at least, the President and the executive authorities agreed that we must return to free enterprise and to competition, but there was no agreement as to when the proper moment for the relaxation of controls had arrived. The conflict was most acute between Congress and the President, aided by his executive advisers. But the narrow issues of executive and legislative battle implied larger issues as to the kind of society the American people

[22] See Harold D. Smith, *The Management of Your Government* (1945), and Charles E. Merriam, *Systematic Politics* (1945), as examples of this point of view. Also Dwight Waldo, *The Administrative State* (1948).

wanted or were determined to have with the resumption of peaceful living.[23]

Administrative theory thus looked with favor on the expansion of national power, the continued loose interpretation of the Constitution, and it looked with disfavor on any hasty dismantling of Federal agencies, or the resumption of powers by the states. Instead of a master, the national establishments were assumed to be benevolent servants of the good of the people, and there could be no ultimate danger to individual freedom in such an expansion of central authority. But if we are to have a planned economy, it must be planned and administered by the civil servants, and most of those who have defended a planned economy think of it in terms of national planning, with the subservience or the cooperation of state and local governments.

Admittedly, what the administrators wanted in many cases was not what any strong current of public sentiment demanded. With the development of the management attitude in public officials there has been an increasing tendency for them to "take to the air" to defend their points of view against Congressional critics. There was logic in such moves, for the Supreme Court virtually ceased after 1937 to stand as a censor of Federal legislation, and from the end of 1936 to 1946 no act of Congress was declared unconstitutional.[24] The conflict has been one of administrative–executive supremacy against Congressional supremacy, and if Congress did not do what the executive desired, the simplest procedure was to work toward a change in the composition of Congress in the next election, or to stimulate the people to put pressure on Congressmen and Senators. The managers of government have, therefore, become one of the pressure groups that bring what influence they can to bear on the elected representatives of the people.

Pressure groups are closely associated, of course, with both members of Congress and the executive agencies. Agricultural and mining interests, for example, have worked most closely with Congressmen, while labor and liberal pressure groups have, since the New Deal, been most at home with the President and his administrators. On general democratic principles a strengthening of Congress in dealing with the administrative agencies can be supported, but it is also a part of the opposition to centralized management. In the months immediately after the war

[23] See Thomas K. Finletter, *Can Representative Government Do the Job?* (1945); Louis W. Koenig, *The Presidency and the Crisis* (1944); Merlo J. Pusey, *Big Government: Can We Control It?* (1945); Don K. Price, "The Parliamentary and Presidential Systems," *Public Administration Review*, III (1943), 317*ff.*; John T. Flynn, *As We Go Marching* (1944).

[24] See Carl Brent Swisher, *The Growth of Constitutional Power in the United States* (1946), p. 210.

there was a serious effort on the part of Congress itself to effect a "streamlining" that would both enable it to deal with legislative problems and to control the administrators when the law is turned over to them for execution.[25]

A whole series of reforms have been proposed. The number of Congressional committees should be reduced in both houses; the staff and service available to Congressmen should be increased, with the aim of aiding Congressmen to get better information on public issues and to enable them to investigate more effectively any national administrative agency. In addition, the salaries of Congressmen should be increased, and there should be added allotments of funds for the expenses of the office. While most critics agreed that the seniority tradition in appointing members of committees was one of the greatest weaknesses of Congress, there was little chance of abolishing this system. With the stupendous increase in national expenditures, it was obvious to Congressmen that they had little real control over the fiscal policies of the government. Reforms were accordingly suggested which would increase the supervision of Congress over the expenditure of public funds by administrative branches of the government. Such measures were suggested in addition to the extensive regulation over spending already established through the Bureau of the Budget, which has been regarded as the greatest administrative "staff" agency in the world.[26]

If the labors of Congress to reorganize itself to control the sprawling national administrative system are a serious effort to restore the energy of representative government, and if the confidence the administrators have in themselves to select and execute the best policies for the good of the people is symptomatic of bureaucratic centralization, the broad issue is the future of the Federal system of government in the United States. Through a series of judicial precedents extending far back in our Constitutional history, the powers of the national government have been expanded until, to some critics, there is little relationship between the original grants of power in 1787 and the actual powers of the national government at the present time. It may be true that the powers of the state government have increased at the same time, but it can hardly be argued that the states are as important as they once were in the Federal system.

[25] See Pusey, *op. cit.;* John T. Flynn, *Meet Your Congress* (1944); Robert Heller, *Strengthening the Congress,* Planning Pamphlets No. 39 (1945); George B. Galloway, *The Reorganization of Congress* (1945); *Congress at the Crossroads* (1946).

[26] See La Follette–Monroney report of March 4, 1946: "Report of the Joint Committee on the Organization of Congress." 79th Congress, 2d Session, Senate Report No. 1011.

Conservative thought in the United States hoped that with the end of the war there might be a reversal or a checking of the tendency toward centralization; it believed that there was still time to save the states if we were so determined; and it viewed the interpretations of the Constitution offered by the Supreme Court since 1936 with contempt. Conservatism believed that, along with a checking of bureaucratic control, there must be a restoration of elements in the older judicial tradition and a steady increase in the effectiveness of Congressional control over the civil servant. Federalism might thus be restored and basic or traditional freedom preserved against the new tendencies to centralism.

Socialistic thinking hardly considered federalism in its proposals for reorganizing society, for it accepted generally central planning for increased services to the masses of the people. But American socialism, in contrast to communism, insisted that socialized industry must be democratically controlled, and this implies some functional decentralization. The support of cooperatives has pointed in the same direction. Liberal writers, whether socialist or not, often urged that federalism, with state control over segments of the economy, was obsolete, since business and economic activity was broadly national or even international. While criticism of capitalistic federalism ends frequently with the principle that the administrators must be increasingly important in the future society, the radical mind has no sympathy with bureaucratic conservatism, which is a conservatism of a pervading and a distinct type. The old administrators whose habits and official procedures cannot adjust to the reorganization of society must be replaced by those who can accept with enthusiasm the new directives.

That the trend toward administrative centralization in the national government exists is not often denied. But the conflict in American political values is sharp indeed, for the traditional view insists that the trend must be stopped or reversed, while the critical and administrative mind contends that what has been done in recent years in reshaping the structure of power is progressive and in the interest of the general welfare.[27] The conservative speaks of bureaucracy and points to historical tendencies that support his view, while the liberal or radical thinking of our time seldom uses the word. Instead of bureaucrats, civil servants,

[27] See Leonard D. White, ed., *Essays in Honor of Charles E. Merriam: The Future of Government in the United States* (1942); Paul H. Appleby, *Big Democracy* (1945); J. Donald Kingsley, *Representative Bureaucracy* (1944); Marshall E. Dimock, *The Executive in Action* (1946); A. C. Millspaugh, *Democracy, Efficiency, Stability* (1942); A. W. MacMahon, "Congressional Oversight of Administration: The Power of the Purse," *Political Science Quarterly*, Vol. LVIII (1943), pp. 161*ff.*, 380*ff.*; Leonard D. White, *Introduction to the Study of Public Administration* (2d ed., 1943); F. M. Marx and Others, *Elements of Public Administration* (1947).

planners, or managers are praised, and the civil servant is regarded by some as a suitable receiver of the socialized remains of what once was a capitalist or free-enterprise economy.

Is bureaucracy a real menace to the freedom of the American people? None would contend that bureaucracy is the only menace to liberty, and few would say that it is the primary danger we face. The issue is whether it is a danger at all. Obviously, a bureaucratic system does not emerge from a vacuum, but from the policies and functions adopted by a government. Some activities of the state require a constantly increasing personnel to administer them, and other policies can result in a reduction of the number of civil servants. A planned society is one that requires a vast increase in public officials, since the decisions formerly made by private individuals in competition with others are now made through government agencies—that is, through public officials. Hayek argued that we must plan for the freedom of the individual to make his own decisions, while the defenders of planning contend that the planners, *i.e.*, the civil servants or the bureaucrats, can make their decisions within the framework of democratic procedure. To the extent that private individuals are directed and controlled by officials, the citizenry does not have the democratic function of deciding on public policy; to the extent that public opinion is manufactured by government propaganda or informational and ideological policies, the masses may have only the illusion of making decisions. And most specifically, to the extent that the policies of administrative officials are protected from criticism by censorship or control of the means of mass communication, democratic opposition, give and take, and modification of policy are destroyed. Most Americans would agree that many civil servants are needed, and most Americans likewise would agree that, in so far as officials are responsible to the elected policy makers, there can be little or no danger from "bureaucracy."

