

Virtuous Democrats, Liberal Aristocrats: Political Discourse and  
the Pennsylvania Constitution, 1776 - 1790

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***If we can agree where the liberty and freedom of the people lies, that will do all.***

- Colonel Ireton, *The Putney Debates*

***But, notwithstanding this almost unanimous agreement in favour of liberty, neither were all disposed to go the same lengths for it, nor were they perfectly in unison in the idea annexed to it.***

- Alexander Graydon, *Memoirs of a Life, Chiefly passed in Pennsylvania*

***Fraud lurks in generals. There is not a more unintelligible word in the English language than republicanism.***

- John Adams to Mercy Otis Warren

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## Preface

The project of analyzing the constitutional debate in Revolutionary Pennsylvania resulted from my fascination with the unusual frame of government the middle Atlantic Commonwealth adopted in 1776. It included such unusual provisions as the taxpayer franchise, a unicameral legislature, a plural executive, and various popular checks on government and was the only state constitution of its time guaranteeing freedom of speech. Because of its significant deviance from a Federal Constitution enshrined as the distilled wisdom of the greatest minds of the American Enlightenment it acquired an odious reputation. No more than a gross, dysfunctional mutation of republican principles, an embarrassing monument to its creators' political naiveté, zealotry and ignorance it could be confined to the dust heap of history in 1790 with a general sigh of relief. Although it played an important role in Revolutionary constitutional discourse, both as a platform for radical groups in other states and as a negative example to conservative Whigs it "has almost been forgotten," as a scholar noted while America was celebrating the Federal Constitution's bicentennial.<sup>1</sup>

My interest is not to defend this constitution. But I am sympathetic towards Constitutionalist ideas in that I am trying to understand the debate that surrounded them, accept their importance to many Pennsylvanians as a source of political identity, and see them as a valuable and historically fascinating contribution to Revolutionary discourse.

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<sup>1</sup> Robert F. Williams, "The Influences of Pennsylvania's 1776 Constitution on American Constitutionalism During the Founding Decade," *PMHB* 112 (1988), 25-48.

A number of historians has written on the Revolution in Pennsylvania, but apart from the problem of their mainly pejorative perspective on the Constitution it is the shift in intellectual history and particularly the recent development in the historiography of Revolutionary ideas that require a reexamination of the subject. The three themes that underlie this study are discussed in the subsequent chapters of the introductory part: they are the view of the American Revolution as a discourse community, the paradigmatic complexes of classical republicanism and liberalism; and the notion of social difference as a source of political conflict.

The Pennsylvania debate is probably the most important political discourse prior to the Constitutional Convention. The embattled Constitution served as a focus organizing the political energies of the state in the shape of two distinctive groups, Constitutionalist and Republicans, who struggled to define the meaning of republican government. In the process they created a relational web of texts which interacted to ascribe, prescribe, and proscribe political behavior, which offered definitions of sovereignty, equality, virtue, and liberty that shaped the political self-perception of individuals and determined structures of power. This discourse can be viewed as occurring somewhere in-between two ideological paradigms which have both been claimed as representing the discursive universe of the Revolution. I am referring to the lengthy historiographical debate on whether the American Revolution is best understood as a triumph of liberalism or as "the last great act of the

Renaissance" to use J.G.A. Pocock's provocative formulation.<sup>2</sup> My study adopts the position that these paradigms can serve as useful conceptual categories for historians living in a world where liberal ideology is still in many ways the measure of all things. They can clarify our view of a world in which liberal thought was only emerging, still woven into the fabric of other, older political traditions; an eighteenth-century polity in which what scholars retrospectively identify and differentiate as classical and liberal thought was *not* categorized in this way.

My initial question was: How can the debate between Constitutionists and Anticonstitutionists in Pennsylvania be analyzed in terms of the historiographical paradigms of republicanism and liberalism? And how does this debate manifest itself in constitutional and political practice? We are dealing with three interrelated tiers: first of all, republicanism and liberalism as paradigms of historiography. Secondly, the political theories articulated in the public debates over the Pennsylvania Constitution, which are politically, socio-economically, and culturally determined amalgamations of republican and liberal idea(l)s. Lastly, the institutional manifestations of these theories in conceptions of citizenship and the suffrage and the structure of government. I am uncertain whether the answers I have found are satisfying, but new questions have certainly appeared which I believe have been worth the effort. The study of republican ideas of the past, antiquarian as it might appear to some, has, I believe, a great practical value in throwing a different light on our own political ideas and rationalizations which we easily become so accustomed to as for

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<sup>2</sup> J.G.A. Pocock, "Virtue and Commerce in the Eighteenth Century," *Journal of Interdisciplinary History* 3 (1972), 119-134, 120.



them to nearly become invisible as intellectual constructions and instead appear as natural and self-evident truths. The key question around which much of the conflict in Pennsylvania revolved, a fundamental question, indeed, for all polities since Plato's *Protagoras*, is still ever-present in our present-day discussions on the meaning of democracy: what is political competence and who is politically competent? In a globalized world of migrating populations and ideas, where saturated post-industrial media democracies exist beside archaic societies marked by material and intellectual deprivation answers remain tentative at best.

This study was made possible through research grants by the John F. Kennedy-Institute for North American Studies at the Free University Berlin and the German Academic Exchange Service (DAAD) as well as the research and study time amply and graciously provided during my five years as an academic assistant at the Institute of English and American Studies at Frankfurt University. While I am solely responsible for the bad and the ugly, some friendly spirits made kind contributions to the good. Willi Paul Adams gave me valuable advice and encouragement at the inception of the project in 1995; Jürgen Heideking did the same at a critical stage in 1999. Astrid Franke graciously volunteered to be pestered with half-wrought chapters which her comments endowed with more argumentative clarity. The library staff of the Historical Society of Pennsylvania were a great help in localizing, accessing, copying, and deciphering various source materials. The work also benefited from presentations to the American Studies colloquy in Frankfurt. Last but never least: over the years Walter Kühnel has tried his best to impart the ways and

means of critical thinking. While I remain more of a "beg to differ" than a "no, in thunder" type, I would not have had the chance to become a full-fledged Americanist at all without his steady support. What can I say but to quote the *other* Duke: "When the going gets weird the weird turn pro."

## ABBREVIATIONS

<i>AA</i>	<i>American Archives</i>
<i>AHR</i>	<i>American Historical Review</i>
<i>AQ</i>	<i>American Quarterly</i>
<i>FJ</i>	<i>Freeman's Journal</i>
<i>HSP</i>	Historical Society of Pennsylvania
<i>IG</i>	<i>Independent Gazetteer</i>
<i>JAH</i>	<i>Journal of American History</i>
<i>PEP</i>	<i>Pennsylvania Evening Post</i>
<i>PG</i>	<i>Pennsylvania Gazette</i>
<i>PH</i>	<i>Pennsylvania History</i>
<i>PJ</i>	<i>Pennsylvania Journal</i>
<i>PM</i>	<i>Pennsylvania Mercury</i>
<i>PMHB</i>	<i>Pennsylvania Magazine of History and Biography</i>
<i>PP</i>	<i>Pennsylvania Packet</i>
<i>WMQ</i>	<i>William and Mary Quarterly, 3<sup>rd</sup> Series</i>

## PART I REVOLUTIONARY PARADIGMS

### 1.1 Ex Uno Plures or The American Revolution as a Discourse Community

*"[...] in the science of legislation [...] there is a confusion of languages, as if men were but lately come from Babel. [...] The words [...] will be found to be used in different senses, perpetually, by different nations, by different writers in the same nation, and even by the same writers in different pages [...] But of all the words in all languages, perhaps there has been none so much abused in this way as the words republic, commonwealth, and popular state." - John Adams<sup>1</sup>*

#### 1.1.1 Truth and Difference, Republicans and Scholars

When John Adams complained of the abusive imprecision of political discourse, he was not merely concerned with the need for establishing a normative terminology for the "science of legislation." He was rhetorically setting up the introduction to what he considered to be "the true and only true definition of a republic."<sup>2</sup> Indeterminacy stood in opposition to the singularity of reality to which truth corresponded. To the Massachusetts lawyer and statesman, as to most eighteenth-century Americans, differences of opinion - whether over the definition of republicanism or the origins of the yellow fever - were always differences between one correct and any number of incorrect opinions. Different views, in other words, represented an imperfection which resulted from two possible deficitary dispositions: either insufficient knowledge, which lead to incorrect reasoning and mistaken conclusions; or willful deception, which pointed to a conspiracy of designing men with sufficient knowledge, but

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<sup>1</sup> *A Defence of the Constitutions of Government of the United States of America* in *The Works of John Adams*, ed. Charles Francis Adams, 10vols. (Boston: Charles Little and James Brown, 1851), vol. V, 452-453.

<sup>2</sup> *Ibid.*, 453.

insufficient virtue.<sup>3</sup> Thus the abuses of the word "republic" could reflect a lack in clarity of thought, which might lead to disastrous results in political practice. Or they might represent sinister attempts at erecting a nominal republic which actually served the interests of political conspirators. John Adams, with the authority of a revolutionary leader and as author of the Massachusetts Constitution, was telling Americans the truth to help them avoid either undesirable scenario.

The epistemology revealed in Adams' attempt at singularizing the meaning of republicanism is itself an essential part of his theory of republicanism, and of Revolutionary republican discourse in general. A popular way of characterizing the ideal republic was by an absence of disagreement. The singularity of its truth lay in an indivisible public good, similar to Rousseau's *volonté générale*. The republic, or commonwealth, was concerned with the common weal. It was committed to the realization of what equally benefited all of its members. This was the quality that so fundamentally separated it from monarchies, aristocracies, and democracies in which power was exercised by and in the interest of particular sub-entities of society - a king, a group of nobles, or the plebeian masses. Exposed to the unrestrained ambitions of their masters these forms of government quickly degenerated into tyranny, oligarchy, and anarchy. Republics were conceived as a means to escape from this dilemma, but they were not immune to the threat of particularism - which brings us back to the logic of Adams' argument: In a republic, there was a "true, and only true" definition of the public good. Disagreement over its substance could only be

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<sup>3</sup> See Gordon S. Wood, "Conspiracy and the Paranoid Style: Causality and Deceit in the Eighteenth Century," *WMQ* 39 (1982), 401-441.

explained in terms of a correct as opposed to incorrect interpretations. The latter could only be explained by the existence of ignorance or deceit, of the inability to understand the true nature of the public good or a misrepresentation of it resulting from sinister attempts to realize private interests at odds with the genuine public interest. Usually deceit and ignorance worked hand in hand. Ambitious demagogues employed their skills to lead gullible citizens astray, building power bases from which they could establish themselves as oligarchs or tyrants. Misery and oppression ensued. Besides many other consequences for republican reasoning, this conception fundamentally shaped the logic of political rhetoric. If difference, if disagreement equaled danger, as they could only be understood as products of factionalism; if the ignorant or willful abuse of language in the political sphere bore the potential of destroying the polity in its entirety; then a "paranoid style" in politics was virtually inevitable. The newspapers, broadsides, and pamphlets of the Revolution contain ample evidence of hysterical paranoia aimed at political opponents. In the "Great National Discussion" over the Federal Constitution, as Terence Ball writes, "Federalists and Antifederalists alike claimed to be the 'real' republicans, and each group decried the other's misunderstanding - or worse, its deliberate and malicious misrepresentation - of what a 'republic' really was."<sup>4</sup> In these circumstances, John Adams, purveyor of the truth, could himself quickly turn into the sinister conspirator plotting to abolish republican liberty in the guise of republicanism. Or as one anonymous author put it:

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<sup>4</sup> Terence Ball, "A Republic - If You Can Keep It," *Conceptual Change and the Constitution*, ed. Terence Ball and J.G.A. Pocock (Lawrence: UP Kansas, 1988), 137-164, 138.

"In evil hours his pen 'Squire *Adams* drew,  
Claiming dominion to his WELL BORN few"<sup>5</sup>

The inevitable question raised in the face of the claims and mutual disqualifications of competing representatives of an indivisible truth was who spoke with greater legitimacy. It was sought in "wisdom", a codeword for education and property, as well as in "common sense", which signaled limited education (and modest property), in virtue as an intellectual or a martial quality, in models of deference and of equality. A twentieth century democrat might have suggested to simply leave the decision up to the voters. The difficulty with this was that the republican founding included the question of who should be allowed to vote. Forming the backbone of this study, the analysis of such debates will be the subject of subsequent chapters. After providing this teaser (which, according to the rules of that cinematic genre, featured the well-known John Adams, although his is merely a cameo appearance in a dissertation ignoring the 'big celebrities') I would like to continue by pursuing what I hope will not be perceived as too strained an analogy between Revolutionary history and the problems of historiography. From this analogy, I will derive the theoretical and methodological orientation that informs my analysis of political discourse in Revolutionary Pennsylvania.

Historians have generally chosen the path of John Adams and sought "the true and only true definition" of the Revolution and Republicanism. The collection of truths that has resulted from these endeavors since the beginnings of an institutionalized discipline of history we handily distill into 'schools': the Imperial school judged the Revolution to have resulted from a mistaken

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<sup>5</sup> "On the New Constitution," *FJ* (March 12, 1788).

American reading of British policy. To the Consensus school it was the harmonic chorus of a self-evidently liberal society of middle-class Americans not really much different from those described by Tocqueville in 1835 or those voting for Eisenhower in 1952. And even the iconoclastic Progressives displayed a certain confidence in having at last revealed the materially evident truth of Revolutionary America by heroically tearing the republican mask from the Founding Fathers' plutocratic faces.

The legitimacy of these truth claims rested on the identification of historical scholarship as an exact science. Its standards of research, documentation and evaluation imitated the methods of the natural sciences, which rested on the positivist conviction that reality could be objectively explained in terms of general laws free from any metaphysical speculation. History thus could fulfill the Rankean demand to tell the story of humanity not from a viewpoint, but "wie es eigentlich gewesen." The possibility of discovering historical Truth with a capital T defined the identity of the profession, as it emerged in the late 19<sup>th</sup> century.<sup>6</sup> It was the motor that drove the gargantuan research, cataloguing, and editorial efforts that made archival treasures available and from which the profession benefits unto this day.<sup>7</sup> If any deviation from objective definitions of republican government spelled the death of a polity, doubts about the ability of modern historiography to provide objective analyses of the past threatened the relapse from the olympus mons of science into the abyss of bumbling dilettantism. Historiographical amateurism as it had

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<sup>6</sup> This sketch follows the structure of Peter Novick, *That Noble Dream. The "Objectivity Question" and the American Historical Profession* (Cambridge: Cambridge University Press, 1988).



culminated in the work of George Bancroft was exactly what the professionalized and academically endowed discipline was hoping to leave behind.

But the claim of objectivity came under increasing scrutiny in the years after World War I, which made its own contribution to shattering confidence in science and progress. As the likes of Heisenberg and Gödel introduced relativism into the "exact sciences" of physics and mathematics, historians were dragged into debates over the epistemological foundations of their craft. Carl Becker, in "Everyman his own Historian," argued that a supposedly disinterested, scientific historiography was pragmatically bound to the present as society's story-teller, a provider of orientation and identity. History was a "convenient blend of truth and fancy" employing "all the devices of literary art" for this purpose. Facts never spoke for themselves, but only through the "perceiving mind of the historian" which was conditioned by its local circumstance.<sup>8</sup> "But is it possible for men," Charles Beard asked a few years later, "to divest themselves of all race, sex, class, political, social, and regional predilections, and tell the truth of history as it actually was?" He proceeded to argue that many historians turned a deaf ear to their own biases, enabling them to smugly indict dissenting opinions as ideological or propagandistic from a supposedly higher ground of objectivity. Thus the ongoing objectivity debate within the AHA was actually a political maneuver aiming to discredit the "economic history" represented by Beard and others in favor of more conventional accounts. Beard did not preach

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<sup>7</sup> William McNeill, "Mythistory, or Truth, Myth, History, and Historians," *AHR* 91 (supplement) (1986), 1-10, 1f.

<sup>8</sup> "We are thus of that ancient and honorable company of wise men of the tribe, of bards and story-tellers and minstrels, of sooth-sayers and priests, to whom in successive ages has been

the abandonment of standards of scholarship, nor even of the "noble dream" of historical truth, but insisted it be accepted as no more than that - an unattainable ideal to be distinguished from the tentative results of actual scholarship. The practical consequence of this insight was his demand for a new diversity in historiography reflecting the plurality of possible perspectives, as well as an increased self-awareness of and inquiry into the assumptions and premises informing scholarship - a historiographical meta-discourse institutionalized, for one, as a section of the annual AHA conference.<sup>9</sup> At the time, the majority of practitioners relegated this problem to the sphere of the arcane, which was rarely allowed to interfere with the historian's day to day work. The very essence of the discipline seemed in danger of evaporating, should the genie of relativism be released from its bottle. The idea of objectivity made history palpable just as the unequivocal meaning of the Revolution provided a stable foundation for the idea of America. It also preserved the status of historians as a distinct professional elite, just as John Adams' insistence on a specific reading of the republican lexicon marked the boundary between the knowledgeable political elite he belonged to and the politically ignorant. His indignation at multiplicity as the result of stupidity or duplicity is echoed in modern historians' insistence on professional history as fundamentally distinct from both popular/populist myth-history and pseudo-historical propaganda. Beard, in fact, suffered massive abuse by many colleagues, who causally linked his relativist critique to his isolationist and pacifist politics at the dawn of WWII.<sup>10</sup> After a

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intrusted the keeping of the useful myths." Carl L. Becker, "Everyman his own Historian," *AHR* 37 (1932), 221-236, 231; 234.

<sup>9</sup> Charles Beard, "That Noble Dream," *AHR* 41 (1935), 74-87, 76.

<sup>10</sup> James T. Kloppenberg, "Objectivity and Historicism," *AHR* 94 (1989), 1001-1030, 1020.

period of renewed quiet and confidence reaching into the 1960s, the continuing claims of historical science, and science in general, of being able to provide an objective truth dissected by rigorous standards and methodologies from interests, emotions and other subjective limitations came under increasing scrutiny once again. The most powerful criticism of positivism evolved from the problematization of language which was no longer simply regarded as a quasi-mechanical transmission belt between an external reality and the world of the mind, but as constitutive of reality itself. Language interfered between the world and the subject; it constrained and thus warped our view of reality; there was perhaps, nothing *but* language, and it was an inescapable labyrinth, a "rhizome" with no outside or self-evident logic. Within this self-referential system, there was nothing true, natural, or real - such claims were really impositions of order, discourses exercising power.<sup>11</sup>

But before we continue with a discussion of the effects of this "linguistic turn" on historical scholarship, let us briefly return to the Revolution. For the connection of language to power was nothing new, as the example of James Madison indicates. "The use of words is to express ideas," he stated as Publius, author of *The Federalist*. "But no language is so copious as to supply words or phrases for every complex idea, or so correct as not to include many equivocally denoting different ideas. Hence it must happen that however accurately objects may be discriminated in themselves [...] the definition of them may be rendered inaccurate by the inaccuracy of the terms in which it is

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<sup>11</sup> These are, of course, crude allusions to postmodern thought, which is in no way a coherent body of ideas, but does share certain themes; see "Postmodernism" in *The Johns Hopkins Guide to Literary Theory and Criticism*, ed. Michael Groden and Martin Kreiswirth (Baltimore:

delivered."<sup>12</sup> The Virginian realized that there was no given one-to-one relation between signifier and signified. Unaware of postmodernism, however, he maintained the existence of ideas as discrete units, "objects." But to communicate them required an intellectual exertion, namely combining the right words to express a complex idea, or attaching the right idea to a certain word and eliminating the other inadequate ones, thus creating a Saussurean correspondence of signifier and signified. What is really interesting, however, is Madison's awareness of the aspect of power this process involved. His linguistic observation was, after all, part of a strategy to advance a novel conception of republicanism. The indeterminacy of language (the plural meanings of republicanism) was to be resolved by an improved science of politics, manifested in a national Constitution. The Federalist plan of government was new in that it combined existing ideas in previously unthought and unstated ways. Inadequate and outmoded notions of republicanism were supposed to be eliminated by grafting that sanctified term onto the "novus ordo seclorum" as Publius envisioned it. The Constitution represented a new political order and a new linguistic convention in which republicanism was synonymous with Federalism and it was ratified by conventions representing the political community. In making the Constitution the paradigm of American republicanism the Federalists had brilliantly employed language to secure a new power structure.<sup>13</sup> But how stable was the truth they had created? The world beyond the language of the Constitution changed before their eyes. American society

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The Johns Hopkins University Press, 1994) for an attempt at definition and Terry Eagleton, *The Illusions of Postmodernism* (Oxford: Blackwell, 1996).

developed in ways neither Hamilton nor Madison had expected or wished for - yet Americans happily continued to extol the same Constitution those men had shaped with different purposes in mind. Its words continued to change their significance, as their substance was argued over in the tangled web of interests and ideas, perception and reality. In the end, the longevity of the Constitution resulted not from its fixed meaning, but from the very fact of its indeterminacy, which made it adaptable to social, political, and economic change in an ongoing process of negotiation. What is republicanism? Desperately as both Adams and Madison had tried to master and manipulate the multiplicity of meaning in order to fix the political identity of America, they were unable to control a diversity which is perhaps the one permanent feature of the American nation.