The conservative distrust of bureaucratic tendencies arises from several sources. Primarily, it is the old argument that if something can be done by private individuals motivated by their own interest, it will be done more quickly, more democratically, and more efficiently than by public administrators. American conservatism has never held, and it did not in the postwar period, that government should do nothing; but it believes that the presumption should be in favor of individual and private decision, or at least in favor of decision by public officials who have been elected and who must submit their records to criticism in the next election. Distrust of bureaucracy, however, is fed on the dislike of what has been happening in the rest of the Western world. For, the conservative says, it is the sick economies, the revolutionary governments

that have resorted to centralized and bureaucratic control. In the remaining democratic societies, the bureaucratic system has shown several marked tendencies; it has escaped from the criticisms of public opinion; it has constituted itself a powerful special and vested interest in the state; and it has shown a tendency to grow rather than to settle down at a given level. It has become so powerful in some European countries that parliaments have been unable to exercise any effective control. In the totalitarian countries, on the other hand, the bureaucracy has been the willing tool of the new twentieth-century tyrants; it has been bureaucratic organization that has enabled totalitarian states to exist, and bureaucrats have been just as willing to administer the censorship, the prisons for political opponents, or the techniques of the total state as they have been willing to administer railroads, social-security systems, or government lending agencies, as in the United States.[28]

Defenders of the positive state, in contrast, are forced to say that the real cause of totalitarian developments is to be found in other places than in the inner laws of bureaucratic expansion. Marxist thinkers would say that bureaucracy is simply coming to the aid of a disintegrating capitalism, and that the loss of freedom arises from the capitalistic system and not from the structure of the ruling order.[29] Democratic planners must insist likewise that the loss of liberty has developed from other causes than the growth of state function. The troubles of society arise from its complexity, and from the need of government function to correct the evils of industrial society and urban life. The civil servant, properly used, can eliminate the hazards of life that beset the great masses of the people. Especially is this true if intelligent and scientific policies in planning are adopted by democratic governments. The civil servant is, after all, a neutral factor; he is merely carrying into effect policies that democratic and representative agencies have adopted. The way to avoid the danger of the growth of an inert, tradition-bound, and irresponsible bureaucracy is to keep alive the democratic spirit, democratic institutions, the enlightenment of public opinion, and the application of advanced and scientific personnel techniques in the recruitment, advancement, and dismissal of civil servants. With these controls at work, there can be no danger to liberty from the normal development of the inevitable

[28] See Ludwig Von Mises, *Bureaucracy* (1944); J. H. Crider, *The Bureaucrat* (1946); Lawrence Sullivan, *Bureaucracy Runs Amuck* (1944); Samuel Crowther, *Business Versus Bureaucracy* (1943).

[29] See John Putnam, *The Modern Case for Socialism* (1944); Hiram Elfenbein, *Socialism from Where We Are* (1946); S. D. Alinsky, *Reveille for Radicals* (1946); Vernon Venable, *Human Nature: The Marxian View* (1945); Anna Rochester, *Capitalism and Progress* (1945).

corps of administrators that are necessary in the state of the twentieth century. If the critics of bureaucracy say that a long-sustained effort to decentralize the modern state is necessary to preserve liberty, the defenders of "big-government" administration say there is no danger to liberty provided the basic principles of democratic control are combined with the use of science in making government more useful to the common welfare.[30]

A New Democracy? A war is something we get over; it is, let us say, a necessary but destructive process, that accentuates the problems democracy faces as it constantly emerges from its past. It cannot be said that the issues of American democracy in the immediate postwar period are essentially different from those that preceded the war, but these issues have assumed new proportions, new emphases; and a new spirit of urgency in the solution of social questions has developed. After the First World War there was a period of disillusionment with American society, a growing contempt for the mind of the common man, and an intellectual snobbery that was expressed by those who went to Europe to escape the Philistinism of American life.[31] Will the same debunking, the same disillusionment follow in the wake of the Second World War? Obviously, it might, since much of the perfervid oratory of a war period, with its promises of a better world of peace when the fighting is over, must be revalued when reconstruction days actually arrive. After 1920 self-criticism ran high within the country and idealism was intensely international in its faith in the development of world democracy. In the nineteen-forties hope for the improvement of American democracy burgeoned while a sober and realistic appraisal of world politics followed the conflicts within the new United Nations and the attempts of the superpowers to compose their differences. To those who saw our democratic future as the resolution of domestic issues, the now well-matured promise of American life was as vigorous as it had been in the past.

All supporters of democracy agreed that there were serious problems to be adjusted, and few believed that the future would be easy. But articulate Americans agreed that intelligence and reason would enable us to live up to at least part of the promise of democracy. Aside from the economic and governmental questions already discussed, it is hard to select a central theme; but if such an attempt may be made, it must surely arise from the American ideals of life, liberty, and the pursuit

[30] One phase of the argument for reform is the periodically renewed demand for a new national Constitution. See Alexander Heymeyer, *Time for Change: A Proposal for a Second Constitutional Convention* (1943); Henry Hazlitt, *A New Constitution Now* (1942).

[31] *Cf.* Oscar Cargill, *Intellectual American* (1941).

of happiness. How can these principles be realized for all types of Americans? The frontier of social freedom had moved forward in the period after the war to the question of how to extend to all minorities—religious, cultural, or racial—the benefits that those of the predominant middle-class, Protestant tradition had enjoyed. Equality was as real an issue after the war as it had ever been, and those who had been minorities existing on sufferance in the past—the Catholics, the Jews, and Negroes particularly—were asserting their right to the full enjoyment of political power, religious equality, and cultural respect. Such a profound change in our tradition would mean the realization for them of life, liberty, and the pursuit of happiness. But only this would mean it. Anything short of the firm assurance of the dignity of all men and all creeds would signify a failure in the growth and the promise of democracy. A new spirit and a new tradition was arising in the United States, and those accustomed to the full exercise of power were learning to share it with others. Assumptions of racial superiority had been rudely jolted by rampant anti-Semitism in Europe, and we had become more conscious of our own defects by the excesses of totalitarian Europe.

Just as Catholics began to assume that they were no longer a minority in America, but a fixed, formal, and permanent part of American life, the Negroes began to say that they, too, were tired of second-class citizenship, and that only the full realization of the principles of the Declaration of Independence would give them their just rights in our society. American Jews, after witnessing the tragedy of Jewry in Europe, fought vigorously any signs of organized antisemitism in the United States, because that too was a basic part of our democratic tradition and the promise that American life is supposed to give. The assertion of equality by all minorities, the assumption of all creeds and cultures in the United States that they were just as much a part of America as any other, fixed the contours of the postwar problem of democracy. With a new tradition of equality, a new political tradition as to the distribution of power, a new tradition as to the religious character of the United States, the new democracy could be realized. It requires little insight to see that these issues were, to many, more deep than the question of whether we should reorganize our capitalist democracy and whether the planned society should take the place of free enterprise. These were problems more deep in their import than bureaucracy and centralization, and more deep even than the ideal of the application of science, for the values in the new challenge to democracy were religious and moral in their nature. They did not develop from pragmatic, positivist, or utilitarian considerations. The political ethics of democracy is clearly one of the central issues of the postwar era.

Religious Affirmation. Anyone who descends from the rarefied atmosphere of intellectual social science must face the depth, the permanence, and the energy of the religious concept of life. In the long run it cannot be separated from politics, for, as the historic Christian conception asserts, the supernal ends of man must govern his earthly activities. Yet for the secular world, what the religious mind insists upon is a moral order, a natural law, or divine justice as the magistral idea in political relationships. In the war years, in which culminated the modern tide of irreligion, religious leaders of all points of view began increasingly to insist that if the world is to remain at peace, the social order must be based on religious and moral principles. Protestants, Jews, and Catholics joined in 1943 in a joint declaration on the bases of peace.[32] In the separate statements of introduction, each of the three groups stressed the principle of a moral order standing above the particularities of politics; the theme of the statement itself is the unique and spiritual dignity of each human being; the recognition of this dignity means more than the necessities of strategy, national security, or the process of adjustment and balancing in power politics. Religious leaders of all creeds might agree with Charles Clayton Morrison, then the editor of the *Christian Century,* that secularism was the chief enemy of the good society, especially in the United States.[33]

The issue is in the end what source of values or principles one accepts in the criticism of institutions, for institutions in their operation generally fall short of ideal considerations. Oldest of the standards of criticism is the religious; the newer standard must be some kind of secularism, either the reliance upon science, or empirical knowledge in social relations, or the still more recent principle of materialism, which is associated with Marxism and the rejection of capitalism. Religious thinkers believe that the standard of living, the economic security of the family, and the safeguarding of necessary social institutions should all be objects of Christian social policy; but ultimately it is the quality of the individual

[32] See *International Conciliation,* No. 394 (Nov., 1943), for this joint declaration For Catholic statements on the kind of peace that should follow the war, see John A O'Brien, "The Pope's Way to Peace," *International Conciliation,* No. 404 (Oct., 1944); *Principles for Peace: Selections from Papal Documents (Leo XIII to Pius XII),* ed. for the Bishop's Committee on the Pope's Peace Points by the Rev. Harry C. Koenig (1943); Francis J. Spellman, *Action This Day: Letters from the Fighting Fronts* (1943); Ross J. S. Hoffman, *Durable Peace* (1944).

[33] See Morrison's series of articles in the *Christian Century* in 1946 on the question, "Can Protestantism Win America?" In addition to secularism, the author believed that Catholicism was the second main danger to American culture. A previous series of articles in the same magazine had viewed with alarm the growth of the Catholic Church in the United States.

character that is of most concern. The state, for example, must be concerned with the general welfare, but it must also be moved by a sense of moral responsibility that arises from the Western religious tradition. Not only in international politics must there be a recognition of moral values, but also in the domestic economy.

For the past generation religious thought has been increasingly dissatisfied with the conditions under which ordinary people live in modern industrial society. Like the socialist, the Christian believes that we should remove the scourge of war, insecurity to the family produced by less than a living wage, and the revolutionary feeding ground of mass unemployment. Religious thought in Europe after the Second World War hardly bothered to defend the older principle of laissez-faire capitalism, though in any case not much of it was left; a moderate acceptance of collectivism as a possible means of securing the moral foundations of an ordered life was prevalent in Europe in this period of reconversion and reconstruction.

In the United States, since the *Rerum Novarum* there has been a slow acceptance of its principles among Catholic clergy and laity, an acceptance which was emphasized by the *Quadragesimo Anno* in 1931. Central in Catholic thought is the right of the worker to own property, to have a living wage, the right to form unions, to have a voice in the conduct of the economy, and in general a right to all those conditions which offer security to the family as an institution. The form of the economic system is thus not as important as the objectives that any ordered social life is designed to secure. But in Catholic thought the new policies for the new day arise from the older and permanent moral values in the Christian order itself; as they arise from the past and are a continuation of the past, they are conservative; as they involve many changes in the present economic system of human relationships, they are either liberal or revolutionary as one may wish to interpret them.[34]

While Catholic thinkers are seldom, if ever, sympathetic to communism and the Russian experiment (in contrast to socialism), some Protestant theologians have believed that, in so far as Russian policies will result in greater security and well-being for the ordinary man, they deserve the thoughtful support of Christians. But the main trend is, finally, very similar to the Catholic. For both religious criticisms of institutions assume a democratic state in which morally perceptive masses support

[34] *Cf.* Heinrich A. Rommon, *The State in Catholic Thought* (1945); Francis E. McMahon, *A Catholic Looks at the World* (1945); Luigi Sturzo, *Spiritual Problems of Our Times* (1944); Fulton J. Sheen, *Philosophies at War* (1943); A. I. Abell, "The Reception of Leo XIII's Labor Encyclical in America, 1891–1919," *The Review of Politics*, VII (1945), 464*ff*.

policies that lead in the direction of a Christian society. Although there might not be general agreement among Protestant theologians as to specific government policies, they would in general support experiments in politics which increase the common well-being, secure individuals against the hazards of urban and industrial living, assure them good housing, good schools, suitable conditions in which youth may mature into adults; and like the Catholics they would support policies which protect the family against war, unemployment, and social insecurity. On the reform of the economic system there is clearly a wide area for cooperation between Protestants, Catholics, and Jews.[35]

On the other hand, the critic of Christian social action might say that there is little correlation between the facts of politics and religious aspiration. The party system does not divide the voters on these issues, for conservatives as well as extreme liberals are found in both the Democratic and the Republican parties. Nor does religion constitute an active pressure group on these issues; at least it is not as effective as labor—whether the American Federation of Labor or the Congress of Industrial Organization—or agriculture, or business. Big labor, big agriculture, and big business, as Stuart Chase has suggested,[36] are effective pressure groups.

For religion to wage a strong fight against secularism in politics and education means, of course, a period of vigorous social conflict. It might signify, for example, the introduction of religious education into the public school system, where already it had a reasonably secure footing.[37] It might mean a kind of religious test before public opinion of candidates for public office; but to be effective it would have to mean that religious groups formulate a platform of economic and social policies far more clearly than they have up to the present time. Secular thinkers would, no doubt, call this Christian fascism, while the religious leaders would call it simply an effort to establish a Christian democracy.

But religious conflict runs deep in American life. Whereas the latent antisemitism of many Americans has a religious basis, the conflict between American Protestants and American Catholics is as old as settle-

[35] See Reinhold Niebuhr, *The Children of Light and the Children of Darkness* (1944); Ernest F. Scott, *Man and Society in the New Testament* (1946); Leslie Paul, *The Annihilation of Man* (1945); Pitirim A. Sorokin, *Man and Society in Calamity* (1943); Willard L. Sperry, *Religion in America* (1946); William E. Hocking, *Science and the Idea of God* (1944); Arthur E. Murphy, *The Uses of Reason* (1943); B. I. Bell, *The Church in Disrepute* (1943); George Hedley, *The Christian Heritage in America* (1946).

[36] See *Democracy under Pressure* (1945).

[37] See Lucille B. Milner, "Church, State, and Schools," the *New Republic*, Aug. 13, 1945, for a critical review of this question.

ment in North America. At times it has flared brightly, when the dominant Protestant tradition has imposed political disabilities and social ostracism on Catholics, and at times anti-Catholicism has been part of an active political campaign. In the middle of the last century it was the Know-Nothing movement, directed against the recent influx of Catholic immigrants; later the American Protective Association, and still later the Ku-Klux Klan stood for the political and social supremacy of Protestant, white gentiles. Religious conflict has receded at times until an effective social cooperation has developed between Catholics, Protestants, and Jews; and at other times the conflict of Catholics and Protestants has been sharp. Just as at the end of the First World War there was a rise in religious conflict, symbolized by the KKK, so there has been after the Second World War an open attack on the ultimate Americanism of Catholics, and a submerged but increasing hostility toward Jews and other minorities. Such conflict is, of course, in direct contradiction with the idealism that characterized the two periods of war.

Yet the situation has changed, for by the middle of the twentieth century the minority groups that were weak in the years after the Civil War had become strong; the once submerged minority now asserted itself as a firm and lasting part of American life. If this means a change in our tradition, if it means that no longer we can say that the dominant and effective culture-mentality of America is Protestant, the minority says, So much the better. We are, they say, moving on to the new democracy, to the promise of American life. If no Catholic, Jew, or Negro can be elected President of the United States, it is certain that no one can be elected on a platform that is clearly critical of any of these groups; for such a criticism would force the minority in question into a united and vigorous participation in politics, whereas now they are divided on the other issues presented by the major parties. What the minorities demand is an equal and respected share in politics, and an unquestioned cultural and religious autonomy. Democratic procedures suggest that competition or conflict between cultural trends can be kept within the bounds of Constitutional procedure, for none would say that Negroes have no right to protest against Jim-Crowism or the poll tax, that Jews have no right to fight antisemitism, or that Catholics have no right to try to convert Protestants to their way of life. But the question may be whether in a democracy it is permissible to advocate a second-class citizenship for Negroes, Jews, and Catholics. Is it suitable to suppress any who do advocate such policies? Are such movements fascist in character?