This brings us back to the world of historiography and the search for historical truth. It is diversity, (or shall we say the awareness, or perhaps, the construction of it?) that has become a boon and bane for historians of the Revolution as well as the profession per se. This is not merely a matter of linguistic turns, to be sure. The social, institutional, and technological developments in the scholarship of the last one hundred years have created a deluge of information, a labyrinth of methodologies, and a division of labor perfected to the point of hyper-specialization. These factors have already made it difficult and occasionally impossible for historians to communicate with each other, not to speak of interdisciplinary exchanges. Any remaining sense of

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<sup>12</sup> Publius [James Madison], "The Federalist No. XXXVII," in James Madison, Alexander Hamilton, John Jay, *The Federalist Papers*, ed. Issac Kramnick (London: Penguin, 1987 [1788]), 241-247, 245.

<sup>13</sup> Ball, "A Republic - If You Can Keep It", passim.

disciplinary identity hinged upon some sort of consensus that historians studied the past on the basis of causally connecting documented facts. But this common ground was shaken in the course of a general tectonic shift in the humanities towards anti-foundationalism and relativism, reflected in spirited denials of a singular truth, of a valid master narrative, of cultural hierarchies, and of a given, external reality in past and present. Thus, as Peter Burke stated, the "philosophical foundation of the new history is the idea that reality is socially or culturally constituted."<sup>14</sup>

The postmodern pluralization of truth supplied important epistemological arguments for the diversity of the new history - the expansion from political history to "virtually every human activity", from studies of the elite to race, gender, and class perspectives, from national to sectional, regional, or community narratives, and from narrative history and traditional methodologies to cross-disciplinary approaches ranging from cliometrics to literary deconstruction. These developments have been widely viewed as enriching, but there have also been bitter debates about the decentering of historical studies which might culminate in the total loss of what disciplinary identity remained.<sup>15</sup> This is unquestionably a valid concern in the light of poststructuralist arguments for redefining historiography as a subgenre of philology dealing with specific forms of fiction.<sup>16</sup> When reality is no longer even socially constructed, since the

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<sup>14</sup> Peter Burke, "Overture: the New History, its Past and its Future," in *New Perspectives on Historical Writing*, ed. Peter Burke (University Park, PA: The Pennsylvania State University Press, 1991), 1-23, 3.

<sup>15</sup> Novick concluded that "as a broad community of discourse, ... the discipline of history [has] ceased to exist." quoted in Kloppenberg, "Objectivity," 1027f.

<sup>16</sup> For this debate see David Harlan, "Intellectual History and the Return of Literature," *American Historical Review* 94 (June 1989): 581-609; David Hollinger, "The Return of the Prodigal: The Persistence of Historical Knowing," *ibid.*: 610-621; David Harlan, "Reply to David Hollinger," *ibid.*: 622-626; Joyce Appleby, "One Good Turn Deserves Another: Moving beyond

social is itself no more than an interaction of discursive codes, the historical agent as well his or her context disappear, leaving nothing to do for the historian, but to craft fictions about fictions.

The historiography of the quintessential foundational event in US history reflects these developments. Much has changed since the days of the liberal consensus revolutionary of Louis Hartz' *The Liberal Tradition*.<sup>17</sup> Neo-Progressives, social historians, scholars of race, ethnicity, and gender have recast revolutionary America as a locus of social diversity and conflict. Intellectual historians have discovered the power of rich transatlantic ideological traditions which Americans reinvented and recombined into a wealth of regionally and socially defined hybrids. It has become difficult to speak of *the* Revolution since we have learnt that the events between 1763 and 1789 meant very different things to different people: Whigs and Tories, planters, merchants, and backcountry farmers, artisans, Jack Tars, women, slaves, Indian nations - the list can be almost indefinitely extended and refined down to particular communities and individuals, accessed through any model between quantification and psychohistory.<sup>18</sup> Though the socio-political ideologies of liberalism and republicanism are still heavily relied on as conceptual frames, the

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the Linguistic; A Response to David Harlan," *American Historical Review* 94 (December 1989):1326-1332; F.R. Ankersmit, "Historiography and Postmodernism," *History and Theory* 28 (1989): 137-153; Perez Zagorin, "History and Postmodernism: Reconsiderations," *History and Theory* 29 (1990): 263-274; F.R. Ankersmit, "Reply to Professor Zagorin," *ibid.*: 275-296.

<sup>17</sup> Louis Hartz, *The Liberal Tradition in America* (San Diego et. al.: Harcourt, Brace, Jovanovich, 1983 [1955]).

<sup>18</sup> See, e.g. Jesse Lemisch, "Jack Tar in the Streets: Merchant Seamen in the Politics of Revolutionary America," *WMQ* 25 (1968), 371-40; Alfred F. Young, "George Robert Twelve Hewes (1741-1840): A Boston Shoemaker and the Memory of the American Revolution," *WMQ* 38 (1981), 561-623; Gary B. Nash, *Race and the Revolution* (Madison, Wis.: Madison House, 1990); Colin G. Calloway, *The American Revolution in Indian Country: Crisis and Diversity in Native American Communities* (New York: Cambridge University Press, 1995); Rosemarie Zagorin, "The Rights of Man and Woman in Post-Revolutionary America," *WMQ* 55 (1998), 203-230.

attempts to use either as a catalyst in synthesizing the newly found diversity into a homogenous Revolutionary identity have proven highly problematic, leaving us with an early American landscape of such social and intellectual complexity, that any generalization is confronted with a myriad of exceptions.<sup>19</sup> What Beard had hoped for has happened in ways probably beyond his wildest dreams. Now the problem no longer seems to lie in obsessions of objectivity, but in preventing total dissolution. The last thing traditional historians of early America are interested in is poststructuralist revisionists slipping knee breeches and powdered wigs on the likes of Derrida and Foucault and laying claim to the canonical sources of the Founding - could they be other than designing demagogues or their ignorant followers, whose erroneous pretensions would lead the republic of scholarship into anarchy and licentiousness?

Intellectual historians have pointed out that intellectual history (of course) is particularly suited to address these questions, since it is self-consciously concerned with explaining the ideas and concepts of its subjects by applying ideas and concepts to them and is thus more deeply involved in self-reflection than other branches of historical scholarship.<sup>20</sup> As the discussion following Peter Novick's *That Noble Dream*, and several journal debates have illustrated, there are three basic responses to the crisis of objectivity: denial (in the passive

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<sup>19</sup> For the rise and decline of the republican synthesis see Daniel T. Rodgers, "The Republicanism Paradigm: Career of a Concept," *JAH* 79 (1992), 11-38. The arguments for the interdependence of republican and liberal political languages are eloquently presented in the contributions of Robert E. Shalhope, Lance Banning, Peter S. Onuf and Cathy Matson, and Gordon S. Wood to "The Republican Synthesis Revisited. Essays in Honor of George Athan Billias," *Proceedings of the American Antiquarian Society* 102 (1992), 73-224. Wood's construction of an essentially homogenous, liberal United States emerging from the Revolution in *The Radicalism of the American Revolution* was viewed critically in Barbara Clark Smith, "The Adequate Revolution," *WMQ* 51 (1994), 684-692.

<sup>20</sup> E.g. Michael Ermarth, "Mindfull Matters: The Empire's New Codes and the Plight of Modern European Intellectual History," *The Journal of Modern History* 57 (1985), 506-527, 506.



form of "Bah, Humbug" from 'traditionalists' who want to get on with business, or aggressively in vicious counter-attacks); conversion (which ranges from celebrations of a liberation from disciplinary constraints, to somber acknowledgments of a paradigm shift); and a critical engagement attempting to bridge the gap by transcending a binary opposition of objectivity and relativity that may just be beside the point. It is the latter proposition I would like to focus on for the rest of this chapter, as I endorse a theory of pragmatic hermeneutics that helps us understand both historical scholarship and the American Revolution as discourse communities.

What is pragmatic hermeneutics, and what is meant by a discourse community? Pragmatic hermeneutics has been described as "a conception of historical inquiry as a skeptical, open-ended practice."<sup>21</sup> Accepting the nonexistence of objective truth and definite meaning, as both our conclusions and our inquiries rely on previous acts of interpretive perception, it anchors its notion of tentative meanings and provisional truths in disciplinary conventions reflecting the practice of a discourse community, such as historians. James Kloppenberg, a major exponent of pragmatic hermeneutics, writes:

"Hypotheses - such as historical interpretations - can be checked against all the available evidence and subjected to the most rigorous critical tests the community of historians can devise. If they are verified provisionally, they stand. If they are disproved, new interpretations must be advanced and subjected to similar testing. The process is imperfect, but not random; the results are always tentative, but not worthless. It is this strand of pragmatic hermeneutics, which has been present in the best work of American historians since the first decade of the twentieth century..."<sup>22</sup>

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<sup>21</sup> *AHR* 94 (1989), Front Matter.

<sup>22</sup> Kloppenberg, "Objectivity," 1018.

As the last phrase suggests, this practice does not seem to be altogether new deriving some authority from the existence of a pragmatist tradition, which was visible in the positions adopted by Becker and Beard. In fact, it seems to represent a methodological orthodoxy which could just as easily be expressed in the terms of Popper's critical rationalism. Novick makes the point that positions in the objectivity debate do not pertain to method - one could not tell a scholar's opinion in this matter from his work. The issue is "ontological", concerning not how historians do their work, but "*who we are, what we're doing, and what we've done when we've done it.*"<sup>23</sup> Pragmatic hermeneutics can give a more adequate explanation of what historians are doing by defining them as a discourse community.

The discursive aspect of intellectual work emphasizes its "historicity, temporality, dynamism, and contingency."<sup>24</sup> As discourse, a text functions as an event located in a social context where it produces particular effects and undergoes a process of negotiation. Its value is measured according to its usefulness in explaining the community's current questions and it is subject to continuous peer review. Prejudices and power relations are inevitably inscribed in this as in any discourse. What characterizes it as a scholarly discourse is not its objectivity, but the community's commitment to a dynamic pluralism, which permits, indeed demands, reflecting, challenging and adapting its rules and conventions in an ongoing process of self-examination. Linguist John Swales notes that while a discourse community attempts to reach a "broadly agreed set" of goals, these can be both "consensual, or they may be separate but

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<sup>23</sup> Novick, "My Correct Views on Everything," *AHR* 96 (1991), 699-703, 700.

contiguous."<sup>25</sup> Shared conventions by no means imply homogeneity. In fact, any form of dialogue requires a combination of identity *and* difference. The discourse community of historians forms a very large group of individuals, organized in countless sub-communities, many of which interact in a complex network of linguistic exchanges. But even if they comprise incompatible arguments and fray at the discursive edges where they overlap with other discourse communities - sociologists, political scientists, or philosophers; even if all its members are parts of innumerable other discourse communities (regional, national, sexual, political) they share certain propositions and characteristics that make them historians.<sup>26</sup> David Hollinger suggests that the "most concrete and functional elements shared [...] are *questions*. [...] Questions are the points of contact between minds, where agreements are consolidated and differences are acknowledged and dealt with; questions are the dynamisms whereby membership in a community of discourse is established, renewed, and sometimes terminated."<sup>27</sup> As long as people keep fighting over the question of what history means, a community of historians, however tenuous, exists.

The notion of the discourse community promises some useful insights not only into the identities of historians, but also into the subjects of intellectual history. For it is the texts documenting the negotiations of shared questions that

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<sup>24</sup> David A. Hollinger, "Historians and the Discourse of Intellectuals," in *Ibid.*, *In the American Province*.

<sup>25</sup> Paraphrases of John Swales, *Genre Analysis: English in Academic and Research Settings* (Cambridge: Cambridge University Press, 1990) and Swales, "The Concept of Discourse Community: Dog, Cash Cow, Problem Child or Star?" *Talk at University of Toledo, Terms for Cultural Rhetorics - discourse community* [Online]. 8 August 1998. URL: [http://www.engl.uic.edu/~sosnoski/cr/TERMS/discourse\\_community.htm](http://www.engl.uic.edu/~sosnoski/cr/TERMS/discourse_community.htm) [22 January 2000].

<sup>26</sup> A perfect example for a discursive boundary would be the difficulty historians have in conveying their work to popular audiences who tend to construct history in completely different terms.

are at the heart of this scholarly tradition. Just as the concept delineates the conventions, methods, and positions that constitute historiographical practice, it can serve to map these processes in the intellectual exchanges of the Revolutionary generation.<sup>28</sup> Instead of measuring the compliance with or deviance from synthetic constructions such as republicanism or liberalism, we can grasp the complexity of revolutionary discourse in terms of conceptual negotiations among and between interpretive communities on the basis of shared questions: What is republicanism? What is popular sovereignty? We can analyze how universally acclaimed texts such as Locke's *Second Treatise* are appropriated in the construction of new political identities by creative misreadings; how intertextual references in revolutionary pamphlets serve to identify with or identify against certain individuals or groups; and in what way a central revolutionary concept such as popular sovereignty is struggled over in attempts to contain and expand power. Alfred Young has suggested what might be called a post-progressive conflict model of the American Revolution that acknowledges its multiplicity by viewing it as a negotiation of interests among a wealth of subcommunities: urban artisans, slaves and free blacks, middle and lower class women utilized distinct radical traditions combined, but not identical with Whiggism to define and demand political and social positions between resistance and accommodation.<sup>29</sup> This model avoids the latent consensualism

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<sup>27</sup> Hollinger, "Historians," 132.

<sup>28</sup> The argument for applying pragmatic hermeneutics to Early American history is made in Saul Cornell, "Early American History in a Postmodern Age," *WMQ* 50 (1993), 329-341.

<sup>29</sup> Alfred F. Young, "How Radical Was the American Revolution," *Beyond the American Revolution. Explorations in the History of American Radicalism*, ed. Alfred F. Young (DeKalb, Ill.: Northern Illinois University Press, 1993), 317-364.

of Whig historiography, as well as the binary Progressivism that saw only the victory or defeat of a democratic "people's front" facing a menacing elite.

### *1.1.2 Revolutionary Pennsylvania as a Discourse Community*

This is a study of a particular set of public negotiations that occurred in Pennsylvania between 1776 and 1790. Why Pennsylvania? There is always an element of contingency in such a choice - Massachusetts would have been equally attractive - but there are good reasons as well. Pennsylvania's colonial and Revolutionary history has always been a rich and fertile ground for historiographers. The wealth of its sources and their early preservation and archiving, particularly by the Historical Society of Pennsylvania and the Library Company of Philadelphia have yielded many important studies and engendered many an argument. Charles Lincoln's *The Revolutionary Movement in Pennsylvania, 1760-1776*, published in 1901, was the first monograph to apply Progressive historiography to the American Revolution and formulated the dual-revolution thesis years before Becker.<sup>30</sup> Louis Hartz chose Pennsylvania for an early study of laissez-faire thought. Gordon Wood gave considerable attention to Pennsylvania in *The Creation of the American Republic*, emphasizing its importance for the understanding of the American Revolution: "Pennsylvania tended to telescope into several months' time changes in ideas that in other states often took years to work out and became in effect a laboratory for the developing of lines of radical Whig thought that elsewhere in 1776 remained

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<sup>30</sup> Robert Gough, "Charles H. Lincoln, Carl Becker, and the Origins of the Dual-Revolution Thesis," *WMQ* 38 (1981), 97-109.

generally rudimentary and diffuse." In making the environment of Revolutionary Pennsylvania the basis for understanding the thought of Tom Paine, Eric Foner put Pennsylvania at the center of what was radical about the American Revolution.<sup>31</sup> It is, in other words, a more than adequate playing field for an analysis of the American Revolution as a discourse community.

There has always been an interest in the unusual character of the Revolution in Pennsylvania. The transition to republican government was abrupt, the old assembly being replaced by a Provincial Convention of radicals who proceeded to write, as all historians agree, the most democratic constitution of the Revolution. With a single assembly assuming most powers and a weak plural executive and judiciary it represented an aberration from what came to be considered the constitutional norm in America. A further peculiarity of Pennsylvania's Revolutionary politics is that two party-like organizations, representing the most radical and the most conservative tendencies of the Revolution, arose to wage a remarkably well-organized fourteen-year battle over the Constitution of 1776 and power in the Commonwealth. They produced one of the broadest and best preserved bodies of political discourse, a logbook of competing ideologies the reasoning and rhetoric of which are equally revealing. The negotiation it represents covers the meaning and function of constitutions, the essence of citizenship, the nature of popular sovereignty and equality, fundamental positions on political anthropology and the definition of a political

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<sup>31</sup> Louis Hartz, "Laissez-Faire Thought in Pennsylvania, 1776-1860," *Journal of Economic History* 3, Issue Supplement (1943), 66-77; Wood, *Creation*, 85. Pennsylvania is covered on pages 83-90; 226-237; 438-446; Eric Foner, *Tom Paine and Revolutionary America* (London: Oxford University Press, 1976).

community - and the way in which different perspectives on these issues manifested themselves in competing models of republican government.

The basis of my analysis is a simple two by two matrix. On one axis we have classical republicanism and liberalism, which have been identified as the key ideological structures of the American Revolution, as the languages through which negotiations of political meaning were principally conducted. On the other axis we have the two "negotiators," the Constitutionalist and the Anticonstitutionalist or Republican. The preliminary examination of the ideologies of these parties in regard to their classical or liberal nature revealed that both of them contained both. This interesting result raised two equally interesting questions, which have structured the present inquiry: How could classical republicanism and liberalism be logically reconciled, and how could Constitutionalist and Republican ideology be so fundamentally different if both were informed by a combination of the same political traditions?

Chapter 1.2 consists of a conceptualization of the changing historiographical perceptions of the relationship between classical republicanism and liberalism leading up to a discussion of the current state of scholarship that involves various models of a permeation of paradigms. There is now a consensus that these concepts must be viewed not as homogenous historical realities, but as heuristic impositions of order on a fluid and heterogeneous body (or perhaps bodies) of thought. The first major aim of this dissertation is to provide a case study of the conditions and mechanisms involved in the permeation of traditional and modern ideas of politics, a process easily labeled, but less easily observed in action. The formation of Pennsylvania's classical-liberal hybrids proves to be a result of a combination of

layers of intellectual inheritances with a regionally distinct political and socio-economic history and the influx of the Revolutionary context, i.e. the political and then military struggle with Great Britain as it affected the material and spiritual lives of virtually everybody. This explanation involves the second basic question, explaining the difference between two political ideologies both based on classical and liberal ideas. It can only have resulted from different readings and combinations of existing ideologemes which were rooted in competing interests and conflicting experiences and perceptions of the late colonial and Revolutionary era. This explanation necessarily relies on a particular interpretation of Pennsylvania's (Pre-) Revolutionary history informed by and positioned among the existing scholarship on the province and Commonwealth. To place my thesis in the scholarly context I will therefore proceed with exercising the inevitable, but useful, dissertational ritual of "surveying the literature," particularly for its views on the substance of Revolutionary ideology, and the presence and relationship between social and ideological conflict in Pennsylvania. It will be brief, as chapters 1.3 and 1.4 deal more extensively with the general issue of conflict in the American Revolution and Pennsylvania history up to 1776.