In the period immediately after the Second World War a somewhat paradoxical situation emerged. The Jewish people had finally succeeded

in branding antisemitism as undemocratic and fascist, and thus making its advocacy un-American; in the South, for example, the authorities in Georgia attempted to suppress the KKK by withdrawing its charter; but it was still permissible to attack Catholics as a danger to American culture, though this was usually done through an attack on Catholic leaders. Yet it would seem that it is impossible at the present time to enact into law, under the Constitution, any discrimination against individuals on account of their color or their religion. In 1946 a Supreme Court decision against Jim-Crowism in interstate commerce seemed to indicate the end of this system of discrimination, as well as the tendency in the poll-tax states to drop this tax and the increasing participation of Negroes in Southern primary elections.[38]

The Issue of Industrialism. The discussion so far in this chapter has assumed the permanence of urban industrialism, the state capable of making war, and a mechanized agriculture capable of feeding the masses of people living in industrial centers. In the eighteenth century when the principle of the goodness of human nature was formulated, men like William Godwin said that future progress lay in the destruction of institutions, such as the state, which corrupted men. In our time, those who believe in the goodness of human nature have, like the liberals and revolutionaries, insisted that a reform of institutions under a benevolent state will enable men to be their best. Liberalism has thus been caught with a tacit approval of "big government" and the planned economy. But there are others who are, like some eighteenth-century thinkers, at war with the present structure of society. They are pacifists who refuse to participate in war; decentralists who contend that normal living is impossible in the industrial economy; and those who believe, in the traditional American way, that agricultural living is superior to other types. These critics will say that happiness is impossible with the dominance of the machine and the minute division of labor it has brought about. Progress and normal living can be attained only by a return to a modernized

[38] On the race and religious question, see Donald S. Strong, *Organized Antisemitism in America* (1942); Gustavus Myers, *History of Bigotry in the United States* (1943); Pearl Buck, *What America Means to Me* (1943); Carey McWilliams, *Brothers Under the Skin* (1943); *Prejudice: Japanese-Americans, Symbol of Racial Intolerance* (1944); Gunnar Myrdal, *An American Dilemma: The Negro Problem and Modern Democracy* (2 vols., 1944); W. E. B. Du Bois, *Color and Democracy* (1945); Rayford W. Logan, *What the Negro Wants* (1944); A. C. Powell, *Marching Blacks* (1946).

On civil liberty, see A. R. Ogden, *The Dies Committee* (1943); Zechariah Chafee, Jr., *Free Speech in the United States* (1941); O. K. Fraenkel, *Our Civil Liberties* (1944); John Roy Carlson, *Under Cover* (1943); D. E. Bunting, *Liberty and Learning* (1942); M. L. Ernst, *The First Freedom* (1946).

self-sufficiency, through life on farms that are not organized to sell in the cash market, but to provide the needs of life.

Decentralism strikes first at the "abnormalities" of a centralized government that devotes its energy to keeping the modern urban–industrial complex in operation. But the argument extends to the interpretation of the conditions under which the family as a social, religious, and economic unit can best function, to a criticism of the system of land tenure in accordance with the doctrines of Henry George, to a support of cooperatives, and even to a criticism of deficiencies in diet existing under the modern factory processing of food. Decentralists would approve, of course, the effort of people living in metropolitan centers to restore a rural atmosphere to their living, but they would insist that much more than the vine-clad cottage supported by labor in the city is necessary if normal living, as Ralph Borsodi phrases it, is to be attained.

Decentralism is, likewise, more than a support for the agricultural pressure group in American politics. In the demands of farmers for support from the government in selling their commodities there is, however, some remnant of the older American tradition that the farmer is the real American, the preserver of our traditions, and the inevitable and necessary balance to the evils of life in the city.[39] Yet it is true that the policies of the national government since the Great Depression in 1929 have been directed to the preservation of agricultural living at all costs. The extensive program of the government in soil conservation, in providing agricultural credit, and in the support of farm prices are policies concerning which there is little controversy, in spite of the charge sometimes made that the American farmer is the most heavily subsidized individual in our society. Decentralist criticism of the industrial system would no doubt approve temporarily of many of these measures, though it would say that the tendency of the government is, in fact, to reduce the number of people living on farms by a constant mechanization and commercialization of agriculture, and by regarding the production of food by the farmers as part of the total industrial system. The solution, the decentralist would say, is not a bureaucratic support of agriculture at the cost of the taxpayer, but the reorganization of society through measures which will make such subsidization unnecessary. There must be modernization of the farm through the use of small machine units, especially those which will enable the farmer to produce and process his own food, and the encouragement of every form of voluntary cooperation among farmers in dealing with their common problems. The decentralist is convinced that neither socialism nor capitalism can solve the issues pre-

[39] J. S. Roucek, ed., *Twentieth-century Political Thought* (1946), Ch. X.

sented by the abnormal development of the industrial city in the Western world.[40]

Education and Democracy. Americans have long believed in the progressive force of education. The most recent expression of American faith in education is the so-called "G.I. Bill of Rights," by which the veterans of the Second World War can, if they wish, attend college with government aid. Upon a solid foundation of historical experience, religious bodies, private interests, and the states have expanded American educational facilities to a greater extent than in any other country in the world. But such a development has not solved the theoretical issues of what education is for. Here the deepest, if not always the most articulate, controversy reigns. The business and technical world has looked to the high schools and later to the colleges to produce individuals who can be quickly and easily trained to serve industry, and the development of agricultural colleges under Federal support has created a corps of trained advisers and consultants for the farmer such as no other group in our society possesses. Catholic and some evangelical leaders have long since established religious schools, extending all the way from the primary grades to the graduate school, on the theory that education to be real cannot eliminate the religious side of life. The contemporary conflict is sharpened by the awareness of Protestants that the secular public schools have not served well the interests of evangelical Christianity. As long as America was overwhelmingly Protestant and the scientific spirit had not invaded teaching in the public schools, it was possible for Protestant leaders to look on the public school as an expression of Protestant spirit. But such is no longer the case, and the Protestant mind is beginning to insist that religious education be included as a normal part of the education of youth.

Modern pedagogical theory, under the inspiration of John Dewey, has moved more and more toward an experimental and scientific spirit in the construction of curricula and in the training of teachers. Religion has been ignored rather than fought by those who have constructed the modern courses in history and social relations, and the religious emphasis on the building of character has been replaced by study of the impersonal and scientific aspects of national development. Instrumentalism and pragmatism in public education would, like the social sciences in the

[40] See Leo R. Ward, *Ourselves, Inc.* (1945); Lewis Mumford, *The Culture of Cities* (1938); *City Development* (1945); Wesley McCune, *The Farm Bloc* (1943); Franz Mueller, *Economic Aspects of Decentralization* (1943); Eliel Saarinen, *The City, Its Growth and Decay* (1943); P. A. Waring and W. M. Teller, *Roots in the Earth* (1944); John Van Sickle, *Planning for the South* (1943); E. T. Peterson and Others, *Cities Are Abnormal* (1946), Willis D. Nutting, *Reclamation of Independence* (1947).

universities, relegate the religious aspects of life and history to the unnoticed, simply because the scientific spirit tends to regard all religious training as either irrelevant or rankly superstitious. Those social scientists who are materialistic or socialistic in their outlook have extended their criticism beyond religion to the economic system, and they have attempted to educate the youth to be critics of the prevailing economic tradition of the United States. If the social conflict latent in the United States should develop, there is clearly the possibility that education might become the chief battle ground of competing ideologies and loyalties in conflict.

In such a conflict, it is clear that if Protestantism should establish its own "parochial" schools, the historic public school in the United States would cease to be. A liberal in the older sense of the word, however, might say that by giving each system of thought its competing opportunity, all groups should be able to get along in our democracy. If the Catholics and some evangelical groups wish to maintain religious schools, let them; if the Protestants want to have voluntary and sectarian religious education as a part of the public school system, let them; if scientists are willing to respect the religious faith of the people while they teach the scientific approach to society, let them. In such a program there must be an honest effort to respect the convictions of the different elements of our society; for whatever one may say in favor of unity, it is clear that for generations Americans are going to subscribe to divergent religious faiths, and that the cultural diversity, the numerous minority groups that are here today will continue to be an essential facet of American democracy. A larger political loyalty to the United States has, in the past, been compatible with religious and cultural diversity; and the democrat may continue to believe that it may be so in the future.