Perhaps it is a consequence of the deep involvement in their subject that historians occasionally tend to fall into the mimetic habit of reiterating positions found in the sources they are studying. In the case at hand they adopted, for the greater part of the twentieth century, the revulsion of mainstream Whigs against the ugly duckling that was the Pennsylvania Constitution. Richard Ryerson complained in 1983 that the standard of scholarship on Pennsylvania's Revolutionary history was "depressingly low" and that the radicalism of its



Revolution had been consistently misunderstood because of a scholarly bias favoring the states' anti-radicals, who represented the line of Revolutionary thought that climaxed in the Federal Constitution.<sup>32</sup> This is perhaps too harsh a judgment, though Ryerson is certainly correct about the neglect and misunderstanding of Pennsylvania's Constitutionalist party and its ideology. Recent studies from a "bottom up" perspective have come to see it more positively as a valid expression of the aspirations of the middling and lower classes, thus sharing something of the enthusiasm of Turgot and other French intellectuals who celebrated Pennsylvania's Constitution as the product of their own theories put into action.<sup>33</sup>

But first things first. Lincoln's 1901 study was the first scholarly monograph on the subject and its Progressivist interpretation set the agenda for much of the subsequent debate. His basic argument was that a combination of sectional and class antagonisms nurtured through the second half of the 18<sup>th</sup> century led to the abolition of the old government in 1776 by underprivileged classes for whom the struggle over home rule provided an opportunity to rule at home. Western farmers and urban artisans, ethnically and religiously distinct from the ruling elite and with different economic interests, overcame their political exclusion in a democratic mass movement which resulted in "the most democratic constitution yet seen in America."<sup>34</sup> J. Paul Selsam's *The Pennsylvania Constitution of 1776*, published in 1936, testifies to the longevity of the progressive mold, being a reiteration of Lincoln's thesis with a stronger

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<sup>32</sup> Richard Alan Ryerson, "Republican Theory and Partisan Reality in Revolutionary Pennsylvania. Toward a New View of the Constitutionalist Party," *Sovereign States in an Age of Uncertainty* ed. Ronald Hoffman and Peter J. Albert (Charlottesville, Va. 1982), 95-133, 97.

<sup>33</sup> Joyce Appleby, "America as a Model for the Radical French Reformers of 1789," *WMQ* 28 (1971), 267-286.

focus on the year 1776 and the Constitution. Robert Brunhouse's *The Counter-Revolution in Pennsylvania, 1776-1790* completes the progressive trinity, taking the story to the replacement of the radical frame of government by one modeled on the Federal Constitution. Applying Beard's concept of a reactionary backlash to the democratic Spirit of '76, Brunhouse viewed the fourteen years under examination as a period of roll-back, in which the Constitutionals inevitably succumbed to their Republican/Federalist opponents. This narrative added little, however, to clarifying the reasons, ideological or material, underlying the conflict. All three studies relied on the Turner-Beard model of a democratic frontier plus urban underclass arraigned against an aristocratic Eastern merchant and landed elite. Theodore Thayer's revisionist *Pennsylvania Politics and the Growth of Democracy, 1740-1776*, published 1953 represented a standard consensualist response. As the title indicates he observed the same phenomenon as his predecessors, but he denied its basis in interest-based antagonisms, preferring to view it as a purely intellectual phenomenon. Emphasizing the underlying consensus among the prosperous and content citizens of the province he applauded the writing of "the most liberal constitution adopted during the Revolutionary period" as the "culmination of the growth of democratic thought," a manifestation of Enlightenment principles.<sup>35</sup>

It seems rather puzzling that the three Progressive authors, while sympathetic to the democratic struggle in Pennsylvania thought little of the constitutional result produced by what they considered inferior legislators. The contemporary censures of the radicals by most every mainstream Whig

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<sup>34</sup> Lincoln, *Revolutionary Movement*, 277.

<sup>35</sup> Thayer, 197.

apparently impressed them and Lincoln explicitly regretted that moderates had surrendered their influence by resisting independence. Selsam's statement that the Constitution was "framed by men with little knowledge of government, whose passions were heated and whose judgments were swayed by evanescent impulses and irritations" could easily be mistaken for a quote by Adams or Benjamin Rush.<sup>36</sup> But what Ryerson sees as a thorough condemnation is perhaps better described as an uncomfortable ambivalence which may result from the fact that Progressive historians endorsed democratization while shuddering at how moderate Revolutionaries, who retained control in Massachusetts or Virginia, were shoved aside in Pennsylvania by what appeared to be the ignorant masses. It is quite evident in turn-of-century studies that the WASP historians harbored prejudices against the Scots-Irish frontiersmen and their demagogic upstart leaders because they were reminded of the Irish political machines of their own day. The repeated emphasis on the lack of education and experience among radicals contravened their own young creed of professionalism and expertism which formed the basis of their identity as scientific historians. The radical rejection of moderate Revolutionaries - lawyers, doctors, and merchants closer to the self-image of the professional historian than simple-minded farmers and artisans - may have translated for them into a rejection of their own claim to social leadership. This could have affected their view that common men assuming power resulted in disastrous

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<sup>36</sup> Selsam, 183; Lincoln, 277; 286.

policies, displays of incompetence, and divisions paralyzing society and threatening the patriotic cause.<sup>37</sup>

Thayer, on the other hand, could bestow unmitigated praise on the Pennsylvania radicals because he viewed them as classless prophets of the liberal paradigm. Having "brought forth and put into operation a constitution dedicated to the principles that all men are free and equal" and thereby "defying the traditional theories of government" they represented the avant-garde of Jeffersonianism, the realization of Enlightenment principles.<sup>38</sup>

Though Lincoln and Thayer disagreed over whether the change in government had been revolutionary or evolutionary, both viewed Pennsylvania radicalism as a movement of the people. This interpretation was challenged by David Hawke in 1961. Once again echoing the judgments of contemporary opponents, and obviously deeply impressed by Philip Davidson's *Propaganda in the American Revolution* Hawke saw the transition of power in Pennsylvania as the work of a clique of frustrated losers who turned out to be talented conspirators. They "staged expertly organized mass meetings and flooded the land with propaganda," "masked their goals behind patriotic slogans" and "hoodwinked conservatives that their motives were pure," engineering a radical Revolution which nobody in Pennsylvania really wanted.<sup>39</sup> Hawke's skepticism makes for good reading (so does Thomas Hutchinson's), but he fails to explain

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<sup>37</sup> See Samuel B. Harding, "Party Struggles Over the First Pennsylvania Constitution," *Annual Report of the American Historical Association for the Year 1894* (Washington, D.C.: Government Printing Office, 1895), 371-402; Paul Leicester Ford, "The Adoption of the Pennsylvania Constitution of 1776," *Political Science Quarterly* 10 (1895), 426-459, especially 459.

<sup>38</sup> Thayer, 197.

<sup>39</sup> David Freeman Hawke, *In the Midst of a Revolution* (Westport, Conn.: Greenwood Press, 1980 [1961]), 1; Hawke also wrote biographies of Thomas Paine and Benjamin Rush (see bibliography).

why so many Pennsylvanians supported the Constitution after 1776 and apparently found the Constitutionalist "propaganda" attractive. His interpretation became untenable in the light of Richard Ryerson's painstakingly detailed study of the Committee movement from 1765 to 1776. Ryerson's account proved there were significant leaps of democratization in committee membership. Great numbers of previously inactive men became involved in politics. The average wealth, social status, and age of these newcomers decreased in each successive stage of the movement, and the proportion of members from former out-groups - Germans, Presbyterians, artisans - increased.<sup>40</sup> The "coup d'état" of 1776 occurred on the basis of a dynamic process initiated in the late 1760s, the initial phase of an institutional democratization Jackson Turner Main observed in all of the colonies since 1774.<sup>41</sup>

Charles S. Olton's study of artisan politics between 1765 and 1790 complemented Ryerson's work. Both studies made clear that a new force in politics had firmly established itself on the scene with a distinct identity and agenda. These new men were not proto-socialist proletarians, however, as Olton in particular emphasized, but thoroughly bourgeois men with middle-class views on property and work who were looking for their piece of the pie.<sup>42</sup>

At about the same time as Olton and Ryerson Douglas Arnold completed *A Republican Revolution. Ideology and Politics in Pennsylvania, 1776-1790*. It still stands as the newest and best comprehensive study of Revolutionary political thought in Pennsylvania, though it is now a quarter century old. While

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<sup>40</sup> Richard Alan Ryerson, *The Revolution Is Now Begun. The Radical Committees of Philadelphia, 1765-1776* (Philadelphia: University of Pennsylvania Press, 1978).

<sup>41</sup> Jackson Turner Main, "Government by the People: The American Revolution and the Democratization of the Legislatures," *WMQ* 23 (1966), 391-407.

unquestionably a well-crafted dissertation, it suffers from two major weaknesses from the present perspective: it is conceptually limited by relying entirely on Gordon Wood's outdated conception of republicanism and it is principally a study of the Republican party which opposed the radical Constitution of 1776.<sup>43</sup> These weaknesses constitute the point of departure for the present study. Arnold stressed the evolving modernity of the Republicans, who resorted to pluralistic coalition-building tactics in their struggle to overcome the radical Constitution and in many ways prefigured the Madisonian Federalism they would whole-heartedly endorse.<sup>44</sup> The Constitutionals, on the other hand, clung to outmoded notions of a homogenous community of virtuous citizens - which represented a total misreading of Pennsylvania reality - and subsequently turned into nostalgic Antifederalists. Arnold was trying to revise the progressivist image of the Republicans as reactionary aristocrats, as well as Thayer's view of the Constitutionals as libertarians. Following *The Creation of the American Republic*, Arnold believed that both parties shared the political language of country ideology, with Republicans playing the role of pursuing the transition to liberalism between 1776 and 1790.

Richard Ryerson's 1983 article marks something of a turning point after which there was considerably more interest in the common men of Pennsylvania and thus also in Constitutionalist thought. Ryerson demanded that the Constitutionals and their thought be taken seriously by asking who they were,

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<sup>42</sup> Charles S. Olton, *Artisans for Independence. Philadelphia Mechanics and the American Revolution* (Syracuse, N.Y.: Syracuse University Press, 1975).

<sup>43</sup> See Ryerson, *Revolution*, 97; Arnold concedes the second point in his introduction to the unrevised edition of his 1976 dissertation. Douglas M. Arnold, *A Republican Revolution. Ideology and Politics in Pennsylvania, 1776-1790* (New York: Garland, 1989), xii.

<sup>44</sup> *Ibid.*, 319ff.

where their belief system originated, how well their Constitution really performed, what informed their actual policies, what explains their successes and failures, and what they ultimately achieved. Based on his own and other work he found they were outsiders engaged in a process of accessing the power structure. Class conflict was not dissipated, but reinforced by ethno-cultural polarization. Radical politics were not built on ignorance, but imitated the convention of the colonial Quaker elite of equating its own standards and interests with the public good in the context of a societal ideal defined by virtue and homogeneity. Ryerson thus confirmed the image of the Constitutionals as classical republicans seeking public virtue in a pluralist environment of competing interests. Although the Constitution performed reasonably well, it was bound to fail in its misreading of the state's heterogeneous character. As "fearful patriots" radicals lashed out at unvirtuous Tories, Quakers, neutrals, and profiteers, denying undeserving citizens their civil rights by a series of harsh test oaths. Yet Ryerson points out, like all before him, that they "created the first large, radically democratic republic in the modern world," besides which the other states looked "either gentrified or positively aristocratic."<sup>45</sup>

Further work has addressed the thought of various social groups, mostly in the city of Philadelphia, that played a part in the internal Revolution in Pennsylvania. Steven Rosswurm has analyzed the role of the militia as the locus of a lower class politics that greatly contributed to Constitutionalist radicalism until 1779. As a popular left wing the politicized militia stressed egalitarian issues and lower sort interests to the point of coming into conflict with

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<sup>45</sup> Ryerson, "Republican Theory," 132f.

Constitutionalist leaders, as became evident in the Fort Wilson riot of 1779.<sup>46</sup> This is an important reminder that the Constitutionlists were not a homogenous group, that, just like the Republicans, they consisted of a coalition of at times rather diverse interests. Ronald Schultz, developing ideas contained in Eric Foner's work on Paine and Pennsylvania, has recently stressed the autonomous ideology of small property holders. As an ideological tradition reaching back into colonial times and the seventeenth century it constituted a major source of Constitutionalist ideas on the value of the laboring classes, on property, which was sacred, yet distrusted when concentrated in too few hands, and on the political rights of common men.<sup>47</sup>

Thomas Doerflinger has studied the thought of Philadelphia's merchants, concluding that they were primarily driven by interests. Liberals in the economic sphere, where they opposed the traditional strictures on property of the moral economy, their political thought was dictated by a logic of moderation which resulted in a conservative posture.<sup>48</sup> Reflecting on this newer scholarship Arnold has concluded that both Pennsylvania parties combined "older republican traditions" with "liberal elements."<sup>49</sup> Thus we have arrived again at this study's point of departure and the question what these combinations involved, how they worked, what they achieved.

This study explains the difference between the two hybrids in terms of a political negotiation of social conflict and the construction of political identities

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<sup>46</sup> John K. Alexander, "The Fort Wilson Incident of 1779: A Case Study of the Revolutionary Crowd," *WMQ* 31 (1974), 589-612.

<sup>47</sup> Ronald Schultz, "The Small-Producer Tradition and the Moral Origins of Artisan Radicalism in Philadelphia, 1720-1810," *Past & Present* 86 (1990), 85-116.

<sup>48</sup> Thomas M. Doerflinger, *A Vigorous Spirit of Enterprise. Merchants and Economic Development in Revolutionary Philadelphia* (Chapel Hill, N.C.: University of North Carolina Press, 1986).



involved in that process. It analyzes how competing auto- and heterostereotypes of "common man" and "gentleman" were created in public discourse as matrices of political identity and legitimizations of power. It argues that at the core of these constructions were different understandings and fusions of "classical" and "liberal" ideas that produced "Virtuous Democrats" pitted against "Liberal Aristocrats."<sup>50</sup> Chapter 1.3 provides the historiographical and historical context of this aspect of the dissertation, which builds on the body of thought rooted in the propositions of Merrill Jensen's classic essay "The American People and the American Revolution" and represented in all its diversity by Young's *Explorations in the History of American Radicalism*.<sup>51</sup> Empowering readings of popular sovereignty emanated from the margins of power, i.e. from groups who had gained or were gaining access to the political discourse, but were still struggling for greater influence. These were local groups such as the debtor-farmers of Berkshire County in Massachusetts, Pennsylvania's heavily Scots-Irish Presbyterian western counties whose

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<sup>49</sup> Arnold, viii.

<sup>50</sup> Though issues of gender and race are marginally addressed, the situation and politics of blacks and women are not addressed in this study. Suffice it to say that Pennsylvania confirms Young's model of isolated radicalisms limited in scope by their attachment to specific group interests - as well as providing examples of socio-political conservatism combined with moral progressivism. Thus the politically conservative Quakers, whom Tom Paine chastised as arch-enemies of liberty and the American experiment, were among the most vocal critics of slavery, a position shared with the Constitutionalist assembly that passed an anti-slavery bill in 1780. The democratic radicalism of the frontier counties in opposing the colonial oligarchy aimed at overcoming a defensive Indian policy to be replaced by violent assertions of settler interests through displacement and, if necessary, extermination. Benjamin Rush, the millennial visionary who feared popular power and despised the democratic Constitution was one of the few spokesmen for the rights of women pertaining to education. While I confess to a certain sympathy for the Constitutionlists, who make good underdogs and have indeed been misunderstood both by Consensus and Progressive historians, an allocation of black and white hats (greedy merchants vs. poor but honest farmboys and artisans) would simply invert the biased judgments of the past instead of shedding light on the much more relevant issue of the mechanisms involved in the creation of competing political identities.

<sup>51</sup> Merrill Jensen, "The American People and the American Revolution," *JAH* 57 (1970), 5-35; *The American Revolution. Explorations in the History of American Radicalism*, ed. Alfred F.

interests collided with those of Eastern elites, or Philadelphia mechanics who had grown politically conscious and self-confident in the struggles over non-importation.<sup>52</sup> In the Revolutionary republican context the local and particular interests of these groups were expressed as generalized claims of 'the people' against leaders in privileged positions. Very diverse interests and agendas could be subsumed under the abstract identity of the politically competent "common man", created in juxtaposition to a gentry politically disqualified by its defining characteristics - excessive wealth, ambition, and an effeminate high culture. The success of Pennsylvania radicalism between 1776 and 1785 is a particularly impressive example of this phenomenon. Part of the radicals' success lay in their ability to appeal to socially diverse groups through the vehicle of a shared identity as 'the people', whose claim to an empowering sovereignty was represented by the 1776 Constitution and the party that supported it. This identity manifested itself in the concept of the common man as a virtuous citizen set against a negative other: the corrupt, conspiratorial, self-interested economic elite, constituted as an elemental threat to the community by its association with the English enemy. This image was informed by a combination of Lockean natural rights concepts with a discourse of virtue linked by small-property-holder ideology. The opposition developed an ambiguous counter-model which endorsed popular sovereignty while indicting the popular susceptibility to demagoguery and thus retained the notion of elite guidance. At the same time it developed an economic theory and practice that asserted untrammelled rights to the use of private property and free trade

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Young (DeKalb, Ill.: Northern Illinois University Press, 1976); *Beyond the American Revolution*, see n. 29.

notions against claims of community controls of economic behavior. The second part of the dissertation is devoted to an analysis of the Constitution and constitutional ideas. After a brief sketch of the problem of representation in 2.1, chapters 2.2 through 2.5 examine publicized proposals for government, the Constitution, the debate over citizenship and the franchise, and the issue of legislative structures. Each chapter illustrates the extent to which the issue was determined by underlying assumptions on the meaning of popular sovereignty, the competence of citizens, and the nature of society and how positions were established, defended, and attacked through combinations of traditional and modern, Aristotelian and Lockean, classical republican and liberal arguments.

The character of public discourse itself mirrors the ideological permeation. Hysterical accusations of factionalism, visions of tyrannical plots and licentious mob rule, desperate appeals to virtue melt into sober inquiries, celebrations of republican experimentation and the unique opportunity given to Pennsylvanians (and Americans) to rationally deliberate over and construct a new republican order. Pennsylvania in particular, where the best organized parties in America were accusing each other of a factional party spirit, calls to mind Robert Shalhope's thesis that Revolutionary Americans were thinking and talking classical while already acting liberal.<sup>53</sup>

Which brings us back to the beginning of this meandering introduction and the question how aware Revolutionaries were of themselves as a discourse community? Did the insistence on a singular truth, which any party had no choice but to claim for itself, foreshorten any possibility of dialogue into a battle

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<sup>52</sup> See Olton, *Artisans for Independence*, ch. 4.

between good and evil or did Americans theoretically reflect and accept the pluralistic debate they were in fact conducting, as much as they may have tried to shut each other up? On the question of constitutional multiplicity a Pennsylvania pamphletist - probably Tom Paine - wrote that "it will probably be of benefit to have some little difference in the forms of government, as those which do not like one, may reside in another, and by trying different experiments, the best form will the sooner be found out, as the preference at present rests on conjecture."<sup>54</sup> We find here the classical Enlightenment perspective of the political experiment, in which difference is accepted as a necessary, but temporary situation. It is through empirical processes of trial and error, which include the trials and errors of arguments and opinions, that the telos of an ideal constitution is ultimately realized. Pluralism in this sense is legitimate as part of the process leading to homogenous perfection.

The most famous assertion of pluralism in the Revolution is, of course, Madison's concept of the extended republic as succinctly expressed in the Federalist Number Ten. A plurality of interests was inescapable as it evolved from the inherent difference between men as to their faculties of property acquisition, Madison lectured. Thus the republican problem of faction could never be resolved. But it could be contained in an extended republic, where the multiplicity of conflicting interests would neutralize their ability to form threatening majorities. The Federal government, in this scheme was described ambiguously, as an arbiter of interests, but also as being liberated from

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<sup>53</sup> Robert E. Shalhope, "Republicanism, Liberalism, and Democracy. Political Culture in the Early Republic," *Proceedings of the American Antiquarian Society* 102 (1992), 99-152.

factional influence, enabling it to once again pursue a higher national interest, which was a merely a synonym for the good old public good.

Surprisingly, perhaps, one of the strongest assertions of difference came from John Adams' fellow New Englander James Winthrop in an antifederalist indictment of the Constitution. Winthrop believed a Federal Constitution to be implicitly oppressive, since it applied a uniform code of laws to communities living by inherently different norms resulting from different climates. As the tropical South induced laxness and licentiousness in its inhabitants, its laws required much greater severity than those of the New England states, where industry and discipline were inherent in the rustic and hardy yeoman population.<sup>55</sup> This "multiculturalist" argumentation describes an irreconcilable natural difference that precludes compromises. There can only be a separate-but-equal coexistence in a decentralized confederation of distinct groups with a broad measure of autonomy. In themselves, of course, these homogenous communities, which Winthrop was fighting to preserve as autonomous entities, represented the classical small republic or Polis of Montesquieu and the Aristotelian tradition.