But has our educational system failed? Has it failed to produce the kind of people who are needed for a democratic way of life? Not a few insist that such is the case. The chief criticism is, of course, that the sense of moral values, the development of honorable character, that should come from education, have been disappearing from American citizens. Here people of all religious views, Catholic, Protestant, and Jewish, can agree in some measure, for they can agree on the nature of honesty and integrity in public life. They might agree, conceivably, in the reintroduction of ethical values into education; they might agree on a kind of pan-ethicism that would balance the conservatism of the nineteenth-century against the revolutionary and progressive scientific theories of contemporary education. But with Charles Clayton Morrison of the *Christian Century* advocating the return of Protestant religious

education to the public schools, it is likely that religion and education will be one of the important social and political issues of the next decade.[41]

Values and the Atomic Era. But values and morality in education serve an instrumental function. They are for something, and those who say that education has failed point to leadership in the world that has precipitated war and domestic tyranny, destroyed democracy, and failed to give individuals and the family the security on which civilization is built. If science in the twentieth century has not saved us, perhaps philosophy can. With the shadow of a third world war creeping over the thinking of ordinary citizens and being expressed in the growing tension and fear of leaders, the critics have said that the atom bomb demands an ethical regeneration of democracy if civilization is to last. Thus the United Nations came into being to the accompaniment of criticisms that demanded a better world order than that organization provided. In the domestic field, the demand for security for the common man was, of course, widely interpreted as a total criticism of capitalism, but the capitalists themselves agreed that "social security," *i.e.*, full employment, must be an objective of public policy.

American conservatism stands against the revolutionary tide that has emerged from the wars of our time, and the progressive mind rejects the totalitarian systems that have sealed the fate of the nineteenth-century system in Europe. But both conservatives and radicals recognize that change is the law of life; change may lead to decay and disintegration, or it may lead to the restoration of a democratic consensus in the Western world. And part of the old and the traditional will inevitably remain in the changing democracy of tomorrow.[42]

SELECTED BIBLIOGRAPHY

ARNALL, E. G.: *The Shore Dimly Seen* (1946).
AYRES, C. E.: *The Divine Right of Capital* (1946).
BARZUN, JACQUES: *Darwin, Marx, Wagner* (1941).

[41] See in general Alexander Meiklejohn, *Education Between Two Worlds* (1942); Porter Sargent, *Between Two Wars: The Failure of Education* (1945); *War and Education* (1943); *The Continuing Battle for the Control of the Mind of Youth* (1945); Mark Van Doren, *Liberal Education* (1943); Sidney Hook, *Education for Modern Man* (1946); W. M. Kotschnig, *Slaves Need No Masters* (1943); W. B. Donham, *Education for Responsible Living* (1944).

[42] See W. A. Orton, *The Liberal Tradition* (1945); J. H. Hallowell, *The Decline of Liberalism as an Ideology* (1943); Lewis Mumford, *Values for Survival* (1946); Jerome Frank, *Fate and Freedom* (1945); Carl L. Becker, *Freedom and Responsibility in the American Way of Life* (1945); Henry A. Wallace, *The Century of the Common Man* (1943); Morris R. Cohen, *The Faith of a Liberal* (1946).

BARZUN, JACQUES: *Of Human Freedom* (1939).
———: *Race: A Study in Modern Superstition* (1937).
BEARD, CHARLES A.: *The American Spirit* (1942).
———: *The Republic* (1943).
BLODGETT, R. H.: *Comparative Economic Systems* (1944).
CARGILL, OSCAR: *Intellectual America* (1941).
CARLSON, J. R.: *The Plotters* (1946).
CARR, E. H.: *The Soviet Impact on the Western World* (1947).
CASSIRER, ERNST: *The Myth of the State* (1946).
CURTI, MERLE: *The Growth of American Thought* (1943).
DRUCKER, PETER F.: *Concept of the Corporation* (1946).
FINER, HERMAN: *America's Destiny* (1948).
FOX, W. T. R.: *The Superpowers* (1945).
FRIEDRICH, C. J.: *The New Belief in the Common Man* (1942).
———: *Inevitable Peace* (1948).
GOBLE, G. W.: *The Design of Democracy* (1946).
GOODRICH, L. M., and EDVARD HAMBRO: *Charter of the United Nations* (1946).
HALLOWELL, J. H.: *The Decline of Liberalism as an Ideology* (1943).
HARRISON, J. B., L. A. MANDER, and N. H. ENGLE: *If Men Want Peace* (1946).
HAYEK, F. A.: *The Road to Serfdom* (1944).
JOHNSTON, ERIC: *America Unlimited* (1944).
KELSEN, HANS: *Peace Through Law* (1944).
KNOX, R. A.: *God and the Atom* (1945).
LANGER, W. L.: *Our Vichy Gamble* (1947).
LASKI, H. J.: *The American Democracy* (1948).
LIPPMANN, WALTER: *U.S. Foreign Policy: Shield of the Republic* (1943).
———: *U.S. War Aims* (1944).
MACDONALD, DWIGHT: *Henry Wallace: The Man and the Myth* (1948).
MORE, PAUL ELMER: *Aristocracy and Justice* (1915).
MORGENTHAU, H. J.: *Scientific Man Versus Power Politics* (1946).
MUMFORD, LEWIS: *The Culture of Cities* (1938).
———: *Values for Survival* (1946).
MYRDAL, GUNNAR: *An American Dilemma* (2 vols., 1944).
NORTHROP, F. S. C.: *The Meeting of East and West: An Inquiry Concerning World Understanding* (1946).
ORTON, W. A.: *The Liberal Tradition* (1945).
PATTERSON, C. PERRY: *Presidential Government in the United States* (1947).
RAUDENBUSH, DAVID: *Democratic Capitalism* (1946).
REEVES, EMERY: *The Anatomy of Peace* (1946).
ROMMEN, HEINRICH: *The State in Catholic Thought* (1945).
ROUCEK, J. S., ed.: *Twentieth Century Political Thought* (1946).
SMITH, H. D.: *The Management of Your Government* (1945).
STROUP, HERBERT: *The Jehovah's Witnesses* (1945).
SWISHER, CARL B.: *American Constitutional Development* (1943).
THOMAS, NORMAN: *Appeal to the Nations* (1947).
VAGTS, ALFRED: *A History of Militarism* (1937).
WARD, LEO R.: *Ourselves, Inc.* (1945).
WELLES, SUMNER: *The World of the Four Freedoms* (1943).
———: *Where Are We Heading?* (1946).
ZUCKER, MORRIS: *The Philosophy of American History* (2 vols., 1945).
ZUCKERMAN, NATHAN: *The Wine of Violence* (1947).

INDEX

A

Abbott, Lyman, 426
Abolitionists, 196, 250–251
Adams, Brooks, 376–377, 411
Adams, Henry, 174, 305, 319, 357, 411–412
Adams, John, 74–75, 133, 146, 152, 185
  Jefferson, correspondence with, 165–167
  people, evaluation of, 112–113
  state constitutions, defense of, 107–113
  view on limitation of powers of government, 353
Adams, John Quincy, 174, 388
Adams, Samuel, 83–84
Adkins v. Childrens' Hospital, 363–364
Administration, public, 430–431, 479–485
Agrarianism, 102–103
  Hamilton's criticism of, 154–155
  John Taylor on, 168–171
  (*See also* Decentralism)
America First Committee, 455
American economic protest, 288–315, 421–430
American Federation of Labor, 291, 299, 428
American political thought, background, 1–25
  characteristics of, 6–7
  periods in, 16–25
American Revolution, causes, 59–61
  development of thought concerning, 70*n.*
  Loyalist theory, 79–83
Ames, Fisher, 189*n.*
Anti-Semitism, 437, 486
Atomic bomb, 463
Atomic energy, domestic control of, 473–474
Attainder, bill of, 451