These are just three of any number of further examples that indicate not only the plurality of political opinions, but also of the diversity of meta-assumptions serving as argumentative foundations in Revolutionary discourse. However, I have yet to come across a statement resembling the moderate relativism represented by pragmatic hermeneutics. As Robert Ferguson

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<sup>54</sup> *Four Letters on Interesting Subjects* (Philadelphia, 1776) in *American Political Writing during the Founding Era, 1760-1805*, ed. Charles S. Hyneman and Donald S. Lutz, 2vols. (Indianapolis: Liberty Fund, 1983), vol. 1, 368-389, 387.

concluded: "Enlightenment thought assumed a unified answer to central problems or an unforeseen solution somewhere in the long view; it could never encompass the prospect of ultimate disagreement." To the Revolutionary generation, the idea of an inconclusive discussion, which we may value for its own sake, only spelled the possibility of defeat in an "uncertain struggle of light against darkness."<sup>56</sup> Whether light or darkness had prevailed was a question the Revolutionary generation itself could not agree upon. Nor can historians make such a sweeping statement in light of the many Revolutions encompassed within what we, out of convenience, prefer to singularize. This is what we can learn from viewing the American Revolutionaries as a discourse community: *community*, inasmuch as they shared a common language of republican government with key terms such as liberty and slavery; aristocracy, democracy, republic and anarchy; virtue and interest; equality and representation; and, of course, popular sovereignty; *discourse*, inasmuch as they were continually negotiating the meaning of these terms. Analyzing the structures of this contest over meaning provides us with a way to mediate between the plurality of revolutionary identities and the grand syntheses of recent historiography, between close readings and broad conceptualizations; between intellectual and social history; between the simplicity of "We, the people" and the complexity that America has really always been.

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<sup>55</sup> Agrippa [James Winthrop] IV, *Massachusetts Gazette* (Boston, Dec. 4, 1787), reprinted in *The Debate on the Constitution*, ed. Bernard Bailyn, 2 vols. (The Library of America, 1993), vol. 1, 448-450.

<sup>56</sup> Robert A. Ferguson, *The American Enlightenment, 1750-1820* (Cambridge, Mass.: Harvard University Press, 1997), x; 25.

## 1.2 Revolutionary Ideology between Republicanism and Liberalism

*"The republican synthesis can only be understood within a succession of paradigms: Beardian, Hartzian, and republican. The Beardian paradigm organized American history around a restless sea of conflicting material interests; the Hartzian around a stable liberal consensus; the republican around the importance of liberalism's precedents and rivals." - Daniel T. Rodgers*

*The picture of the American Enlightenment that begins to take shape here reveals that many of our most original intellectual accomplishments were achieved by synthesizing logically incompatible bodies of theory into distinctively American alloys, borrowing and blending to suit our own experience and history - Joseph Ellis<sup>1</sup>*

### 1.2.1 Liberalism Versus Republicanism

The meaning of the American Revolution is one of the key questions of American historiography. Because it is often construed as containing America's destiny *in nuce* the founding serves to legitimize or criticize the policies and positions of the present as representations or deviations of providence or, more secularly, original intent.<sup>2</sup> A historiographical pronouncement on the Spirit of '76 may actually be an indictment of current political trends, and a bookish study of gun ownership in early America can bring on death threats by right wing libertarians.<sup>3</sup> Debating the intellectual heritage of the Revolution may involve less of a moral dimension than the inextricably presentist debate over the nature and meaning of African-American slavery, but it has never served antiquarian purposes. In fact, the historiography of the Revolution, though increasingly confined to the isolated

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<sup>1</sup> Daniel T. Rodgers, "Republicanism: the Career of a Concept," *JAH* (1992), 12; Joseph Ellis, "Editor's Introduction," *AQ* 28 (1976), 147-149.

<sup>2</sup> See Jack N. Rakove on the "perils of originalism" in Rakove, *Original Meanings. Politics and Ideas in the Making of the Constitution* (New York: Vintage Books, 1997 [1996]), 3-22.

<sup>3</sup> I am referring to threats against Michael Bellesiles' life after the publication of his study of gun ownership (*Arming America. The Origins of a National Gun Culture* (New York: Knopf, 2000)) which argues on the basis of an analysis of probate records that it was less common in Early America than has been generally assumed. See "OIEAHC Resolution on Harassment of Michael Bellesiles," e-mail by Ronald Hoffman (May 7, 2001) [online] URL:

groves of academe, has always been a particularly bright mirror of contemporary attitudes towards American society.

Since the Second World War, two interpretive paradigms have played a particularly important part in the drama of Revolutionary intellectual history: liberalism and classical republicanism. In the 1950s a new reading of the Revolution emerged which so distanced it from the Great Revolutions of Europe and the contemporary colonial liberation movements of the Third World as to make the very term an embarrassment of sorts. According to political scientists and historians such as Louis Hartz or Daniel Boorstin, the communities of British North America had emerged, practically from the moment of their establishment, as liberal, middle-class societies.<sup>4</sup> They had not been born out of a dialectical struggle with a deeply entrenched feudal order as the bourgeois societies of Europe, but in an autocatalytic process resulting from a benevolent constellation of circumstances. A society of roughly equal, independent, property-owning, market-oriented individuals was practicing John Locke's theories with no need of preaching. The war of Independence they successfully concluded against their motherland constituted a defensive action aimed at preserving the status quo against threatening transatlantic encroachments. It resulted in the republican institutionalization of the liberal practices of yore, which had been only thinly disguised by the emblems of royal government. Locked in a liberal

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<http://h-net.msu.edu/cgi-bin/logbrowse.pl?trx=vx&list=h-shear&month=0105&week=b&msg=z6D9XkTUs0oOveaNW9JFlw&user=&pw=>

<sup>4</sup> Louis Hartz, *The Liberal Tradition in America* (San Diego etc.: Harcourt, Brace, Jovanovich, 1983 [1955]); Daniel Boorstin, *The Genius of American Politics* (Chicago, 1953). For a concise critical account of consensualism see Colin Gordon, "Crafting a Usable Past: Consensus, Ideology, and Historians of the American Revolution," *WMQ* 46 (1989), 671-695.



continuum the Americans, as Tocqueville had already put it in the 1830s, enjoyed the pleasures of democracy without having to have suffered the pains of a democratic revolution. The inevitable price of this comfort was paid in the form of a stifling ideological conformity resulting from the absence of an alternative political tradition.<sup>5</sup>

This model of a self-evident, consensual liberalism was virtually the exact opposite of the Progressive interpretation of the Revolution, which had dominated the academic discourse of the first half of the twentieth century. For the likes of a Beard, Becker, Turner, Parrington, and Schlesinger Sr. American history represented a struggle of mythical proportions between the forces of democracy and aristocracy/plutocracy. The American Revolution as a major chapter in this ongoing contest was therefore, in the memorable words of Carl Becker, not merely a struggle for "home rule", but over "who should rule at home."<sup>6</sup> Charles Beard's materialistic analysis unmasked the honorable Founding Fathers as calculating businessmen, pursuing self-interested schemes behind a fence of republican rhetoric.<sup>7</sup>

Different as these interpretations were, they had one thing in common: they underestimated the significant complexity of political ideas. While the Progressives discarded them as epiphenomenal rationalizations or intelligently crafted propaganda, the consensualists viewed them as unproblematic affirmations of reality.

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<sup>5</sup> See Louis Hartz, "American Political Thought and the American Revolution," *The American Political Science Review* 46 (1952), 321-342.

<sup>6</sup> Carl L. Becker, *The History of Political Parties in the Province of New York, 1760-1776* (Madison, 1909).

<sup>7</sup> Charles Beard, *An Economic Interpretation of the American Revolution* (New York, 1913).

These comfortable views began to be seriously challenged starting in the 1960s. While neo-progressives and the New Left assaulted consensualism as a denial of class antagonism, inequality, and exploitation, a new interpretive model grew within intellectual history that discovered or constructed a further alternative to the liberal monologue. It reached its first full expression in Bernard Bailyn's *The Ideological Origins of the American Revolution* which described the Revolution as the product of a specific "ideology," a collective perception of events on the basis of culturally inherited perceptual patterns.<sup>8</sup> The glue that held together the hodgepodge of arguments on behalf of colonial autonomy in the conflict with Britain and functioned as a decisive catalyst driving Americans towards independence was, according to Bailyn, the oppositional ideology of the English radical Whigs, which had grown and developed virulently in the American environment. The conception of politics as a fundamental conflict between power and liberty exerted such control over the American mind that arguments over tax laws and local autonomy appeared as an existential struggle against a grand ministerial conspiracy to enslave the continent.<sup>9</sup> From a historiographical bird's eye view J.G.A. Pocock placed this phenomenon in the broad context of a political language of civic humanism which reached back through Harrington and 17<sup>th</sup> century republicanism to Machiavelli, Polybius and lastly Aristotle's *Politeia*. According to Pocock, the

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<sup>8</sup> Clifford Geertz, "Ideology as a Cultural System," in *The Interpretation of Cultures* (New York 1973), 193-234.

<sup>9</sup> Bernard Bailyn, *The Ideological Origins of the American Revolution* (Cambridge, Mass.: Harvard University Press, 1967). For an account of the development of the republican synthesis see Robert E. Shalhope, "Towards a Republican Synthesis. The Emergence of an Understanding of Republicanism in American Historiography," *WMQ* 29 (1972), 49-80 and Shalhope, "Republicanism and Early American Historiography," *WMQ* 39 (1982), 334-356.

American Revolution was so thoroughly characterized by classical political conceptions that it had to be considered "less as the first political act of revolutionary enlightenment than as the last great act of the Renaissance."<sup>10</sup> Consequently, John Locke, as a representative of the liberal paradigm, was relegated to the sidelines and became an inconspicuous face in the humanist crowd. From a historiographical viewpoint, the growth of classical republicanism has been described as a classical example of a Kuhnian paradigm shift. Locke and liberalism no longer sufficed to explain nagging questions about American identity and political culture.<sup>11</sup> There was an anxious fascination with and need to explain the irrational paranoia of the Revolutionary generation, as well as that of contemporary US society. The apparent failure of liberal progress and the dissatisfaction with an arid possessive individualism served as a further catalyst for the evolving conception of a non-Marxist communitarian heritage in America's past.<sup>12</sup>

The antagonistic quality of liberalism and republicanism seemed obvious. *Here* was the supremacy of individual rights, the preservation of which was the sole purpose of *Gesellschaft*, freedom as the freedom from obligation and coercion, the benevolent view of rational self-interest, the unrestrained play of *homo oeconomicus* in the free market. *There* was the supremacy of the pre-existent *Gemeinschaft*, freedom as the freedom and obligation to participate in the discourse of the Polis, the sacrifice of private

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<sup>10</sup> J.G.A. Pocock, "Virtue and Commerce in the Eighteenth Century," *Journal of Interdisciplinary History* 3 (1972), 119-134, 120.

<sup>11</sup> Rodgers, "Republican Paradigm," 15.

<sup>12</sup> For the connection between republican historiography and contemporary communitarianism see Jeffrey C. Isaac, "Republicanism Vs. Liberalism? A Reconsideration," *History of Political Thought* 9 (1988), 349-377, 349f.

interests to the public good, the *zoon politikon* whose true self was corrupted in the private market but realized in the public sphere.

The application of these models to American history was doubled in the theoretical framework historians applied. While the liberal school subscribed to a conception of ideas as rational, uniform products exchanged among autonomous individuals, the republican paradigm quickly adopted models positing a social construction of reality where ideologies were collective mental road maps, and individual perceptions and utterances the product of autonomous linguistic or discursive systems.<sup>13</sup>

The clear demarcation drawn between these two worlds made them handy conceptual tools with which to explain political and cultural transformations or the old American tension between individual and community, but by its tempting clarity it invited the neglect of complexity. Arguments and theories on both sides were actually quite sophisticated, but they were too often telescoped into glib formulaic abstractions by opponents in need of decoys or in the course of popular reception.

As opposing scholarly camps heaped argument upon argument and presented exhibit upon exhibit it became evident that the American Revolution could not seriously be considered either an entirely liberal or an entirely classical republican affair. The meaning of the Revolution lay in the relationship of these political languages to each other. From a distance it is possible to discern three fundamental approaches to the relationship

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<sup>13</sup> Rodgers, "Republican Paradigm," 21-23; Joyce Appleby, "Liberalism and Republicanism in the Historical Imagination," in Joyce Appleby, *Liberalism and Republicanism in the Historical Imagination* (Cambridge: Harvard University Press, 1992), 1-33; Gordon S. Wood, "Intellectual History and the Social Sciences," *New Directions in American Intellectual History*, ed. John Higham and Paul K. Conkin (Baltimore, 1979), 27-41.

between liberalism and classical republicanism in the American Revolution which I have labeled transformation, opposition, and permeation. Different views of the two traditions as sequential, competitive or intertwined are not just a matter of positioning them, however, but involve our understanding of what is actually meant by those easily labeled ideological structures. It will be necessary therefore to give a brief account of both.

### *1.2.2 Classical Republicanism*

The classical republican account of the Revolution argued that the Revolutionary struggle for independence rested on an intellectual dependence on the political discourse of the mother country, particularly the oppositional ideology of the "country party," which proved to be particularly well suited as a means of conceptualizing the colonial self and its relation to England.<sup>14</sup> Unsettled by the political and economic developments in England in the eighteenth century, English "Commonwealthmen" took recourse to an ideology "anchored in the Florentine Renaissance, anglicized by James Harrington, Algernon Sidney, and Henry St. John, Viscount Bolingbroke, but looking unmistakably back to antiquity and to Aristotle, Polybius, and Cicero."<sup>15</sup> Though "rarely successful in practical politics," the country ideology expounded by Robert Molesworth, John Toland, and most conspicuously by Trenchard and Gordon against the regime of Walpole, found its successors in contemporaries of the American Revolution, such as

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<sup>14</sup> See Bernard Bailyn, "The Central Themes of the American Revolution," in *Essays on the American Revolution*, ed. Stephen Kurtz and James H. Hutson (Chapel Hill, N.C.: Institute of Early American History and Culture, 1973), 3-31.

James Burgh, Catherine Macaulay, and John Cartwright and would play the major part in the Revolution itself.<sup>16</sup>

Country ideology was at its core an amalgamation of the "paradigmatic legacy" of Florentine Republicanism, concerned with "concepts of balanced government, dynamic virtù, and the role of arms and property in shaping the civic personality"<sup>17</sup> and the Whigs' historical reconstruction of the ancient constitution as the source, from time immemorial, of inalienable liberties and rights of Englishmen.<sup>18</sup> They revered the English Constitution as the most perfect form of government in existence, because it represented the creation of what was fundamental to the happiness of man: a stable polity securing the life and liberty of its members as it arrested the degenerative process of history Aristotle and, more poignantly, Polybius had already described in antiquity. This process, resulting from man's inherent corruptibility, necessitated the decline of every form of government into its perversion: the monarchy, climaxing in the tyranny of total subjugation, was overthrown and replaced by the wise rule of the aristocracy, which in turn degenerated into oligarchic oppression, prompting the revolt of the many, who established a democracy, inextricably bound to end in ochlocracy, the chaos of licentious mob rule, salvageable only by the iron will and charisma of a new king. The means of escape from this bleak cycle of preordained decline, which exhausted a nation's energies

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<sup>15</sup> Pocock, "Virtue and Commerce," 120.

<sup>16</sup> Trevor Colbourn, *The Lamp of Experience. Whig History and the Intellectual Origins of the American Revolution* (Chapel Hill, N.C.: University of North Carolina Press, 1965), 9.

<sup>17</sup> J.G.A. Pocock, *The Machiavellian Moment. Florentine Political Thought and the Atlantic Republican Tradition* (Princeton, N.J.: Princeton University Press, 1975), viii.

to the point of final dissolution, Polybius found in a concept of mixed government, a constitution in which monarchy, aristocracy, and democracy were synchronized so as to form a balanced structure, in which they prevented each other, by neutralizing their respective particular interest, from degenerating into their corrupted alter egos, thereby securing stability and the pursuit of the public as opposed to particularistic private interests.

Essential to good government, then, was the differentiation of a polity into three distinct bodies representing democracy, aristocracy, and monarchy which would each constitute one branch of the government. In England the one, few, and many could be equated with King, House of Lords, and House of Commons. Addison could write - and be quoted in Pennsylvania during the Revolution - that he "could never read a passage in Polybius, and another in Cicero [...] without a secret pleasure in applying it to the English constitution, which it suits much better than the Roman."<sup>19</sup>

Government as a means of furthering the public good was not a mechanical institution, but depended on the commitment of every member of the political class. The prerequisite for this was the individual's independence "from governmental or social superiors," usually defined by the actual physical ability of self-defense in form of a citizen's militia, or economic autonomy through one's status as a property holder. As in the polis of antiquity, property, preferably, but not necessarily, in the more stable

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<sup>18</sup> See Colbourn, ch. 2; J.G.A. Pocock, "Machiavelli, Harrington, and English Political Ideologies in the Eighteenth Century," [1965] in Pocock, *Politics, Language, and Time. Essays on Political Thoughts and History* (New York, 1971), 104-147, 128.

<sup>19</sup> This analogy was first explicitly developed in 1642 in the *Answer to the Nineteen Propositions of Both Houses of Parliament* by Charles I (rpt. in *Divine Right and Democracy. An Anthology of Political Writing in Stuart England*, ed. David Wooton (London: Penguin,

form of land, was the inevitable prerequisite of citizenship. "The landed man, successor to the master of the classical *oikos*, was permitted the leisure and autonomy to consider what was to others' good as well as his own."<sup>20</sup> Dependents, which included women, children, and servants, and slaves were politically impotent, being bound to the interest of their masters.<sup>21</sup> It follows from this that the estate of the many, or references to 'the people' in a classical republican sense of the term should not be confused with the sum total of inhabitants or citizens, or even all adult males, but merely signified men of lesser property as opposed to a wealthy, leisured, nobility. Those without property of their own (up to two thirds of the population in England) were not eligible as members of the political class.<sup>22</sup>

The pursuit of the common weal instead of private interests, made possible by independence, was not however its automatic consequence. Though man was a *zoon politikon*, his was, as Kant would put it, an unsocial sociability, his passions and self-love constantly driving him to assert himself over others. However, contrary to Hobbes' anthropological pessimism, civic humanism was skeptically confident that man was not inevitably as a wolf to his fellow man. But overcoming the self-centered greed, ambition and hostility which was the ultimate source of all political tyranny and oppression involved a conscious civic commitment to the public good that involved a

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1986), 171-174. It served to defend the substantial role of the monarchy while disclaiming absolutist pretensions; "Sidney", *PEP* (October 26, 1776).

<sup>20</sup> Pocock, *Machiavellian Moment*, 464.

<sup>21</sup> See Pocock, "Machiavelli, Harrington, and English Political Ideologies in the Eighteenth Century," 127.

<sup>22</sup> Only a fifth owned any land; see Wood, *The Radicalism of the American Revolution* (New York: Vintage Books, 1993 [1991]), 123. But compared to the age of feudal tenury, or the situation on the continent, James Harrington, the founding father of English republicanism, found these 20% "a group of men so large they could be identified with the people as a



deep moral dimension. "The name most tellingly used for balance, health, and civic personality was 'virtue'; the name of its loss was 'corruption'."<sup>23</sup> Politics and morality were still inextricably linked in this world. Good government, securing independence and liberty, produced virtuous citizens, virtuous citizens, vigilantly protecting their rights and committed to the interest of the community, secured good government. As Jonathan Mayhew put it, "happiness can only result from Virtue, and virtue is inseparable from Civil Liberty."<sup>24</sup>

Virtue as a primary signifier of classical republican discourse was a civic, political and martial quality, not the privatistic, feminized and domestic morality it would increasingly come to represent in the nineteenth century. It emphasized the voluntary subordination of the self to the community, as well as the idea of civic activism, of positive liberty, characterized by duties as much as by rights.<sup>25</sup>

Republican theory knew varying methods of creating a devotion to the public good. There was the means of educating the passions of man to serve the needs of the community and rewarding his service, as in Rousseau's concept of the cultivation of patriotism and its acknowledgment through the bestowment of glory and honor on those who excelled in it. Harrington devised a republic in which the self-interest of the citizens converged with virtuous action through political mechanisms, while Ciceronian

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whole", and therefore suggested a republican constitution for England (Banning, *Jeffersonian Persuasion*, 31).

<sup>23</sup> Pocock, "Virtue and Commerce", 121.