B

Balance in Constitution, 144–145
Balance of power, 464
Baldwin, James M., 405
Bancroft, George, 184
Barlow, Joel, 168*n.*
Beale, Truxton, 368
Beals, Carleton, 456
Beard, Charles A., 58, 164, 312–313, 349, 391, 456–457
Bellamy, Edward, 297–298, 428
Bentham, Jeremy, 5, 21, 65, 321
Bentley, Arthur F., 419
Beveridge, Albert J., 391, 395–397
Bible used in slavery debate, 241–242
Bill of rights, 137
  in Virginia, 93–96
Blackstone, Sir William, 69, 188–189, 265
Borsodi, Ralph, 492
Bossism, 318
  viewed by Muckrakers, 312
Boucher, Jonathan, 80–83
Bourne, Jonathan, 328
Brandeis, L.D., 418
Briand-Kellogg Pact, 408, 457
Brisbane, Albert, 295
British Constitution, 69, 108–110
  theory of, 68–83
British Empire, influence on United States, 3–6
  theories of, 68–70
  and United States, 398–399
Brook Farm, 199, 296
Brownson, Orestes A., 184, 278–280
Bryan, William Jennings, 309–310, 325, 328, 337–338
  criticism of imperialism, 390–393
Bryant, William Cullen, 184
Bryce, James, 3, 174, 284, 319–320
Buchanan, James, 188
  on Secession, 271*n.*
Bureaucracy, 479–485
  issue of, 483–485
Burgess, John W., 280, 282–284, 412
Burke, Edmund, 76*n.*
Burnham, James, 478

Business, defense of, 431–433
New Deal attack on, 431
Businessmen, 346–351
Butler, Nicholas Murray, 338, 369–370

C

Calhoun, John C., 169, 208, 210, 215, 348, 353
liberty and equality doctrine considered, 224–227
opinion on concurrent majority, 222
slavery, views on, 246–248
society, theory of, 219–227
Union, nature of, 227–228
Calvinism, political theory of, 29–41
Campaign of 1900, 390–397
Capitalism, after Civil War, 346–351
in crisis, 421–423
origin of, 348
and public policy, 350–351
reform of, 474–479
Cardozo, Benjamin, 418
Carey, Henry, 382
Carey, Mathew, 382
Carlyle, Thomas, 245*n*.
Carpenter, Jesse T., 204, 206
Carpenter, William S., 178–179
Catholic Church, 278–279, 427, 443, 486, 488–491
and education, 493–495
social theory of, 425
Chamberlain, John, 425
Channing, William Ellery, 199, 232, 242
criticism of slavery, 255–256
Chase, Stuart, 424, 455
Childs, Harwood L., 420
Chipman, Nathaniel, 264*n*.
Chisholm v. Georgia, 264
Choate, Joseph H., 359–360
Christianity, doctrine of obedience, 80–83
social interpretation of, 425–427
Church and state, 164–165
in Massachusetts, 105–106
in Puritan thought, 31–44
separation of, 36–41, 164–165
Churchill, Winston, 468
Civil liberty, 449–452
Civil service reform, 323–324
Classes, social, viewpoint of Sumner, 366–367
Clay, Henry, 186, 382
Colonial period, 16–17, 27–56
Common law, and democracy, 187–190
opposition to, 188
Communism, 407–408, 446–447, 450–451
Communist party, 300, 422–423
in Europe, 467–468
Compensatory finance, 475–476
Confederate Constitution, 213–215
Congregationalism, political theory of, 29–44
Congress, and executive power, 480
reform of, 480–481
Congress of Industrial Organizations, 428, 443
Conservatism, 145, 293, 346–373, 431–433, 447
colonial, 352
constitutional, 116–119
criticism of bureaucracy, 483–484
and democracy, 186–194
and federalism, 482
phases of, 351–357
popular, 364–366
realism of, 354
Southern, 353–354
Constitution, balance in, 132–133
criticism of, 135–137
nature of, 115
ratification of, 135–142
written, 87–90
Constitutional Convention, 115–135
Constitutional government, 448–449
Constitutionalism, 321
Constitutions, state, 90–113
Contract, social, 62–65
Cooley, Thomas M., 358
Coolidge, Calvin, 407, 421
Cooper, James Fenimore, 183–184
Corey, Lewis, 433
Corrupt Practices Act, 329–330
Corwin, Edward S., 449
Cotton, John, 32, 35–41
Coughlin, Father, 423
Crèvecoeur, Hector St. John de, 295
Croly, Herbert, 312–314, 419, 424
defense of Hamilton, 314
Curtis, George William, 323–324

D

Dana, Charles A., 296
Dana, Richard Henry, 324
Dartmouth College v. Woodward, 192–193
Darwin, Charles, 355–357, 405
  relation to slavery argument, 243
  and theology, 356
Davis, Jefferson, 208, 212, 216–217, 245
Dawson, Christopher, 427
Debs, Eugene V., 300, 301
Decentralism, 491–493
Declaration of Independence, 65–68
De Leon, Daniel, 299, 301
Democracy, 144
  and Christianity, 175–176
  and conservatism, 186–194
  conservative defense of, 442–443
  criticism of, 408–410
  defense of, 440–448
    by Christian writers, 443–444
    by labor, 443
  and dictatorship, 437–448
  and education, 493–495
  growth of, 174–202
  Jacksonian, 183–186
  and leadership, 341–344
  mission of, 195–202
  nature of, 162–172, 174–202
  and responsibility, 321–322
  Russian and American, 466
  second era of reform, 317–344
  after Second World War, 485–491
  in United States, 20–21
Dennis, Lawrence, 456
Depression of 1929, 421–423, 428–430
Determinism, 365–366, 411–412
Dew, Thomas R., 245–246
Dewey, John, 404, 405, 414, 445, 493
Dicey, Albert Venn, 87
Dickinson, John, 72*n,* 119
Dictatorship, varied interpretations of, 438–439
Dies, Martin, 450
Direct legislation, 336–340
Direct primary elections, 330–336
Dodd, William E., Jr., 451–452
Douglas, Stephen A., 252–253
Dred Scott Case, 252–253

E

Economic criticism of United States, 287–315
Economic interpretation of politics, 124
Economic planning, 477–478
Eddy, Sherwood, 426
Education and democracy, 493–495
Eliot, Charles W., 324, 370
Elite, theory of, 439
Emerson, Ralph Waldo, 199–201, 346
Engels, Friedrich, 290
English settlements, 27–28
Enlightenment in United States, 49–51
Equality, 90, 289–290
  in democracy, 486
Essex Result, 103–104
Eugenists, 409
Europe and United States, and foreign policy, 380–381
  influence on, 1–7
  relation to, 397–399
Evolution, 405
Executive leadership, 341–344
Executive power, growth of, 430–431
Expansion, American, 379–386
  justification of, 386–390, 393–397

F

Farewell Address of Washington, 146–152
Fascism, 436–440
  and democracy, 437–448
  Italian, 407
Federal Council of Churches, 426
Federal system, 481
Federalism, 19–20, 115–142
Federalist, The, 221, 262–263
  political theory of, 138–142
Federalists, 145–160
Field, Stephen J., 359
Filmer, Sir Robert, 82–83
First World War, peace treaties following, 469
Fiske, John, 365, 405, 410
Fitzhugh, George, 245*n.,* 248–250
Fletcher v. Peck, 192
Ford, Henry Jones, 341, 342, 343*n.,* 414
Foreign policy, United States, after Second World War, 452–460

Foster, William Z., 422
Fourteenth Amendment and social legislation, 361–364
Framers of Constitution, 116–142
Franklin, Benjamin, 48–56, 123–124, 348
  on suffrage, 130
Free enterprise, in postwar Europe, 467
  in United States, 475
Freedom in making history, 7–9
Freehold suffrage, criticism of, 179–180
Freud, Sigmund, 13–14, 416
Frontier and democracy, 175–177
Frontier spirit, 357*n*.
Full employment, 476–477

G

Gardner, Augustus P., 369
Garrison, William Lloyd, 250–251
Gary, E. H., 369
Geopolitics, 465
George, Henry, 22, 287, 302–305, 492
German influence on United States, 280–284
Gerry, Elbridge, 131, 136
Gibbons v. Ogden, 194
Gladden, Washington, 426
Godkin, E. L., 9, 325, 357
  evaluation of democracy, 334–336
Godwin, Parke, 296
Godwin, William, 21, 201*n*.
Gompers, Samuel, 291
Goodnow, Frank J., 343*n*.
Government, consent theory of, 62–65, 82–83
Government regulation of economy, 290–294
Great-power veto, 472–473
Great powers, nature of, 375–378
Greeley, Horace, 295–296
Grimke, Frederick, 264*n*.
Grundy, Felix, 210.