<sup>24</sup> Quoted in Colbourn, 65.

<sup>25</sup> Wood emphasizes the former element, which might result from his reliance on religious sources, while Pocock, with Machiavelli's *Discorsi* in mind, stresses the latter, see Rodgers, "Republican Paradigm," 19; Bloch, "The Constitution and Culture", 554.

republicanism, represented in England by Bolingbroke stressed the ideal of duty to the public cause, involving self-abnegation and the conscious sacrifice of personal interests.<sup>26</sup>

Self-realization for the individual lay in his role as *citoyen*, as participant in community. The nature of this participation, of virtue, was however not universal, but contingent on the position of the individual within society.<sup>27</sup> It was "the mode of intelligence and action proper to membership in the one, the few, or the many," for the different estates performed particular functions within the system of balanced government.<sup>28</sup> Traditionally, the king represented order, or power, the aristocracy knowledge and wisdom, while the many were seen as, in Machiavelli's words, "guardia della libertà", the vigilant protectors of liberty.<sup>29</sup> The experience, knowledge, and ability necessary for the prudent and sagacious exercise of power was attainable only by those not enmeshed in the trivial affairs of subsistence, those at leisure to study philosophy and history and devote their time to public affairs.

But virtue consisted not only in the exercise of one's political qualities, but extended to include "respect for the virtues of the two categories to which one did not belong, and in maintenance of the constitutional structure in which the balance of virtues was institutionalized."<sup>30</sup> This implied for the third estate, an acceptance of the former's political leadership and authority,

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<sup>26</sup> This tripartite division is established and discussed in Shelley Burt, "The Good Citizen's Psyche: On the Psychology of Civic Virtue," *Polity* 23 (1990), 23-38.

<sup>27</sup> Dorothy Ross, "The Liberal Tradition Revisited and the Republican Tradition Addressed," in *New Directions in American Intellectual History*, (1979), 116-131, 117.

<sup>28</sup> Pocock, "Virtue and Commerce," 124.

commonly characterized as "deference"<sup>31</sup>, as well as the right to resistance should the balance of government be disturbed and liberty infringed. The concept of virtue legitimized hierarchy, but simultaneously delimited its innate potential for domination.<sup>32</sup>

The relatively broad distribution of property as a foundation of autonomy and virtue merged with the need for distinct ranks and orders to produce a specific classical republican conception of equality. Men were equal in respect to the enjoyment of those rights which John Locke would so well summarize in his *Second Treatise* - life, liberty, property. Sharing the quality of property ownership, regardless of quantitative differences, the members of the republican polity were independent, autonomous subjects fundamentally distinct from the dependent creatures in a hierarchy of vassalage. There remained however the fundamental distinction between the few and the many, the aristocrats and the commoners. They were not politically equal, as the third order was excluded from leadership, its virtue better suiting it to act as a political watchdog checking the aristocracy's predilection for power. There was a clear hereditary distinction in England, the established nobility elegantly fitting the place of the 'few' of republican thought, but Harrington had introduced the vaguer concept of a natural aristocracy, of men distinguished by an exceptional virtue and talent who, in

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<sup>29</sup> Pocock, *Machiavellian Moment*, 472; see e.g. *Answer to the Nineteen Propositions* and Blackstone's *Commentaries on the Laws of England* as quoted in Banning, *Jeffersonian Persuasion*, 33.

<sup>30</sup> Pocock, "Virtue and Commerce", 124.

<sup>31</sup> Deference is a core concept of republicanism, which, contrary to the servility of monarchy, does not spring from oppression and dependence, but constitutes a voluntary acknowledgment of superior abilities within the republican 'division of labor'. The citizen thus displays "deference as part of his otherwise free political behavior"; J.G.A. Pocock, "The Classical Theory of Deference," *AHR* 81(1976), 516-523, 516.

<sup>32</sup> Pocock, *Machiavellian Moment*, 485.

theory, would always be recognized as superior. Though these were generally equated with the gentlemen of great(er) wealth, the republican rejection of a hereditary model based on the nobility of blood suggested the possibility of a social dynamic. The English nobility, sure enough, took care to cast itself as an aristocracy in the classical republican sense. Problematic as the idea of a natural aristocracy would be in an American context (where the absence of a nobility required trust in the people's virtue, i.e. their ability to recognize, acclaim, and defer to the genuine elite) it served patricians and socially conservative reformers well in that it retained the concept of hierarchy, but freed it of the sinister allusions of vassalage, servility and dependence. Thus the anti-English elites in the colonies could attack their loyalist enemies in the colonial establishment as servile creatures of the crown while reclaiming for themselves the title of the natural aristocracy of virtue and talent. After independence this interpretation would violently clash with democratic assumptions about absolute political equality expressed by segments of society staking their own claim for power in the name of popular sovereignty.

To classical republicanism, society appeared as an organic entity, its different parts performing the tasks they were suited for, but all working towards the same end. If any part aspired to a role it was unfit for, or neglected the interest of the whole, the entire organism was threatened, would become dysfunctional and eventually perish. This was the state called corruption, characterized by the pursuit of selfish interests, which led to a vicious factionalism, ending in the imposition of one interest on all, the end of liberty. A corrupt government created opportunities for men to sell their

independence for personal gain, as they unleashed their passions in idle luxury and effeminate refinements. Political and moral decay constituted a reciprocal spiral of cause and effect, as good government and virtue did. Therefore the slightest sign of corruption could be read as a prophecy of impending doom and under the proper conditions, this concept could be favorable to a climate of hysteria - in any event it was a useful tool for opposition politics.

The classical theory of politics, roughly outlined here, at the heart of which lay the concepts of balanced government, virtue, and independence, took on its English form in the seventeenth century as a result of the search for stability in view of political turmoil and apparent decay.<sup>33</sup> It was actualized in eighteenth century England by the "political opposition, alienated intelligentsia, and the vigilant moralists" at war with the administration of Robert Walpole.<sup>34</sup> Since the Glorious Revolution of 1688 England was experiencing rapid growth as a military and economic power, characterized by an increasingly large professional army, involved in a series of continental wars, an administrative bureaucracy organizing and controlling an internationalized economic policy, especially maritime trade, and a burgeoning financial market, thriving off a public credit system necessitated by national debt, and a host of speculative investment ventures.<sup>35</sup>

The development of the nation into a mercantilist empire, with all its radical consequences for the structure of politics, economy, and society, required conceptualization for those experiencing it. Its adversaries found a

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<sup>33</sup> Banning, *Jeffersonian Persuasion*, 42.

<sup>34</sup> Bernard Bailyn, *Faces of Revolution. Personalities and Themes in the Struggle for American Independence* (New York: Knopf, 1990) 206.

more than adequate frame of reference in the bipolar model of 'virtue and corruption', blending it with an idealization of English history to create an ideology "intended to make country gentlemen discontented with the court".<sup>36</sup>

England's glory, this was a commonplace assumption of the age, was its liberty, as manifested in its ancient constitution of government by King, Lords, and Commons. Ancient it was, for Parliament was claimed to have existed, in the form of the *witegamot*, among the Germanic tribes from time immemorial, and this system of elective kingship and common law had supposedly been perfected by the Anglo-Saxons settling England. The Norman conquest however, had placed the yoke of feudalism on Gothic liberty, and English history henceforth presented itself as, in the words of John Dickinson of Pennsylvania, "substantially one of popular exertion of constitutional authority against kings and ministers who sought to govern despotically."<sup>37</sup>

The country party interpreted the ancient constitution as a classical mixed polity, a balanced government of the three estates resting on the shoulders of independent, propertied, virtuous citizens - none else than the country gentry itself.<sup>38</sup> The effects of modernization which were affecting England appeared to them as a "nearly total threat to society and

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<sup>35</sup> Discussed in detail in Pocock, *Machiavellian Moment*, ch. 13.

<sup>36</sup> Pocock, "Machiavelli, Harrington, and English Political Ideologies," 123.

<sup>37</sup> Colbourn, 112. It was in this context Coke could interpret magna charta as an affirmation of common law and liberties and not a purely feudalistic compromise between liege and vassal (see Colbourn, 8).

<sup>38</sup> The concept of free land tenure and balanced government had been developed by James Harrington from Machiavellian concepts in explaining the transition from a medieval feudal system to one of propertied freeholders under the Tudors, and formed the principle argument of his republican model of government elaborated in the utopian *Oceana*. The Neo-Harringtonians, as Pocock calls them, adopted and inverted it to historicize their classical concept of the constitution; see Pocock, "Machiavelli, Harrington, and English Political Ideologies."

personality."<sup>39</sup> The increasing power of the crown through control of the new bureaucracy and the infiltration of the other government branches by patronage and placement, and the rise of the dependent, connected creature of the court, as opposed to the independent proprietor, signified the destruction of the backbone of English liberty: independence. England's Parliament was being undermined by careerists, whose good fortune depended on patronage and who therefore became representatives of other's and their own personal ambitions instead of the public good. Real property, i.e. land, the source of autonomy, was being replaced by obscure investment schemes resulting in scandals such as the South Sea Bubble. Without independence there was no virtue, in its place only the corruption symbolized by the rise of "the rentier, officer, placeman, pensioner and (lowest of all in the scale of humanity) stock-jobber or speculator in public funds."<sup>40</sup>

The changes occurring in British society were interpreted within a matrix of virtue and corruption. The political key concepts of classical republicanism, independence, solid property, and the armed citizen found their antithesis in patronage, speculative finance, and the standing army. A perfect and therefore necessarily static equilibrium built upon the political virtue of the body politic, i.e. a political consciousness devoted to the common good, contributed to by each estate, was being corrupted by the institutions and practices of an expanding mercantilist nation-state.

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<sup>39</sup> Pocock, "Virtue and Commerce," 123.

<sup>40</sup> *Ibid.*, 120f.

Banning points out the reactionary and most historians acknowledge the primarily rhetorical nature of opposition thought, which was "a hysterical response to most of the developments that built a modern state" by a party "weak to the point of debility".<sup>41</sup> Standing armies were a reality of modern warfare, the Bank of England and the New East India Trade Company indispensable instruments of modern economics and trade, making possible Britain's ascendancy to global power. More ironically it was the system of ministerial patronage and influence perfected under Walpole that actually created the stability and order so cherished by Britons.<sup>42</sup> This was not all that unclear to the opposition, which in fact was more entangled in the realities of court politics than its rhetoric would lead one to assume.<sup>43</sup> "Men who fought corruption out of power wielded patronage in office."<sup>44</sup>

The country party relied on a common political language which was, however, put to very different purposes by its "right" and "left" wing. Reactionary Tories such as Bolingbroke pursued a "politics of nostalgia"<sup>45</sup> that conjured up images of a better past and placed their hopes in a "patriot king" styled after Machiavelli's *uomo virtuoso*. Radical Whigs descendant

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<sup>41</sup> Banning, *Jeffersonian Persuasion*, 68; Bailyn, *The Origins of American Politics*, 35.

<sup>42</sup> Bailyn explicitly makes this point in *The Origins of American Politics*, 27-30; see also Banning, *Jeffersonian Persuasion*, 69.

<sup>43</sup> Trenchard and Gordon, the best-known critics of the Walpole era conceded that Britain under the conditions of the existing inequality of property could never form a pure republic, that limited monarchy was "merely a balance between the forces making for liberty and for corruption, between property and dependence" (Pocock, *Machiavellian Moment*, 474). Yet it was "a thousand times nearer a commonwealth than a monarchy". John Adams stated that "the British constitution is nothing more or less than a republic, in which the King is first magistrate" (Novanglus No. VII, in *Sources and Documents Illustrating the American Revolution and the Formation of the Federal Constitution, 1764-1788*, ed. Samuel Eliot Morison (New York: Oxford University Press, 1965 [1929]), 125-136, 131).

<sup>44</sup> Pocock, *Machiavellian Moment*, 474. For the interdependence of Court and Country thought, and the implicit acceptance of modernity and commerce by the radical Whigs in England see Pocock, *Machiavellian Moment*, 508f.

<sup>45</sup> A term coined by Isaac Kramnick, *Bolingbroke and His Circle. The Politics of Nostalgia in the Age of Walpole* (Cambridge, Mass.: Harvard University Press, 1968).



from seventeenth-century libertarianism, assaulted corruption with demands for electoral reform and a strict separation of powers, thus laying important ideological foundations for actual democratization.<sup>46</sup> Radicals since the 1760s, such as Priestly, Burgh, or Richard Price, whom Wood and Pocock placed in the republican tradition, were reclaimed for liberalism on this basis as bourgeois radicals in a country garb.<sup>47</sup> In fact, their simultaneous reliance on Locke as well as on the discourse of virtue and corruption - similar to Pennsylvania radicalism - provides a first hint to the permeative quality of such conceptions. As *The Machiavellian Moment* insists, 18<sup>th</sup>-century transatlantic classical republicanism, resting on a complex tradition, was a dynamic structure that evolved from and responded to the agendas of its day, not a residual ideology disconnected from social actualities. It was capable of addressing the effects of massive socio-economic changes which created anxieties and incongruities in society that could be made sense of within a modified country discourse. Thus the demand for electoral reform was justified with the principle of ahistorical reason as well as with a traditional return to first principles, the present situation attacked as corruption as well as an infringement of natural rights. Middling sort assaults on an idle nobility incompatible with a Protestant work ethic merged with a republican vision of a natural aristocracy of merit.

In England the ideology of civic humanism, as important as it was in shaping political and historical theories of the age, never resulted in major political consequences. Critical, but without a concrete platform of reform, it

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<sup>46</sup> Banning, *Jeffersonian Persuasion*, 63f.

constituted the "worn coinage of insincere parliamentary debate".<sup>48</sup> But for country and court alike the idea of the decline of virtue became a usable model for interpreting change. The opposition could revel in the glorious fantasy of eternally postponing ultimate corruption through its own virtuous exertions, while allowing for the reality (and necessity) of modern government. Leading Court thinkers, on the other hand, could diagnose the decline of virtue under the conditions of modernity, thus legitimizing new models of government which would preserve liberty while accounting for man's incurable desire to assert himself over others.<sup>49</sup>

### 1.2.3 Liberalism

As the arguments of Bailyn, Wood, and Pocock were being absorbed by the academic community, scholars of liberal thought in Revolutionary America and the Early Republic could no longer ignore what was congealing into a "republican synthesis". The days when one could confidently speak of a "natural liberal mind" and the "self-completing mechanism" of liberal society "which insures the universality of the liberal idea" - virtually in unison with Adam Smith himself - had irretrievably passed.<sup>50</sup> A post-republican reconstruction of the liberal mind faced the challenge of establishing a manifest liberal tradition ignored by republican revisionists, a parallel political language rooted in English social developments, similarly

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<sup>47</sup> Isaac Kramnick, *Republicanism and Bourgeois Radicalism. Political Ideology in Late Eighteenth-Century England and America* (Ithaca, London: Cornell University Press, 1990), esp. 169-185.

<sup>48</sup> Pocock, "Machiavelli, Harrington, and English Political Ideologies," 146.

<sup>49</sup> See Pocock, "Virtue and Commerce," 130.

<sup>50</sup> Louis Hartz, *The Liberal Tradition in America*, 6.

transplanted into the hearts and minds of American revolutionaries. In the 1970s and 1980s Joyce Appleby devoted much of her career to establishing the roots of just such a liberal tradition and arguing for its impact and final victory over classical thought in the American arena of ideas.<sup>51</sup> First conceived in the early seventeenth century as an economic model seeking to explain the phenomena of market relations, such as boom-bust cycles and the uncontrollable flow of money, it grew to become the basis of a rationalistic reconstruction of man and society, as represented by the works of Hobbes and Locke, and climaxing in Adam Smith's *Wealth of Nations*, published, ominously, in 1776.<sup>52</sup> According to Appleby, this liberal ideology formed the organizing principle of Jeffersonian Republicanism while the *Federalist Persuasion* represented the classical republicanism prevalent in the Revolution. After 1800 it faded into oblivion, leaving behind the undisputed liberal consensus observed by both Louis Hartz and Gordon S. Wood.<sup>53</sup>

Liberalism must be understood as a radical departure from inherited concepts, made possible by the impact of the natural sciences on intellectual methodology, Enlightenment thought and the radical changes in the European, but especially the English, economy, which led to a reconceptualization of man as *homo oeconomicus*, society as a contractual arrangement, and history as a progressive improvement based on reason.

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<sup>51</sup> See Joyce Appleby, *Economic Thought and Ideology in Seventeenth-Century England* (Princeton: Princeton University Press, 1978); Appleby, *Capitalism and a New Social Order: The Republican Vision of the 1790s* (New York and London: New York University Press, 1984).

<sup>52</sup> For a quick recapitulation of the social origins of liberal theory in England see Appleby, *Capitalism and a New Social Order*, 27-39, an in-depth analysis is provided by *Economic Thought and Ideology in Seventeenth-Century England*.

The political manifestation of this world view most clearly emerged in the writings of Thomas Hobbes and John Locke. While the former employed contract theory against Aristotelianism in order to legitimize an absolute monarchy on scientific principles, the latter became the patron saint of the American Revolution and political liberalism.<sup>54</sup>

To analyze the function of society, liberal thinkers, beginning with Hobbes and Locke, postulated the pre-societal state of nature, where everybody is literally his own man, into which a priori assumptions on the nature of humans were projected. Two premises were fundamental: that the primary characteristic of any individual is self-love and his main interest and right is therefore that of self-preservation, and that he is guided by reason, i.e. able to rationally calculate the means to achieve his ends and capable of communicating and cooperating with others and of peacefully resolving conflicts. These creatures of reason find themselves "in a state of perfect freedom to order their actions, and dispose of their possessions and persons as they think fit, within the bounds of the law of Nature, without asking leave or depending upon the will of any other man. A state also of equality, wherein all power and jurisdiction is reciprocal, no one having more than another [...]."<sup>55</sup>

Man is completely free and independent, there is merely the law of nature that "obliges everyone, and reason, which is that law, teaches all

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<sup>53</sup> Appleby, *Capitalism*, 3f.

<sup>54</sup> See, e.g. Becker, *Declaration of Independence*; Forrest McDonald, *Novus Ordo Seclorum. The Intellectual Origins of the Constitution* (Lawrence: University Press of Kansas, 1985), 60ff. McDonald notes his usefulness to justify independence, but not the capitalist liberalism that emerged afterwards. There was only one edition of the Treatise in 1773, yet Becker convincingly demonstrated the Declaration's indebtedness to Locke's language and ideas.

mankind [...] that being equal and independent no one ought to harm another in his life, health, liberty or possessions."<sup>56</sup> In other words Natural law is no pre- or proscription, but merely describes the self-evident behavior of equal individuals equipped with reason, interested in preserving their lives, and therefore not engaging in reciprocal slaughter.<sup>57</sup> The condition of each individual owning himself, i.e. his life, liberty, and property, the latter being all material items transformed by an investment of his labor, Locke called "natural liberty".<sup>58</sup> The question arises why the individual should "part with his freedom, this empire, and subject himself to the dominion and control of any other power?" The answer is that "the enjoyment of the property he has in this state is very unsafe, very insecure", as "every man [is] his equal, and the greater part no strict observers of equity and justice".<sup>59</sup> That a society of atomized equals has no institution capable of enforcing natural law and natural right, which is a necessity due to the "corruption and viciousness of degenerate men"<sup>60</sup>, leads to the decision of forming a society unified by a common standard of laws normatively treating digressions from natural law and an authority capable of objectively ascertaining such an occurrence and

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<sup>55</sup> John Locke, *The Second Treatise of Government* in *Two Treatises of Government*, ed. Peter Laslett (Cambridge: Cambridge University Press, 1988), II, 4.

<sup>56</sup> *Ibid.*, II, 6.

<sup>57</sup> The difference to Hobbes, whose natural state is anarchy, since reason is consistently overcome by irrational passions, is essential as the latter can only solve the problem of pacification by forming a society in which one person or body is interminably invested with absolute power, while Locke's society retains flexibility between the poles of absolute power and absolute freedom. For the contradiction in Hobbes' model see Locke, *Second Treatise*, II, 10.

<sup>58</sup> *Ibid.*, IV, 22.

<sup>59</sup> *Ibid.*, IX, 123.

<sup>60</sup> *Ibid.*, IX, 128.

enforcing adequate punishment, three factors absent from the natural state.<sup>61</sup>

The creation of such authority consists in the transferal of two powers of individuals: that of "doing whatsoever he sought fit for the preservation of himself [...] he gives up to be regulated by laws made by the society", while "the power of punishing he wholly gives up, and engages his natural force [...] to assist the executive power of the society as the law thereof shall require."<sup>62</sup> From this evolve the legislative, which creates the body of laws regulating the interaction of individuals, and the executive equipped with the power to enforce the law. "And this puts men out of a state of Nature into that of a commonwealth, by setting up a judge on earth with authority to determine all the controversies and redress the injuries that may happen to any member of the commonwealth, which judge is the legislative or magistrates appointed by it."<sup>63</sup> Society is no end in itself, but merely an instrument used to secure for all of its members their natural right to life, liberty, and property. This is its one and only *raison d'être* and therefore "the power of society or legislative constituted by them can never be supposed to extend farther than the common good, but is obliged to secure every one's property, by providing against the three defects above mentioned that make the state of Nature so unsafe and uneasy."<sup>64</sup>

It is important to note that Locke, contrary to Hobbes, differentiates between society and government. While for the latter any lasting association of individuals consists in the irreversible transferal of all authority to one

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<sup>61</sup> *Ibid.*, IX, 124-126.

<sup>62</sup> *Ibid.*, IX, 129; 130.

<sup>63</sup> *Ibid.*, VII, 89.

person or body, the social contract being identical with the establishment of power, the later understands government to be the particular institutions society creates to act as legislative and executive, which include the traditional three forms and a variety of mixtures, differing according to where the supreme power, that of legislation, is placed.<sup>65</sup> Therefore government may be dissolved without destroying society. The right of society to replace governments is a logical consequence of their limited task of providing for safety and security by enforcing natural rights: any government no longer capable of this function or usurping powers beyond this delimitation automatically relinquishes all authority invested in it, power returning to the people, "who have a right to resume their original liberty".<sup>66</sup>

From the observance of regularities of economic interaction in that new abstract conception of the market, which pointed to universal, normative traits of humans, 'discovered' to be self-interest (which is realized in the economic sphere as the profit-motive, more generally as self-preservation) and reason as a means of its rational pursuance evolved an ideology rooting not only these characteristics but the right to develop them fully and retain and enjoy their inevitable result, personal property, in inalienable natural laws. As such it reflected the frame of mind of those elements in society calling for what we would call a free market, who saw government not as sovereign, nor even as powerful regulator, but simply as an arbiter ensuring internal and external peace so that society may go on about its business. It did not however reflect English social reality and could not assert itself as an

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<sup>64</sup> Ibid., IX, 131.

<sup>65</sup> Ibid., X, 132.

economic paradigm, being pushed aside in the heated debates at the seventeenth-century's end, by the balance of trade theory and the concept of mercantilism, the government-controlled economy so detested by classical republicans.<sup>67</sup>

#### 1.2.4 Transformation, Opposition, Permeation

Surveying the historiographical debate over the American Revolution between the proponents of the republican and the liberal paradigms, one finds, for all the important variations between different schools and individual historians, three basic approaches to the question, which I have taken the liberty of labeling *transformation*, *opposition*, and *permeation*.

The concept of *transformation* is best illustrated by Gordon S. Wood's magisterial and highly influential study *The Creation of the American Republic*.<sup>68</sup> Wood was the first historian to apply the emerging republican paradigm as a conceptual frame in what became one the most comprehensive and laborious studies of Revolutionary political thought ever written. In a meticulous analysis of state and national debates on the problems of constituting representative government he posed the vexing question of how a thoroughly classical republican revolution could have produced an equally thoroughly liberal United States. The creation of the American republic, as Wood describes it, is primarily a story of

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<sup>66</sup> Ibid., XIX, 222. Stability is ensured nonetheless, as the people take a fair share of abuse before reacting and forgive a certain amount of misgovernment; see XIX, 223-226.

<sup>67</sup> Appleby considers this fact a central, surprising insight of her studies; see *Economic Thought*, ix.

<sup>68</sup> Gordon S. Wood, *The Creation of the American Republic, 1776-1787* (New York: Norton, 1969).



transformation - the agonizing transformation of the classical political ideas of radical Whigs into a liberal democratic republicanism. Classical politics with its vision of a virtuous, homogenous, community of equals led by a natural aristocracy of wise men failed to meet the conceptual needs of Revolutionaries faced with a starkly different American reality. The idea of virtue, i.e. the submission of private interest to a higher public good was useless in the face of reckless interest group-politics, which reflected the great heterogeneity within as well as among the new states. The expected political manifestation of a natural aristocracy happily deferred to by the multitude never occurred. Instead, Whiggism turned against itself as radical Revolutionaries emphasized concepts of equality and popular sovereignty latently present in classical thought, challenging hierarchy and elite rule and embracing self-interest. The latent contradictions of classical thought, which social conflict brought to the fore, were ultimately resolved into the well-known model of a politically homogenous, sovereign people, divided into a plurality of competing interest groups, motivated by self-interest, and represented in a government of checks and balances detached from the social order. Contrary to Pocock, who saw classical republicanism at work even in twentieth century America, Wood viewed the Revolution as the hinge upon which America had turned into what Hartz had claimed it had always been - a liberal monolith. The advent of democratic republicanism by the Federalists, with which they hoped to reconcile pluralism and the absence of virtue with elite rule on a national level, imprisoned American political thought in an inescapable Lockean frame of reference.<sup>69</sup>

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<sup>69</sup> Wood, *Creation*, 606-619; Rodgers, "Republican Paradigm," 18-20.

Pocock de-emphasized the transitory aspect, arguing that the 18th century ideological discourse between modernizers and traditionalists, between "Court and Country" was set entirely in the frame of civic humanism. The Court party developed no distinctly liberal concept of progress but pragmatically accepted the decline of virtue ensuing from its policy as the price to pay for prosperity and power, seeking other mechanisms to govern self-interested men without virtue. Even more provocative was his view that, contrary to England, America constituted a "Country without a Court", where what had originated as an opposition ideology, locked in the discourse between virtue and commerce, became an unchallenged universal, uncannily similar in its paradigmatic omnipotence to Hartzian liberalism, and carrying its classical heritage into the 19th century and even the present. The "St. Louis school" following Pocock conceded only a slow, late, and never quite complete transition to liberalism in America ascribing a thoroughly premodern identity to the eighteenth century.<sup>70</sup>

Wood's version of republicanism was viciously attacked from hardcore liberals as well as the new left. Writers such as Thomas Pangle flatly rejected the entire republican project as badly researched history, defending, sometimes in a slightly hysterical tone, the monolithic liberalism Louis Hartz had originally described from a critical perspective. Leftist historians discarded republicanism as a lame attempt of rejuvenating the arid

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<sup>70</sup> Pocock, *Machiavellian Moment*, 509; "And it seemed evident that the eighteenth-century quarrel between virtue and commerce, citizen and government, republic and empire was still going on in the twentieth century and that historiography and political philosophy were still much involved in it." (Pocock, "Virtue and Commerce," 134). See also Rodgers, "Republican Paradigm," 18-20.

consensualism of the 50s, with one (false) ideology merely replacing the other.<sup>71</sup>

Less dogmatic historiographers of liberalism were as unsettled as they were intrigued by the new synthesis. Wood had conceded the Hartzian totality of liberalism, but he had also succeeded in wresting the Revolution - the foundation of American identity - from the strangling embrace of a liberal consensus. In the process he had historicized liberalism and introduced an alternative political language into Early American history. "If a classical republicanism imbued with traditional notions of authority dominated colonial thinking, where are the roots of that liberalism which flowered so quickly after independence?" Joyce Appleby asked on behalf of liberal historiography, critically, but also unnerved.<sup>72</sup> If the Constitution of 1787 signified "the end of classical politics" and the beginning of what was a purely liberal America, the foundations of a market economy and an accompanying ideology must have evolved long before.<sup>73</sup> Consequently Appleby developed the thesis that "[b]y the end of the seventeenth century, key assumptions about market relations had entered the public discourse in a way that decisively influenced all subsequent social thought".<sup>74</sup> This post-Hartzian liberal perspective, of which she became the most important representative, accepted the existence of a republican paradigm, but denied it the status as the only or even the major intellectual basis of the revolution.

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<sup>71</sup> Thomas L. Pangle, *The Spirit of Modern Republicanism. The Moral Vision of the American Founders and the Philosophy of Locke* (Chicago: University of Chicago Press, 1988). Gordon, "Crafting a Usable Past."

<sup>72</sup> Joyce Appleby, "The Social Origins of American Revolutionary Ideology," *JAH* 64 (1978), 935-958, 937.

<sup>73</sup> Wood, *Creation*, ch. XV, 5.

<sup>74</sup> Appleby, "Social Origins," 941 and see n. 51.

Adopting the concept of "ideology", Appleby produced an impressive series of articles and books in which she established the existence of a liberal tradition originating in the economic debates of 17th century England, thus compensating for Pocock's Lockean absence. She illustrated the transfer to and evolution of this liberal ideology in America, and argued for its successful flowering due to a socio-economic climate uniquely favorable to individualism and a market economy. In Appleby's interpretation the Revolution no longer represented a process of transformation from republicanism to liberalism, but rather the culmination of an ongoing struggle between competing paradigms in which liberalism, the program of a rising entrepreneurially-minded middle class making its bid for power and social leadership, swept away the Aristotelian vestiges of a gentrified colonial elite.<sup>75</sup> The relationship between the two paradigms was thus not diachronic and dialectic, but synchronic and oppositional.<sup>76</sup>

The ensuing debate over the respective market shares of republicanism and liberalism, nicely illustrated by the clash between Appleby and Lance Banning on the nature of Jeffersonian thought, proved to be as futile as it was passionate. While Banning was emphasizing the classical tradition within the Democratic-Republican movement, Appleby pointed to its liberal pluralism and market orientation.<sup>77</sup>

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<sup>75</sup> Appleby, "Social Origins," 950; 956.

<sup>76</sup> Joyce Appleby, "Republicanism and Ideology," *AQ* 37 (1985), 461-473.

<sup>77</sup> Lance Banning, "Jeffersonian Ideology Revisited. Liberal and Classical Ideas in the New American Republic," *WMQ* 43 (1986), 3-19; Joyce Appleby, "Republicanism in Old and New Contexts," *ibid.*, 21-34. Also see Kramnick, *Republicanism and Bourgeois Radicalism*, and Kramnick, "Republicanism Revisited: The Case of James Burgh," *Proceedings of the American Antiquarian Society* 102 (1992), 81-98.

As historians grew ever more dissatisfied with playing liberal tit for republican tat they began to question synchronic or diachronic segregation as a presentist misreading of 18th century political discourse. Thus Isaac Kramnick demonstrated how both Federalists and Anti-Federalists could be equally read as liberals and classical Republicans, with an additional influx of Protestant ethics and state theory.<sup>78</sup> Bailyn observed that "[t]here was no singular application of what scholars would later call 'civic humanism' or 'classical republicanism,' nor were these ideas felt to be incompatible with what would later be described as 'liberalism'."<sup>79</sup> Banning conceded that

"logically, it may be inconsistent to be simultaneously liberal and classical. Historically it was not. Eighteenth century opposition thought was always a complex blend of liberal and classical ideas. So was the thought of America's Revolutionary generation."<sup>80</sup>

Appleby admitted as much, confessing it was "hard to understand how they could have coexisted in the same political discourse. That is a puzzle yet to be solved."<sup>81</sup>

Various solutions have indeed been proposed, all of which rest on a piece of conventional scholarly wisdom which is frighteningly trivial and yet so easily obscured in the heat of discursive battle: historians' paradigms are hypothetical models of a past reality, not that reality itself. No such thing as

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<sup>78</sup> Isaac Kramnick, "The 'Great National Discussion': The Discourse of Politics in 1787," *WMQ* 45 (1988), 3-32.

<sup>79</sup> Bailyn, *Faces of Revolution*.

<sup>80</sup> Banning, "Jeffersonian Ideology Revisited," 12.

<sup>81</sup> Appleby, *Capitalism*, 21f. Appleby presumed a 'division of labor' between the ideologies, liberalism serving to dispose of unwanted sovereigns by legitimizing a general uprising, while republicanism addressed the needs of a well entrenched elite casting itself as 'the few' that entitled to political authority. Likewise the Americans supposedly employed classical ideas to formulate their criticism of the crown in terms of corruption, but switched to a Lockean mode when having to legitimize independence, i.e. the dissolution and reformation of American society. Even a superficial survey of documents and sources from the Sugar

either classical republicanism or liberalism existed in the eighteenth century, merely practices, notions, and ideas which have been rearranged into coherent narratives or structures by emphasizing and de-emphasizing, by establishing causalities, extrapolating unstated premises, and reading between lines. The concepts molded into static ahistorical structures - liberty, property, sovereignty, virtue - were discursive, i.e. flexible, polyvalent, available for recontextualization in time and space. They could suffer transformations, be arranged in oppositional modes or in additive clusters and read in multiple ways. Bailyn, who had always refused to be counted among republican historiographers, had stressed the eclecticism of Americans in the use of their sources, given coherence only by the unifying obsession with power and liberty. But in the internal debate over the meaning of republicanism the paranoid style itself fragmented as rivaling groups accused each other of being licentious mobs, power-hungry aristocrats, demagogues, speculators, and Tories.

The liberalism of the American Revolution has been misinterpreted by projecting a modern conception of possessive individualism into a period when notions of individualism and political economy were integrated into a discourse of moral behavior. The work of John Dunn has emphasized that the Lockean individual was under the constraint of moral obligations, just as Adam Smith's "liberal" theory of the market must be viewed in the context of his moral philosophy of compassion.<sup>82</sup> It makes perfect sense to view Locke as a part of the country party employing arguments consonant or identical

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Act to the Declaration of Independence reveals the opposite, a harmonious coexistence of the discourses.

with the roster of classically inspired Whigs such as Sidney, Neville, or Tyrell. Nonetheless Locke contains the potential for a liberal exegesis by constructing political rights as originating in property understood not in its restrictive economic sense, but encompassing the universal categories of life and liberty.<sup>83</sup> According to Locke all men enjoy equal rights and are endowed with reason and their political and other consciousness is subsequently indistinguishable and remains so in the formation of a community.<sup>84</sup> Locke, in other words, thinks a society in which all members have, and ought to have, equal political power. Only through the creation of government may political distinctions possibly arise, but when it is dissolved, society reverts to the former state and all men participate as equals, as a homogenous mass, in the creation of a new government. Not surprisingly this was an argument adopted by Revolutionary radicals arguing for an inclusive democracy. Yet the historical Locke was on the pay list of the Earl of Shaftsbury, a prominent enemy of Charles II, and produced country party arguments against the accession of the Stuart king.<sup>85</sup> Moreover, despite his rationalistic

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<sup>82</sup> James Kloppenberg, "The Virtues of Liberalism: Christianity, Republicanism, and Ethics in Early American Political Discourse," *JAH* 74 (1987), 9-33, 16ff.

<sup>83</sup> See "'Property' and 'People': Political Usages of Locke and Some Contemporaries," *Journal of the History of Ideas* 42 (1981), 29-51, 30f.; 39; Kristin Shrader-Frechette, "Locke and Limits on Land Ownership," *Journal of the History of Ideas* 54 (1993), 201-219 argues, true to the spirit of revisionism, that Locke can be read as justifying restrictions on private property rights, which would make him a good radical republican/communitarian, a concept that must have Louis Hartz turning in his grave.

<sup>84</sup> "In perfect freedom, equal to each other, capable of rational behavior and so able to understand and co-operate with each other, that is how we are born. It must be emphasized that we are all born this way, bond or free, savage or civilized, inside or outside society or the state, for it is truly a universal doctrine in Locke and he does not, for example, go on to argue from this dogmatic rationalistic position that the basis of political life is the rule of the rational man over his irrational fellows." (*Two Treatises*, intro., 96f.). The latter argument would of course be closer to republican concepts, where the wise lead the not so wise, or monarchy, where the wise governs the unwise.

<sup>85</sup> "He acts also contrary to his trust when he employs the force, treasure, and offices of the society to corrupt representatives, and gain them to his purposes, when he openly pre-engages the electors, and prescribes, to their choice, such whom he has, by solicitation,

construction of general equality and reason, the empiricist Locke clearly acknowledged inequalities among men in a country party mode or reminiscent of Harrington. Locke was democratic in his conception of popular sovereignty, but oligarchic in his understanding of representative government.<sup>86</sup>

Gordon Wood argued that the Revolutionary conception of liberty did not yet distinguish between positive and negative liberty, but viewed the one as the precondition of the other.<sup>87</sup> James Kloppenberg recovered the multiplicity of the term "virtue" which functioned not as signifier of classical thought, but as a point of convergence for liberal, Protestant and Aristotelian conceptions. Liberal and classical conceptions coalesced in Revolutionary conceptions of autonomy and popular sovereignty.<sup>88</sup> Drew McCoy discovered a symbiosis of liberal and republican notions in the political economy of Benjamin Franklin, arguing that such intellectual hybrids served an important function of buffering massive economic and social change.<sup>89</sup>

Liberal and classical perspectives met in the rejection of mercantilist economics. Because he meant to set off liberalism from its ideological predecessor Wood emphasized the self-denying Spartan element in

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threats, promises or otherwise, won to his designs, and employs them to bring in such who have promised beforehand what to vote and what to enact." *Ibid.*, XIX, 222.

<sup>86</sup> "Though I have said above, Chap. II, That all Men by Nature are equal, I cannot be supposed to understand all sorts of Equality: Age or Virtue may give Men a just Precedency: Excellency of Parts and Merit may place others above common level: Birth may subject some, and Alliance or Benefits others, to pay an Observance to those whom Nature, Gratitude, or other Respects may have made it due; and yet all this consists with the Equality I there spoke of, as Proper to the Business in hand, being that equal Right that every Man hath, to his Natural Freedom, without being subjected to the Will or Authority of any other Man." *Ibid.*, VI, 54; Banning, *Jeffersonian Persuasion*, 26; *Divine Right and Democracy*, intro., 40-44.

<sup>87</sup> Wood, *Radicalism of the American Revolution*, 104.

<sup>88</sup> Kloppenberg, "The Virtues of Liberalism."

<sup>89</sup> Drew McCoy, *The Elusive Republic: Political Economy in Jeffersonian America* (Chapel Hill: University of North Carolina Press, 1980).



Republican thought, but the Atlantic tradition of classical republicanism as Pocock conceived it was not fundamentally anti-commercial.<sup>90</sup> What it feared most in commerce was the potential for networks of dependence and executive power, which were typical of state-run economies, and not an (idealized) market economy.<sup>91</sup> Theirs was the same concern as that of economic liberals, who tried to prove that government could not operate an economy against the immutable laws of the market.<sup>92</sup> A prominent example of the symbiosis of republicanism with liberalism characteristic of the eighteenth century is one of the key texts of radical Whiggism, which exerted an enormous influence in the colonies, John Trenchard and Robert Gordon's *Cato's Letters*, which were regularly published in *The London Journal* and *The British Journal* between 1720 and 1723, collected in four volumes, and disseminated throughout the English-speaking world, as well as the European continent. "The skeleton of their political thought was Lockean-concerned with inalienable rights and the contract theory of government-but only the skeleton."<sup>93</sup> For the "flesh" of these oppositional diatribes constituted the republican spirit incarnate, lamenting, page after page, the "public corruptions and abuses", places, pensions, and public debt, which

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<sup>90</sup> Trenchard and Gordon thought that liberty and commerce depended on each other. This did imply a transition in the view "from commerce as fantasy [the world of passions and false consciousness, T.C.] to commerce as enriched and ordered reality" (Pocock, *Machiavellian Moment*, 470), an adaptation to the realities of the eighteenth century.

<sup>91</sup> "This ideology was not essentially concerned with differences between agrarian and commercial interests. It focused not on commerce, but on government finance." (Banning, *Jeffersonian Persuasion*, 68).