H

Hamilton, Alexander, 72–74, 122, 138, 163, 189
  favored limitations on powers of government, 353
  political theory of, 152–160
Hamilton, Alexander, represented conservative view of liberalism, 146
  on sovereignty, 262–263
Harding, Warren G., 407, 421
Harriman, Job, 299
Harrington, James, 61, 180
Hayek, F. A., 477, 483
Hayne, Robert Y., 267, 268
Hecker, Isaac, 279–280
Herring, Pendleton, 419
Herron, George D., 426
Hildreth, Richard, 235–236
Hill, David Jayne, 368
Hillquit, Morris, 299, 301
History, Christian view of, 8–9
  economic interpretation of, 11–12
  philosophy of, 7–16
  process in, 9–16
  psychological interpretation of, 12–14
  use by Framers of Constitution, 121–124
Hitler, Adolf, 437
Hoar, George F., 325
Hocking, William E., 411
Holmes, O. W., Jr., 362–363, 417
Homestead Act, 198–199
Hoover, Herbert C., 370–373, 421, 452
Howe, Frederick C., 336–337
Hubbard, Elbert, 364–365
Huizinga, Jan, 440
Hull, Cordell, 453, 459
Hume, David, 64
Hurd, John C., 282*n*.
Hutchins, Robert M., 456, 463
Hutchinson, Thomas, 83–84

I

Idealism, in New England, 199–201
  political, 411
Ideologies, modern, 436–448
Imperialism, American, 379–386
  justification of, 386–390, 393–397
Income-Tax Case, 359–360
Independence, Declaration of, 65–68
Individualism, 347–373
  American, 354–373
  Emerson on, 199–201
  as protest, 357–359
  view of Franklin, 52–56

Industrial Workers of the World, 300*n*.
Industrialism, 346–351
  criticism of, 491–493
Initiative and referendum, 336–340
Instrumentalism, 493–494
Intelligence, modern theory of, naturalistic view and criticism of, 404–406
Internal improvements, 186
International police power, 389
International politics and morality, 378–379
International society, 399–402
Internationalism, 457–460
Internationals, 301*n*.
Intervention, and League of Nations, 458
  and Second World War, 452–460
Isolationism, 455–457

J

Jackson, Andrew, 169, 174, 184–186
Jacksonian democracy, 183–186
James, William, 319, 404, 405, 414
Jameson, John A., 282*n*.
Jay, John, 138
Jefferson, Thomas, 137, 146, 207, 353, 381
  agrarianism, 102–103
  colonial rights, 71–72
  constitutional revision, 167–168*n*.
  correspondence with John Adams, 165–167
  on dictatorship, 100
  educational ideas, 101–102
  political theory of, 160–168
  proposed reforms, 101–103
  on public debt, 167–168
  on religious liberty, 164–165
  on separation of powers, 99
  on slavery, 101
  Virginia Constitution, criticism of, 97–102
Jensen, Merrill, 119*n*.
Jobbery, 367
Johnson, Andrew, 348
Judicial review, 190–195
  after Civil War, 358–364

K

Kales, Albert M., 343–344
Kaufman, Theodore N., 458
Kelsen, Hans, 437
Kent, Frank R., 419
Kent, James, 181–182, 188–189, 352–353, 358
  theory of education, 189*n*.
Keynes, J. M., 406–407, 447
Knights of Labor, 292, 425*n*.

L

Labor movement, 292–293
LaFollette, R. M., 291, 300, 311, 332–334
LaFollette, R. M., Jr., 454
Laidler, Harry W., 301, 422
Laissez faire (*see* Individualism)
Lansing, John, 135
Laski, Harold J., 415, 448–449
Law, fundamental, 87–90
  relation to social science, 416–418
Leadership, democratic, 341–344
League of Nations system, 399–402, 407, 457
Lederer, Emil, 440
Legal liberalism, 417–418
Lenin, V. I., 392
Leonard, Daniel, 79–80
Lewis, John L., 428, 443
Lewis, Sinclair, 408
Liberalism, American, compared with European, 89*n*.
  under Constitution, 144–172
  defense of democracy, 441–442
  under New Deal, 423–425
  retreat of, 436–448
  in state constitutions, 87–113
Liberty, 90
Lieber, Francis, 412
  theory of nationalism, 280–282
Lincoln, Abraham, 210, 258, 261
  on slavery, 251–254
  on Union, 271–274
Lippmann, Walter, 420, 424
List, Friedrich, 382
Lloyd, Henry D., 305–307
Lochner v. New York, 361–362
Locke, John, 61–65
Lodge, Henry Cabot, 368–369, 388, 391, 397
London, Jack, 422
Long, Huey, 428

Lovett, Robert Morss, 451–452
Lowell, A. L., 420

M

McCulloch v. Maryland, 160, 193–194
McKinley, William, 388
Mackintosh, Sir James, 321
Madison, James, 121–123, 161, 167, 221, 266*n*.
  contribution to *The Federalist*, 138
  favored limitations on powers of government, 353
  on separation of powers, 134
  on suffrage, 129
  supporter of principle of divided sovereignty, 264
  theory of factions, 142
  veto of internal improvements bill of 1817, 207
Mahan, Alfred Thayer, 391, 393–395
Maine, Sir Henry Sumner, 413
Majority rule, 87, 187
Malthus, Thomas R., 21, 303
Manifest Destiny, 196, 375–397
Marbury v. Madison, 191–192
Marshall, John, 160, 179, 265, 358
  political theory, 190–195
Marx, Karl, 290, 301*n*., 433
Marxian socialism (*see* Socialism, Marxian)
Mason, George, 136
Massachusetts, constitution of, 103–107
Mead, George H., 405
Melville, Herman, 319
Mencken, H. L., 409
Merriam, Charles E., 405, 414, 446
Meyer, Ernst C., 331
Middle class, 88–90, 433
  (*See also* Individualism)
Milton, John, 61
Minorities and democracy, 486
Minority, Southern theory of, 204–230
  and utopianism, 298*n*.
Minority parties and ballot, 450
Minority protection, 229–230
Mixed constitution, 108
Monarchy, criticized by Paine, 77–78
Monroe, James, 179, 383–384
Monroe Doctrine, 382–386
Montesquieu, Baron de, 69
Morality in politics, 433
  in international politics, 378–379
Morris, Gouverneur, 126–127, 128
Morrison, Charles Clayton, 487
Muckrakers, 312–314
Mudge, E. T., 169
Mulford, Elisha, 282*n*.

N

Nation, organic theory of, 436
National Association of Manufacturers, 431–433
National Civil Service Reform League, 324
National power, growth of, 449
National socialism, German, 436–448
Nationalism, development of, 258–284
  organic theory of, 277–284
Natural law, 62–65
Nature, state of, 63–64
Naval power, Mahan's theory, 393–395
Nearing, Scott, 301
Neutrality, 381–382, 452–457
New Deal, 427–431
  and executive power, 430–431
  fiscal policy, 428–429
  Hoover's criticism of, 372–373
New England and democratic mission, 195–197
New Harmony, 295
New Republic, The, 424
Nicholas, S. S., 393*n*.
Niebuhr, Reinhold, 427, 443
Non-Partisan League, 292
Nott, Josiah Clark, 243
Nye, Gerald P., 454

O

Oberholtzer, Ellis Paxson, 339
Odegard, Peter H., 419
Olney, Richard T., 385
Ortega y Gasset, José, 440
Otis, James, 70–71
Overacker, Louise, 328
Owen, Robert, 295

P

Paine, Thomas, 75–79
Parliamentary system, 341–344
Parochial schools, 493
Parrington, Vernon L., 305, 313*n.*, 357*n.*
Parsons, Theophilus, 103–104
Parties, political (*see* Political parties)
Pearl Harbor, 459–460
Peckham, Rufus W., 362
Penn, William, political thought of, 44–48
Periods in American thought, Colonial era, 16–17
  classical federalism, 19–20
  democratic liberalism, 20–21
  Revolutionary period, 17–19
Perry, Ralph Barton, 446
Pessimism, scientific, 465
Phillips, Wendell, 289
Pinckney, C. C., 131–132
Planning, social, 477–478
  and civil servant, 484
Pluralism, 415
Political party, reform of, 329–336
  responsibility of, 341–344
Political science, development of, 412
  purpose of, 404
Political thought, realism in, 15
Pollock v. Farmers', 359*n.*
Popular front, 441
Populists, 292
Postwar criticism, 406–411
Pound, Roscoe, 418
Pragmatism and education, 493–494
Presidential power, 448–449
Presidential primary, 327–329
Pressure groups, 480
Progressive movement, 309–314, 428
Progressives, 291–292
Propaganda, study of, 416
Property, protection by Constitution, 124–126, 352–353
Protestant social theory, 426–427
Protestantism, and democracy, 488–489
  and fascism, 443
  and public schools, 493–495
Psychology applied to politics, 415–416
Public management, 479–485
Public opinion, 318–319, 335, 339
  study of, 420–421
Public schools, and religion, 493–495
Pufendorf, Samuel, 64
Puritans, 27–44