<sup>92</sup> The very argument employed against ministerial power, which would ruin trade, by Cato in letter 64 (*The English Libertarian Heritage. From the Writings of John Trenchard and Thomas Gordon in The Independent Whig and Cato's Letters*, ed. David L. Jacobson (Indianapolis etc.: Bobbs-Merrill, 1965), 145-151). Locke, ironically, was a staunch proponent of the balance of trade theory, which once again reveals the anachronism of projecting the modern paradigm of economic and political liberalism into its embryonic phase.

undermined balanced government and heralded the demise of liberty.<sup>94</sup> Cato praised the "Publick Spirit" and chastised "wicked and desperate Ministers". He also went so far as to demand an "Agrarian Law" preventing excessive wealth, for "in every Country, and under every Government, particular Men may be too rich", and "Liberty can never subsist without Equality" and he found commerce to be inseparable from liberty.<sup>95</sup>

The building blocks from which twentieth-century historians had created seemingly stable and distinct paradigms seemed to follow quite a different logic of combination in an 18th century context. Appleby had correctly asserted that a complex society such as colonial America must have had more than one political language. However the plurality of languages was not distinct - they were in a continuous process of creolizing one another, creating in the process a babylonian confusion, not so much for contemporaries, who seemed quite comfortable with it, but for historians. As the republican synthesis came apart both at the seams and the center, Daniel T. Rodgers concluded that scholars once again faced a frustrating historical "muddle".<sup>96</sup>

The question arises how Revolutionary thought can be reconceptualized without abandoning the important insights which the debate on republican and liberal paradigms has contributed over the last decades. Transformation, opposition, and permeation are all relevant factors to be kept in mind. The ascendancy of the spirit and theory of self-interest

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<sup>93</sup> Bernard Bailyn, *The Origins of American Politics. The Charles K. Colver Lectures, Brown University, 1965* (New York: Vintage Books, 1970), 41.

<sup>94</sup> *Ibid.*, 43.

<sup>95</sup> "Libertarian Heritage," *Letters* 17; 35. "On commerce and liberty," *Letters* 64; 68.

<sup>96</sup> Rodgers, "Republican Paradigm," 38.

and pluralism is undeniable. The concept of a transition from a classical to a liberal world, in which the Revolution plays the part of an accelerative moment of condensed intellectual reflection and socio-political change, remains attractive.<sup>97</sup> But if liberal ideas had existed in the seventeenth century and classical republicanism remained an ideological factor in the nineteenth, or even later – if, additionally, these amorphous conceptions were deeply interrelated, how was one to define the point of departure and the point of arrival? Where could decisive moments of transformation be located? How did classical and liberal notions relate to each other, and were they located in identifiable social groups?<sup>98</sup> These questions, which Gordon Wood had been able to conceptualize with apparent ease appear a good deal more difficult in view of the complex processes of permeation. Robert Shalhope opted for a liminality model, a state of transition between 1760 and 1800 in which Americans were already behaving like liberals, but thinking in (neo-)classical structures. Steven Watts located the moment of transformation towards a liberal hegemony between 1790 and 1815, defining the War of 1812 as the moment of truth, while Michael Lienesch sees hybridization up to the present. Marc Kruman followed Bailyn in tracing the dynamics of American thought to the tension between power and liberty, a liberal-republican amalgamation. But he argued against Wood, that the

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<sup>97</sup> For a synthesizing attempt that applies the concept of "mentalité" in analogy to interpretations of the French Revolution see Paul Nolte, "Die amerikanische Revolution als Bruch des gesellschaftlichen Bewusstseins," *Zeitschrift für Historische Forschung* 18 (1991), 425-60.

<sup>98</sup> See Lance Banning, "Quid Transit? Paradigms and Process in the Transformation of Republican Ideas," *Reviews in American History* 17 (1989), 199-204.

model of a mechanical polity, as opposed to the idea of a society based on virtue and community, had already been fully developed by 1776.<sup>99</sup>

Just as the model of transformation is relevant but not clearly defined, the structural opposition of liberalism and republicanism stressed by Appleby is not entirely misguided. It is possible to locate specific liberal and republican dialects within certain groups in society: classical republican ideas of hierarchy unquestionably played an important part in the post-colonial elites' claim to leadership, be it the Virginia planter oligarchy, Pennsylvania's conservative Quakers, or Boston's upper class merchants; liberal egalitarianism was prominent among the middling sort of smaller merchants and businessmen and better-situated artisans; its radical egalitarian offshoot, muddled with evangelical ideas, among the lower classes of artisans and laborers.<sup>100</sup> Yet the former also made extensive use of Lockean contract theory, positive notions of self-interest and a liberal conception of freedom of property, while the latter articulated specific conceptions of virtue and argued for a traditional political economy. The key to the understanding the Revolution is not to find the meaning of republicanism and its political vocabulary, but to reconstruct the discourse in which these meanings were negotiated.

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<sup>99</sup> Robert E. Shalhope, "Republicanism, Liberalism, and Democracy. Political Culture in the Early Republic," *Proceedings of the American Antiquarian Society* 102 (1992), 99-152; Shalhope, *The Roots of Democracy. American Thought and Culture, 1760-1800* (Boston, 1990); Steven Watts, *The Republic Reborn. War and the Making of Liberal America* (Baltimore, 1987); Michael Lienesch, *New Order of the Ages. Time, the Constitution, and the Making of Modern American Political Thought* (Princeton, 1988); Marc W. Kruman, *Between Authority and Liberty. State Constitution Making in Revolutionary America* (Chapel Hill: University of North Carolina Press, 1997).

<sup>100</sup> See Gary B. Nash, *The Urban Crucible. Social Change, Political Consciousness, and the Origins of the American Revolution* (Cambridge, Mass.: Harvard University Press, 1979), 339-384.

If we accept the difficulty of distinguishing between a republican and liberal discourse in the American revolution, the question arises by what argumentative means political conflict, which is inimical to the Revolution and particularly evident in Pennsylvania, is articulated. If parties such as Federalists and Anti-Federalists, or Pennsylvania's Constitutionals and Republicans were neither distinctly republican nor liberal, if both were both, where is the criterion of differentiation? It can only be found in the acknowledgment of difference, in the realization that the American Revolution and its ideological corpus was interpreted in highly divergent ways from different local, cultural, and social perspectives.

### 1.3 Social as Political Conflict: The Few, the Many, the People

*"It is through the Whigs' ideas, then, that we may be led back to take up where the Progressive historians left off in their investigation of the internal social sources of the Revolution." - Gordon S. Wood<sup>1</sup>*

#### 1.3.1 Rhetoric, Reality, and Radicalism

Was the American Revolution a social revolution? This is a question which will never disappear from the scholarly agenda, because its contested answer goes to the very core of American identity. A reply in the negative will never be quite dissociated from an image of America as a consensual society of equal opportunity, an exceptional nation whose founding act was peculiarly different from the other great revolutions, who were indeed social, violent, and, in comparison, dismal failures. An affirmation will always retain a leftish flavor, an emphasis on America's inability to escape from history and its inevitable antagonisms, power struggles, and ideological hypocrisies which historians must address (and help redress).<sup>2</sup> The avid competition over providing the historiographically more convincing yes or no has led to differentiated arguments, lushly padded with prodigious research into the lives and thoughts of colonial and Revolutionary individuals, groups, and communities. It is a sign of intellectual vitality that the conflict continues among scholars, but the evidence it has produced over the decades allows

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<sup>1</sup> Gordon S. Wood, "Rhetoric and Reality in the American Revolution," *WMQ* 23 (1966), 3-32, 31.

<sup>2</sup> Both attitudes reflect the "search for a usable past." In the first it is a European past contrasted with an absence of history in America, in the second it is a past serving the purpose of inspiring the present to build a better (i.e. truly democratic, egalitarian) America in the future. See Henry Steele Commager, "The Search for a Usable Past," in *Myth and the American Experience*, ed. Nicholas Cords and Patrick Gerster (New York: Glencoe Press, 1973), 136-151, 140ff; Novick, *That Noble Dream*, 428-438.

for the alternative not of seeking a middle ground, but of transcending the issue, of moving beyond the dichotomy of consensus or class warfare. A majority of historians would today concur that the Revolution was indeed revolutionary, that it involved fundamental changes in American society regarding political practice and theory, the economy, and social relations on virtually all levels. But although the world turned upside down very suddenly for many individuals affected in one way or another by the war and its effects - most of all, perhaps, the Loyalists - these changes did not occur as a sudden convulsion. They were part of long-term processes and trends involving structural changes in the transatlantic economy, the internal political and economic developments in the colonies, as well as the effect of certain traditions of political thought. The Revolution was a product of these trends, accelerated them, and made them palpable, prompting a heightened awareness among contemporaries for the change their societies were going through.<sup>3</sup> Though social change was unquestionably a relevant aspect of the Revolution it is equally clear that it involved neither an epic struggle of classes - "the people" versus "plutocracy" as Progressives understood it - nor a class-based redistribution of property.<sup>4</sup> Social, economic and political inequality among whites (slavery was an entirely different matter) was not nearly as severe as in England or France, and radical political ideology

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<sup>3</sup> Nolte, "Die amerikanische Revolution als Bruch des gesellschaftlichen Bewusstseins;" Robert R. Palmer noted the significance of the confiscation of loyalist property, which was comparable in percentage to the assets seized in the French Revolution. See R.R. Palmer, *The Age of Democratic Revolution* (Princeton, 1959), vol. 1, 188ff.

<sup>4</sup> Bailyn, "The Central Themes of the American Revolution," discounts any kind of social impact. For a discussion of 'social strain' theories see Jack P. Greene, "The Social Origins of the American Revolution: An Evaluation and Interpretation," *Political Science Quarterly* 88 (1973), 1-22, 3f.; for an interpretation stressing the Revolution as a product of elite economic interests see Marc Egnal, Joseph A. Ernst, "An Economic Interpretation of the American Revolution," *WMQ* 29 (1972), 3-32.

never became as influential as in the French Revolution or quite as radical as during the English Civil War. But as Tocqueville already recognized, the more a society approaches equality, the more visible and unacceptable the remaining inequality becomes.<sup>5</sup> Moreover, social discontent depends not on any objective degree of inequality, but on its perception as unbearable.<sup>6</sup> Colonial America, marked in its earliest periods by an equality of limited means and abundant space became increasingly stratified and unequal during the eighteenth century. The resulting anxiety and discontent of underprivileged segments of the population, and the radical ideology concomitant with this discontent became an important part of the Revolutionary process.<sup>7</sup> This dissertation proceeds from the assumption that they were in fact essential factors which can only be ignored at the cost of seriously distorting and simplifying our conception of the Revolution and its intellectual history, which concerns us here. This chapter will discuss the significance of social as political conflict, specifically focusing on how competing images of the few and the many rooted in conflicting interests fundamentally affected conceptions of popular sovereignty. This provides the second component to our conceptual model in which permeations of republican and liberal thought are differentiated along radical and conservative lines, where radical designates an inclusive and conservative a limiting definition of popular sovereignty.

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<sup>5</sup> Alexis de Tocqueville, *Democracy in America* (New York: Vintage, 1945 [1840]), 2 vols., vol. 2, 144-147.

<sup>6</sup> While Marx viewed revolution as a result of increasing misery, the theory of relative deprivation argues, convincingly, I believe, that the essential factor is "the gap between what people get and what they think they should get." Mark N. Hagopian, *The Phenomenon of Revolution* (New York: Dodd, Mead, & Co., 1974), 171.



An important part of the republican reconceptualization of Revolutionary history concerned the relationship between ideas and experience, or as Gordon Wood phrased it, between "Rhetoric and Reality." The notion of ideology seemed the key to overcome the well-worn antagonism between idealist and materialist approaches to historical meaning. Revolutionary thought was neither a truthful representation of reality based on rational perception, as both Patriots and Whig historians had argued, nor was it merely rationally employed propaganda aimed at moving the masses and masking self-interest, as both loyalists and Progressive historians had believed.<sup>8</sup> These positions were locked in endless debates over which side was right or wrong and about what were the "real" motivations behind Patriot behavior. Wood was less interested in the validity of Whig or Tory beliefs than in what they revealed about the structure and condition of American society. Ideas as ideology, as a means of structuring perception, were the products of and in turn produced reality, deriving their specific nature from sets of social circumstances, and shaping the perception of the historical agents acting upon and thus affecting those circumstances. The American obsession with virtue and corruption was neither a rhetorical ploy, nor a response to an actual British conspiracy, but it was "psychologically true", the consequence of a sincere American perception of reality rooted in social strains hidden beyond the surface of discourse and deeply affecting American society. Wood celebrated the discovery of the autonomy of ideas as a breakthrough for intellectual history

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<sup>7</sup> Gary B. Nash, *The Urban Crucible. Social Change, Political Consciousness, and the Origins of the American Revolution* (Cambridge, Mass: Harvard University Press, 1979).

while pointing out that Progressive historians provided important clues to the social context that explained the workings of ideas in the Revolutionary context. Their work, conceptually inept as it may have been, could serve as a starting point from where to explore the disorientation Americans felt about their political, social, and economic identity. As Wood saw it, they grappled and ultimately came to terms with it in the painful process of republican soul-searching described in *The Creation of the American Republic*.

Did Wood's portrait, reiterated and expanded in *The Radicalism of the American Revolution*, measure up to his earlier appeal for a socio-intellectual historiography? John Patrick Diggins argued (from a critical perspective) that *Creation* indeed stood "between Bailyn and Beard", as it emphasized the influence of republican ideology on constitutional discourse while unmasking the "Federalist persuasion" as a conscious strategy of presenting the maintenance of social distinctions through political mechanisms in disingenuously egalitarian terms.<sup>9</sup> On the other hand, Wood's work has been criticized as "too shallowly rooted in the soil of social experience."<sup>10</sup> Downplaying the meaning of social conflict for the Revolution and disregarding the agency and ideological autonomy (which from a moral viewpoint adds up to dignity) of "common people" stressed by the new social history, Wood had not managed to sufficiently dissociate himself from the pitfalls of old-fashioned consensualism.<sup>11</sup> Pennsylvania is a case in point.

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<sup>8</sup> E.g. Philip Davidson, "Whig Propagandists of the American Revolution," *AHR* 39 (1934), 442-453.

<sup>9</sup> Diggins, "Between Bailyn and Beard. The Perspectives of Gordon S. Wood," *WMQ* 44 (1987), 563-568.

<sup>10</sup> Gary B. Nash, "Also There at the Creation: Going beyond Gordon S. Wood," *ibid.*, 602-611, 602.

<sup>11</sup> Gordon, "Crafting a Usable Past," 685ff.

The radicalism of its politics and Constitution made it an obvious place to look for social conflict and ideological diversity.<sup>12</sup> Wood eagerly pointed to the "violent and class-conscious" quality of its political rhetoric, but was quick to dismiss its social significance, believing that "the grievances so widely expressed in the in the pamphlets and press were not the sort that went deep into society."<sup>13</sup> In an attempt to defuse difference and dissent he subsumed ideological *conflict* under the rubric "Whiggism against itself",<sup>14</sup> making the Pennsylvania Revolution a key event of his narrative of ideological *transformation*. Its rhetorical extremism was thus not so much a sign of social antagonism as a byproduct of the shift from a classical republicanism of ranks and orders to a liberal ideal of equality of opportunity (even if that was 'hijacked' by elitist Federalists). The Revolution, while unquestionably radical, was nonetheless ideologically consensual - classical in the beginning and liberal at its end.

The new social history, emerging just as republicanism was moving toward its own synthesis, was not averse to a "premodernization" of America.<sup>15</sup> Just as the 'classical republicans' its adepts were involved in the project of deconstructing the postwar image of an egalitarian, democratic, liberal - in one word an exceptional, i.e. decidedly non-European - colonial America. Much of their work relied on a concept of transatlantic modernization not incompatible with Wood's ideological transformation to

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<sup>12</sup> Not surprisingly, the earliest monograph in the Progressive vein was Charles H. Lincoln's *The Revolutionary Movement in Pennsylvania, 1760-1776*; see ch. 1.1.2.

<sup>13</sup> Wood, *Creation*, 89.

<sup>14</sup> *Ibid.*, 438-446.

<sup>15</sup> Jack P. Greene considered "Rhetoric and Reality" a starting point for the new trend of seeking the "social origins of the Revolution." See Greene, "The Social Origins of the American Revolution," 4f.

liberalism. But while they adopted the republican synthesis for their own purposes they perceived nagging absences in Wood's "genteel radicalism".<sup>16</sup> Having grown out of demands for "history from the bottom up," indebted to the cultural Marxism of E.P. Thompson, and methodologically equipped with new data processing techniques, the social history of the last three decades has examined social structures and antagonisms in the context of yeoman and artisan cultures, patterns of interaction, control and resistance in cities, townships, and plantations, a demography of immigration and plural ethnicities and a transatlantic economy dynamically shaping the distribution of wealth as well as notions of politics and political economy.<sup>17</sup> Class has remained a central category, though conscientiously historicized, and race and gender have been added both as categories of Revolutionary thought and contemporary analysis. From this perspective Gary B. Nash, commenting on *Creation*, and Barbara Clark Smith in her evaluation of *The Radicalism of the American Revolution* faulted Wood with a narrow focus on male white elites that explained the synchronic homogeneity of his Revolution as the result of exclusions.<sup>18</sup> Missing was the "egalitarian political idiom" of the "nation's laboring people" noted and studied in the Sixties by the likes of Lynd, Main, Young, and Lemisch, and by Nash himself and many others in later years. The small producer ideology of artisans and farmers,

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<sup>16</sup> Michael Zuckerman, "The Genteel Radicalism of Gordon Wood," *WMQ* 51 (1994), 693-702. Studies of artisan republicanism in Jacksonian America revealed the persistence of non-liberal oppositional strategies against what was by that time unquestionably a dominant though neither hegemonic nor homogenous liberal paradigm. See Rodgers, "Republican Paradigm," 25-31 for an account of social historians' uses of republicanism in working-class contexts.

<sup>17</sup> See Joyce Appleby, "A Different Kind of Independence. The Postwar Restructuring of the Historical Study of Early America," *WMQ* 50 (1993), 256ff.

<sup>18</sup> Gary B. Nash, "Also there at the Creation"; Barbara Clark Smith, "The Adequate Revolution," *WMQ* 51 (1994), 684-692.

blending Protestant, evangelical, classical and popular traditions in its focus on virtuous productivity, political rights, and economic justice, was not merely a subset of Bailynesque Whiggism, springing instead from "alternative traditions" requiring further investigation.<sup>19</sup> Clark Smith chided the absence of the Revolutionary 'flesh' of commoner action on the Whiggish bones of elite ideas: the "plebeian capacity for interracial alliance, for running away, rising up, contesting the law," the "agency of artisans, sailors, and foot soldiers," not to mention the anti-capitalism of the moral economy. Wood's linear liberation theory also failed to acknowledge the uses of gender and race *inequality* in stabilizing a liberal ideology restricted to white men for most of the nineteenth century.<sup>20</sup> Wood countered by detecting a misguided presentism in the stress on racial, gender, and class issues which were present but ultimately marginal in the eighteenth-century context. He emphasized the centrality of the liberation of middling sort white males from deference in the social and property requirements in the political sphere. These developments signified the emergence of a bourgeois liberal ideology which may presently represent 'the establishment' but in an eighteenth-century context embodied the genuinely revolutionary essence of the Revolution: the unleashing of the market and its leveling force.<sup>21</sup> But even Joyce Appleby, a proponent of liberal historiography and not a radical historian by any standard, considered his narrative imbalanced, because

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<sup>19</sup> Nash, "Also There at the Creation," 603; Jackson Turner Main, "An Agenda for Research on the Origins and Nature of Constitution of 1787-1788," *ibid.* 591-596, 592. Main mentions traditions of local government, religious autonomy, and, in a nod to Turner, the conditions of settler life.

<sup>20</sup> Barbara Clark Smith, "The Adequate Revolution," 687.

<sup>21</sup> Wood, "Equality and Social Conflict in the American Revolution," *WMQ* 51 (1994), 703-716.

"only the elite had motives; all other effects were part of a mindless release of petty ambition."<sup>22</sup> While Federalists were making history, artisans and farmers were *being* made by a controlling liberal ideology through which they appeared as self-interested automatons reduced to their acquisitive and consumerist urges.<sup>23</sup> Social historians have employed statistics and quantification to lend a voice to the people they labeled the "Inarticulate," whose apparent silence could be mistaken for passivity. "Less Articulate" might have been the better term, for newspapers, broadsides, and petitions provide intellectual historians with texts documenting their patterns of thought. Following Wood's own appeal, these texts should neither be taken at face value nor discarded as mere party propaganda, but should be seriously and closely read as products of a distinct radical republican ideology.

Alfred Young's recent synthesis of what one might call a "radical paradigm" stresses not just the social and intellectual diversity of the Revolution, but also of its 'left wing.' Young sees a set of multiple radicalisms contributing to identity formation and opening venues of action between resistance and accommodation for men and women of very different backgrounds.<sup>24</sup> They resorted to distinct political languages and traditions which were blended with Whig ideology during the Revolution and

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<sup>22</sup> Appleby, "The Radical Recreation of the American Republic," *WMQ* 51 (1994), 679-683, 682.