Q

Quadragesimo anno, 425

R

Race issue, 232–233
Radicalism, American, 287–315
Randolph, John, 179–180
Rappard, William E., 462
Raudenbush, David W., 478
Rauschenbush, Walter, 426
Realism in political science, 418–421
Recall, 340–341
Reconstruction, 274–277
  Amendments, 233
Religion, and education, 489–493
  and social programs, 487
  and value theory, 487–488
Religious conflict, 489–491
Republic, definition of, 115
Republicanism, 93, 103–104
Republicans and foreign policy, 452–453
Rerum Novarum, 425
Revolution, American, 17–19
  nature of, 287–288
  philosophy of, 58–79
Ripley, George, 296
Roane, Spencer, 210, 212
Rockefeller, John D., 294*n.*
Rogers, Will, 421
Roosevelt, Franklin D., 282*n.*, 384, 389, 421, 430–431, 436, 468
  doctrine of Manifest Destiny, 390
  on foreign policy, 453–455, 457–459
  and growth of Presidential power, 448
  Lend-Lease Bill, 459
  new economic policies and programs, 427
  program of industrial recovery, 429
Roosevelt, Theodore, 290, 292, 309–310, 325, 338, 340, 385–386, 391
Root, Elihu, 326–327, 338–339, 368, 370
Royce, Josiah, 411
Ruffin, Edmund, 169
Ruling class, definition of, 15*n.*

Russia, and Germany, 441
and United States, 464–465

S

Salter, J. T., 419
Santayana, George, 405
Schurz, Carl, 324
Scott, James Brown, 470
Secession, ordinance of, 215
Second World War, 452–460
Sectional conflict, 130–132
Sedgwick, Arthur G., 343
Senators, United States, direct election of, 324–327
Separation of powers, 106, 133–135, 342–343
Seward, William H., 210
Short ballot, 343
Silver Shirts, 423
Sinclair, Upton, 408, 422, 428
Slavery, 233–257
Bible used in support of, 237–238
capital and labor in, 244
condemnation of, 250–256
economic aspects of, 235–237
ethnology of, 242–243
mud-sill theory of, 243–244
opposition to, 239–240
Quaker view of, 89
Southern thought on, 238–245
Small, Albion, 405
Smith, Adam, 5, 21, 189, 353
Smith, Alfred E., 427*n*.
Smith, Harold D., 475–476
Smith, J. Allen, 312, 313*n*.
Smith, T. V., 223*n*., 419
Social democracy, 300
Social Gospel, 426–427
Social science, 404–421
optimism of, 412–414
postwar, 406–421
Social Science Research Council, 421*n*.
Socialism, Marxian, 299–302
and fascism, 447
Utopian, 294–298
Socialist Labor party, 299–300
Socialist party, 299–300, 422
Society, science of, 410–421
Sorel, Georges, 439
Sorokin, Pitirim A., 11, 444
Soule, George, 424
South, concurrent voice, 208–209
constitutional guarantees, 209–211
and Declaration of Independence, 233
independence of, 211–213
minority position, 204–205
political theory of, 204–230
Secession, theory of, 211–213
self-government in, 206–207
techniques of minority protection, 205–213
Sovereignty, American theory of, 260–284
divided, 264
and nationalism, 261–262
Spencer's attack on, 369–370
and United Nations, 469–472
Spargo, John, 301
Spencer, Herbert, 307, 362–363, 365, 368–370, 413
cosmic philosophies, 405
ideas of individualism, 358
social evolutionist, 410
Spengler, Oswald, 10–11, 467
Statistics, in social science, 420–421
Steffens, Lincoln, 22, 312, 379*n*.
Stephens, Alexander H., 210, 212, 215–216
Stone, Harlan F., 370
Story, Joseph, 190, 195
theory of Union, 265–267
Stowe, Harriet Beecher, 199
Streit, Clarence K., 458
Strong, Josiah, 379*n*., 426
Suffrage, in Constitutional Convention, 126–130
history of, 177–183
in Massachusetts, 180–181
in New York, 181–183
property qualification defended, 180–182
in Virginia, 179–180
Sumner, William Graham, 365–368, 405
Supreme Court, 416–417
and Reconstruction, 275–277
Sydney, Algernon, 61

T

Taft, William Howard, 290, 336, 339–340, 370

Taney, Roger B., 194
Taylor, John, 161, 168–171, 197, 212
  criticism of Hamilton, 170–171
Technocracy, 297, 428
Teutonic peoples, 283–284
Texas v. White, 275–277
Third term, 448–449
Thomas, Norman, 300, 422, 423
Thomas, W. I., 405
Thoreau, Henry David, 199, 201*n.*
Tocqueville, Alexis de, 1, 3, 10, 24–25, 108, 288, 317, 347, 351, 379*n.*
  on the democratic idea, 174
  and Federal government, 131
  on Jefferson, 162–163
  opinion on liberal system in France and America, 89–90
  view on French Revolution, 85
Toleration, religious, 36–43
  Jefferson on, 164–165
Totalitarianism, 436–438
Townsend, Francis, 428
Toynbee, Arnold J., 11
Tracy, Destutt, 166
Trotsky, Leon, 422
Truman, Harry S., 475
Tucker, Beverly, 245*n.*
Tucker, Henry St. George, 265*n.*
Tufts, James H., 405
Turner, F. J., 9, 175–177
Twain, Mark, 305
Tweed Ring, 323

U

United Front, 441
United Nations, 462
  drafting of Charter, 469
  and sovereignty, 469–472
  and war aims, 468–469
United States, and European conflict, 397–399
  as great power, 375–378
United States v. Lovett, 451
Upshur, Abel P., 179, 217–219
U'Ren, W. S., 338*n.*
Utopian socialism (*see* Socialism)

V

Vallandigham, C. L., 348
Values and modern crisis, 495
Veblen, Thorstein, 308–309, 405
Versailles, Treaty of, 401–402, 406, 437–438
Violence in politics, 439–440
Virginia, bill of rights of, 93–96
  Constitution of, 96–97
  suffrage in, 179–180
Virginia and Kentucky Resolutions, 161–162

W

Wallace, Henry A., 429, 468, 476
Wallas, Graham, 13, 415, 419
War and technology, 377–378
War aims, 468
War economy, 479
Ward, Harry F., 426, 443
Ward, Lester F., 307–308, 313, 405
Washington Conference, 452
Washington, George, 145–152, 186*n.*, 381, 383
  Farewell Address, 146–152
  on foreign policy, 150–151
  on political parties, 149
Watson, G. B., 451–452
Wayland, Francis, 242
  criticism of slavery, 254–255
Weaver, James B., 325
Webster, Daniel, 180, 190–191, 212*n.*, 347
  theory of Union, 267–271
Webster, Noah, 137*n.*
Weems, Mason Locke, 151
Western land policy, 197–199
Weyl, Walter E., 314*n.*, 317, 322–323
Whitman, Walt, 184, 319–320
Whitney, Eli, 151
Williams, Roger, 27, 35–43
Willoughby, W. W., 415
Wilson, James, 72, 128, 136, 137
Wilson, Woodrow, 284, 325, 338, 342, 379*n.*, 401, 407, 415, 422, 428
  on democracy, 144
  developed business control program, 311
  Fourteen Points, 399

Wilson, Woodrow, historical approach to political science, 412
against parliamentary system for United States, 341
proposed New Freedom, 290
reforms made by, 309
Winthrop, John, 42
Wise, John, 43–44, 65*n*.
Woolman, John, 89
Woolsey, Theodore D., 282*n*.
World crisis and United States, 436
World order, 462–473
Wright, B. F., 97

Y

Yancey, William L., 212
Yates, Robert, 135