<sup>23</sup> The irony of a great republican liberation ending in a limited and limiting definition of human purpose reveals something of Wood's own presentism and his ultimate affinity to Louis Hartz with whom he shares a discontent with the ideological status quo of the contemporary US. Wood seems to be suggesting that it might be desirable to reintroduce at least a touch of the civic idealism of classical republicanism.

<sup>24</sup> Young, "How Radical Was the American Revolution?". This emphasis on the diversity of the subjects of radical history is not entirely new. See Charles Beard, chapter 1.1, n. 9;

transformed through the Revolutionary experience. Farmers and artisans constructed their identities around the value and autonomy of their labor, a belief system reflected in their political demands concerning fiscal policy and debtor legislation. Even perennially propertyless sailors or day-laborers claimed a right to personal autonomy akin to and probably an inheritance of 17<sup>th</sup> century leveling ideas. At the same time these groups drew on corporatist conceptions of a moral economy, explaining and criticizing the Revolutionary economy with its staggering price hikes, scarcity and recessions as the result of a self-interested abuse of property and economic power by "monied men". Slaves, creating Afro-Christian hybrids, as well as lower class whites derived appeals for freedom and equality from evangelicalism.<sup>25</sup> Common men's experience of military service and political participation, women of high and low rank heading households during their husbands' absence, slaves offered liberty by the British or the chance to flee or negotiate better treatment in anarchic circumstances and many other factors had lasting effects on the affected people's perceptions of themselves and their place in society. Young notes that the parochial radicalisms they nurtured tended to be narrowly focused on group identities and interests, despite their universalistic potential. Urban radicals did not necessarily lend support to agrarian radicals. Among mechanics, masters and journeymen struggled for power instead of displaying class solidarity. The free blacks of Boston volunteered to put down Shay's Rebellion.<sup>26</sup> In Pennsylvania politically conservative Quakers and minority sects were the

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Jesse Lemisch and John K. Alexander, "The White Oaks, Jack Tar, and the Concept of the Inarticulate," *WMQ* 29 (1972), 109-142, 132.

<sup>25</sup> Young, "How Radical Was the American Revolution?," 338-347.

strongest (white) opponents of slavery. Though the radical assembly of 1780 passed emancipation legislation the Constitutionals did not include blacks in their politics of inclusion. In Pennsylvania as much as in Virginia black inferiority could apparently serve as a construct against which the rights of lower and middle class whites could be affirmed.<sup>27</sup> Western agrarian radicals opposed the Eastern elite because of its lenient Indian policy, which they aimed to replace with a more conventional model of displacement and extermination. The collapse of the Constitutionalist party was partly a result of urban artisans deserting to the future Pennsylvania Federalists, whose policies seemed more promising to the mechanic interest for a few years.<sup>28</sup> Revolutionary radicalism, in other words, was not the ideological embodiment of a unified, much less a multicultural 'popular front' arraigned against some unified ruling class. It was as plural as American society was.

But while the social diversity of Revolutionary America certainly resulted in a plurality of interests and ideas, and commoners thought independently of elite ideologies it is necessary to understand that these groups remained connected by common reference points which were however invested with divergent meanings. They formed a heterogeneous discourse community bound up in a web of competing concepts revolving around questions of property, liberty, politics and equality central to Anglo-American (and, in a more theoretical manner, European) societies since the

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<sup>26</sup> *Ibid.*, 332.

<sup>27</sup> For negative constructions of blackness in reference to the construction of a 'white republican citizen' see Carroll Smith-Rosenberg, "Dis-Covering the Subject of the 'Great Constitutional Discussion,' 1776-1789," *JAH* 79 (1992), 841-873.

<sup>28</sup> The most prominent example was the massacre committed by the Paxton Boys. See Brook Hindle, "The March of the Paxton Boys," *WMQ* 4 (1946), 461-486; Charles S. Olton,



17<sup>th</sup> century, but feeding on such fundamental Western traditions as Aristotelianism and the Bible. The civic humanism described by Pocock and Appleby's emerging liberalism are just as much part of this network of interrelated ideas as the plebeian egalitarianism and moral economy radical historiography refers to. The smallholder ideal of a balance between personal liberty and communal equality can be seen as an expression of classical republicanism.<sup>29</sup> Locke's *Second Treatise*, Harrington's *Oceana* and the Putney debates are an interrelated and common heritage, but they were received and adopted heterogeneously.<sup>30</sup>

Does the radical thought of the Revolution point to class-consciousness? Young admits the difficulty of conceptualizing the emerging consciousness among common people of their distinct interests and positions, but an examination of popular rhetoric shows a reliance on tripartite or binary divisions into the better, middling and lower sort or simply the few and the many. These common differentiations acquired specific functions in political discourse. As the crumbling of deferential attitudes enabled the reconstruction of elites as self-interested oligarchic groups, they could serve as a means of identification between diverse groups among the many demanding a greater share of political power. Temporary and strategic as such associations may have been, a shared perception of the multitude as "the people," as sovereign, invested them with legitimacy and provided a common identity defined against a mutual enemy, an "aristocracy" of the few

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*Artisans for Independence. Philadelphia Mechanics and the American Revolution* (Syracuse, N.Y.: Syracuse University Press, 1975), 95-107.

<sup>29</sup> Rowland Berthoff, "Peasants and Artisans, Puritans and Republicans: Personal Liberty and Communal Equality in American History," *JAH* 69 (1982), 579-598.

<sup>30</sup> See *Divine Right and Democracy*, 50-58.

aiming to deprive common men of rights in the same way that England was oppressing America. This was the language of Amos Singletary when he warned in the Massachusetts Ratifying Convention of the "lawyers, and men of learning, and monied men" who "wanted to make us poor illiterate people swallow down the pill [...] and get all the power and all the money into their own hands, and then they will swallow up all us little folks, like the great *Leviathan* [...]." <sup>31</sup> The affirmative complement to this enemy image expressed itself in distinctly radical definitions of popular sovereignty, equality, virtue and all the other terms which have mistakenly been assumed to be restricted to singular meanings within the larger bodies of classical and liberal thought. Though these radical interpretations may have remained minoritarian and fragmented for most of the Revolutionary era, they are present everywhere, but particularly in Massachusetts and most of all in Pennsylvania. Here they served as the ideological common ground upon which the Constitutionalist party based its success. Not surprisingly, Pennsylvania made an inestimable contribution to popular Antifederalism, where these ideas first congealed on a national level.

### *1.3.2 The Discourse of Popular Sovereignty*

While the non-loyalist colonists were basically united in their opposition to English policies varying degrees of hesitation and zealotry during all phases of resistance indicated a variety of dispositions and interests many of which

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<sup>31</sup> *The Debate on the Constitution. Federalist and Antifederalist Speeches, Articles, and Letters During the Struggle over Ratification*, ed. Bernard Bailyn (New York: The Library of America, 1993), 906.

revolved around the preservation of social stability in the colonies. As the waning of royal power prompted a hasty and improvised restructuring of political institutions and processes Americans were forced to start thinking about their internal political constitution and the pressure mounted as war broke out and independence became ever more likely. The political discourse that emerged was neither homogenous nor consensual.<sup>32</sup> It was saturated with the languages of religion and science; it revealed hierarchies expressed and challenged in elaborate and plain-style rhetoric; and it formed nodal points of central importance around which multiple, competing voices clustered, clamoring for attention. One such point was the highly relevant issue of popular sovereignty, which involved two basic questions: How much power is in the people? and Who is part of the people? As with most key terms of the republican vocabulary, there was a consensus on the validity of the concept, but no agreement whatsoever on its meaning.<sup>33</sup> One man's popular sovereignty was another man's tyranny and yet another's anarchy. Positions in this debate were informed by and referred to a great number of factors: religion, region, social status, education, gender and race. These factors were used as qualitative categories in argumentation, they influenced the perspective of debaters, and they determined the possibility and effectiveness of participation in the discourse - the right to participating in

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<sup>32</sup> "To this extent it is correct to say that a cluster of values and ideas that revealed the incipient despotism of English policies was widely, almost universally shared, [...] when we turn to ideas related to the reformation of American society, which was central to the revolutionary purpose, the universality of any single ideology fades away." (Nash, *The Urban Crucible*, 350).

<sup>33</sup> John Adams noted this as early as 1787: "[...] in the science of legislation [...] there is a confusion of languages, as if men were but lately come from Babel. [...] The words [...] will be found to be used in different senses, perpetually, by different nations, by different writers in the same nation, and even by the same writers in different pages." *A Defence of the*

this discourse was in fact one of the central issues the discourse itself addressed and determined. Thus, whether a woman was a political creature and whether her opinion on the matter had any value was the same question. Women, legally and biologically defined as dependent and apolitical, basically remained excluded from public political debate, cultivating a domestic republicanism of virtuous regeneration instead.<sup>34</sup> Gendering, consequently, could serve men as an effective rhetorical strategy to delegitimize political enemies. Pennsylvania Constitutionals disqualified their opponents by describing them as effeminate, cowardly gentleman-dandies, embodying privatistic corruption.<sup>35</sup>

Definitions of a politically empowered people as differentiated from the totality of all members of society, and of the nature of this empowerment were inextricably linked to conceptions of equality and virtue as categories of political competence. Those parts of the colonial social and economic elites that supported and headed the Independence movement constructed models of popular sovereignty which served to legitimize the Revolution and a republican order while limiting popular empowerment in order to ensure their own leadership positions. Competing conceptions emanating from lower strata of society challenged these conceptions by redefining and radicalizing

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*Constitution of Government of the United States of America in The American Enlightenment, 255-268, 264.*

<sup>34</sup> There is however the remarkable tradition of women campaigning on behalf of their husbands. Morgan mentions it as part of English campaigning spectacles, in which these ladies delivered aggressive, provocative performances and were showered with abuse by political opponents. See Morgan, *Inventing the People. The Rise of Popular Sovereignty in England and America* (New York: Norton, 1988), 190-196; 199-200; In colonial Pennsylvania, one Susy Wright was renowned for her dedicated and successful campaigning. See Joan de Lourdes Leonard, "Elections in Colonial Pennsylvania," *WMQ* 11 (1954), 385-401, 386. This activity was frequently criticized (by the opposition) but might have been justified inasmuch as the wife, being legally subsumed under her husband, was acting as a part of him.

those key terms of political competence.<sup>36</sup> Lower class men, for example, found a political identity through militia service, voicing and asserting their claims to political power as embodiments of martial virtue. They resisted prescriptions of their inferior political status by social conservatives through direct action and through broadsides and petitions.<sup>37</sup>

In his Second Treatise on Government John Locke had argued that in a natural state all individuals were equal as autonomous owners of their life, liberty, and property. But Locke was eager to point out that

Though I have said above, Chap. II, *That all Men by Nature are equal*, I cannot be supposed to understand all sorts of *Equality*: *Age* or *Virtue* may give Men a just Precedency: *Excellency of Parts and Merit* may place others above common level: *Birth* may subject some, and *Alliance* or *Benefits* others, to pay an Observance to those whom Nature, Gratitude, or other Respects may have it made due;<sup>38</sup>

There was hardly an American who would not have agreed in one respect or another that differences between people must be understood to constitute a hierarchy of political competence. Nobody argued for extending the suffrage to children, slaves, and indentured servants, since they were legal dependents incapable of expressing an autonomous will.<sup>39</sup> A majority of Americans extended this argument to women, though the case of New Jersey, where they had the vote between 1776 and 1807, shows there was

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<sup>35</sup> See ch. 2.4.2.

<sup>36</sup> This key thesis of neo-Progressivism was put forward in texts such as Jesse Lemisch, "The American Revolution seen from the Bottom Up," in Barton J. Bernstein, *Towards a New Past: Dissenting Essays in American History* (New York: Pantheon, 1968), 3-45.

<sup>37</sup> See Steven Rosswurm, *Arms, Country, and Class. The Philadelphia Militia and the 'Lower Sort' During the American Revolution* (New Brunswick and London: Rutgers University Press, 1987).

<sup>38</sup> John Locke, *The Second Treatise of Government*, in *Two Treatises of Government*, ed. Peter Laslett (Cambridge: Cambridge University Press, 1988), VI, 54.

uncertainty about their status as citizens.<sup>40</sup> But both women and free blacks, who were often pressured to refrain from voting, could be distinguished from the fully enfranchised political community by virtue of essentialist arguments stressing their natural inability and inferiority. As Linda Kerber has shown, women managed to reconcile their limitation to the domestic sphere with an active political function by constructing identities as "republican mothers" who instilled the civic virtue required of citizens in republics in their children and husbands.<sup>41</sup> African-American slaves used the circumstances of war to flee or to win greater autonomy within the system's limits. In the North the Revolution signified a gradual move towards emancipation, though the most significant development in the new republic was the accomodation to and explosive growth of chattel slavery.<sup>42</sup>

Very few Americans deviated from the assumption that the public citizenry of the new republics would consist of adult, white males. These were 'the people' as most Revolutionaries understood them. But this was by no means a homogenous group; rather it encompassed a wide social

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<sup>39</sup> Tom Paine argued against voting rights for indentured servants, as personal independence was the necessary prerequisite of the franchise. See Foner, *Tom Paine*, 143.

<sup>40</sup> The status of women as autonomous individuals became an important issue in regard to the question of the property rights of the wives of disowned loyalists. See Joan R. Gundersen, "Independence, Citizenship, and the American Revolution," in *Signs* 13 (1987), 59-77.

<sup>41</sup> Thus John Adams argued that "nature has made them [women] fittest for domestic cares." Letter to James Sullivan (Philadelphia, May 26, 1776) in *The American Enlightenment*, 183-185, 183. See Linda K. Kerber, *Women of the Republic. Intellect and Ideology in Revolutionary America* (New York and London: Norton, 1986 [1980]), esp. 269-288. Free blacks were legally entitled to vote in most non-slaveholding states, until systematically disfranchised, especially during the first third of the 19<sup>th</sup> century. See Winthrop D. Jordan, *White Over Black. American Attitudes Toward the Negro, 1550-1812* (Baltimore: Penguin Books, 1968), 412-414. The role of free blacks as citizens and electors in the late Eighteenth and Early Nineteenth Century requires further study. The connection between the abolishment of property qualifications for white male voters and the simultaneous erection of restrictions for Afro-Americans in the Early Republic is a particularly interesting problem.

<sup>42</sup> Young, "How Radical Was the American Revolution?," 338-340.

continuum ranging from the propertyless, illiterate poor to the wealthiest planters and merchants. The common grid imposed upon this population was the tripartite division into the lower, the middling, and the better sort. Gentlemen distinguished by wealth and/or social status viewed themselves as superior to common men. Artisans, farmers or seamen insisted that common sense sufficed to make politically adequate decisions and saw neither wealth nor a special education as prerequisites for holding political office.<sup>43</sup> Jackson Turner Main characterized this change in focus as a "violent wrench leftward", as the conflict between radical Whigs and loyalist Tories was replaced by "a new contest for supremacy, now between the Whigs and the democrats", the latter denoting a coalition of interests expressing its views through the many extralegal, popularly constituted local, regional, and provincial committees and conventions. Experiencing a new form of political participation first-hand, these representatives of the middle and lower classes invested the terms of republican discourse with new radical meanings.<sup>44</sup> Gordon Wood writes:

"The growing participation of the people 'out-of-doors' in mobbing and electioneering, the rise of extra-legislative organizations, including constitutional conventions, the elaboration of various constitutional restraints on legislative authority, and the heightening insistence on the extreme actuality of representation, were all symptomatic of a profound change taking place in the Americans'

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<sup>43</sup> See, e.g. Gary B. Nash, "Artisan Politics in Eighteenth-Century Philadelphia," in *The Origins of Anglo-American Radicalism*, ed. Margaret and James Jacobs (London: Allen & Unwin, 1984), 163-182; Richard R. Beeman, "Deference, Republicanism, and the Emergence of Popular Politics in Eighteenth-Century America," *WMQ* 49 (1992), 401-430.

<sup>44</sup> Jackson Turner Main, *The Sovereign States, 1775-1783* (New York: New Viewpoints, 1973), 119.

comprehension of the people's proper role in the affairs of government."<sup>45</sup>

Though the reign of the provincial congresses was only transitory, ending with the establishment of state constitutions, it represented only the first phase in the flowering and application of democratic ideas, manifested most clearly in conceptions of popular sovereignty and equality that implied radical consequences for the structure of republican government. Popular sovereignty in this sense extended the principle of popular consent by virtue of election to the active participation and leadership of commoners in political affairs. Political egalitarianism deemed equality before the law insufficient, arguing for the equal qualification of all men (meaning, in most cases, adult white males) for voting and officeholding. It based its claim on the conviction that the universal (again, a 'particularistic universality' of white males) quality of reason, manifested in a common sense independent of a higher education, was the sole necessary prerequisite for knowing and acting in the interest of the community.

These convictions challenged the classical model of leadership by an elite with superior intellectual and material qualifications, with only a passive role for persons of lesser property, and contributed to giving to equality and popular sovereignty the meaning they have in modern liberal thought. Democrats denied that knowledge of what was the public good was a monopoly of 'wise' gentlemen and accused them of pursuing selfish interests under the guise of disinterestedness. These developments signified the

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<sup>45</sup> Wood, *Creation*, 363.



beginning of the end for two key concepts of classical political theory, deference and virtual representation.<sup>46</sup>

In terms of constitutional thought the rift between Whigs and Democrats is best illustrated by their view of the British constitution. The Whig John Adams continued to think that "the British Constitution is nothing more or less than a republic, in which the king is first magistrate" and thought it would serve well as a model of a balanced frame of government for the new American republics, with certain alterations. Adams' intellectual nemesis, Thomas Paine, discarded the balanced Constitution as nothing but "the base remains of two ancient tyrannies" except for the "new Republican materials, in the Persons of the Commons" - and it was only from such an institution, not balanced, but firmly rooted in the people's sovereignty, that American government could be successfully built.<sup>47</sup>

The necessity of popular support for the Independence movement, together with the visible erosion of deference caused American leaders to view commoners with a mixture of benevolence and suspicion. Participation in boycotts, mass meetings, extra-legal committees and congresses, and conventions had politicized a formerly passive class of men. The newly elected assemblies were chosen by a broader voting population and

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<sup>46</sup> Wood, *The Radicalism of the American Revolution*, 245-253; Richard R. Beeman, "Deference, Republicanism, and the Emergence of Popular Politics in Eighteenth-Century America," *WMQ* 49 (1992), 401-430.

<sup>47</sup> Novanglus No. VII, *Sources and Documents*, 125-136, 131; Paine, *Common Sense* (Philadelphia: William Bradford, 1776), reprinted in *Common Sense and the Crisis* (Garden City, n.d.), 11-66, 16.

featured considerably less wealthy members than their colonial antecedents.<sup>48</sup>

The dissolution of colonial governments spurred visions of anarchy, not just among Tories, but among those Whigs who saw in tendencies toward democratization the danger of total destabilization. John Adams was anxious that "our Struggle has loosened the bands of Government every where. That Children and Apprentices were disobedient-that schools and Colledges were grown turbulent -that Indians slighted their Guardians and Negroes grew insolent to their Masters." He insisted that "[t]here must be decency and respect and veneration introduced for persons in authority, of every rank, or we are undone."<sup>49</sup> While even a social conservative such as Adams joined in the revolutionary mantra that "the only moral foundation of government is, the consent of the people," he also asked "to what extent shall we carry this principle?" He feared that any attempts at altering, i.e. broadening, suffrage requirements by abolishing property requirements for adult white men would lead to a total collapse of the social order: "There will be no end of it. [...] women will demand a vote, lads from twelve to twenty-one will think their rights not enough attended to; and every man who has not a farthing, will demand an equal voice with any other [...] It tends to confound and destroy all distinctions and prostrate all ranks to one common

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<sup>48</sup> See Ryerson, *The Revolution Is Now Begun* and Charles S. Olton, *Artisans for Independence: Philadelphia Mechanics and the American Revolution* (Syracuse, N.Y.: Syracuse University Press, 1975), ch. 4.

<sup>49</sup> John Adams to James Warren (Philadelphia, April 22, 1776), in *Sources and Documents*, 146-148, 147; John Adams to Abigail Adams (April 14, 1776) in *The Adams Family Correspondence*, ed. L. H. Butterfield et al. (Cambridge, Mass.: Belknap Press of Harvard University Press, 1963), vol. I, 30. For similar apprehensions in the South see Ronald Hoffman, "The Disaffected in the Revolutionary South," in *The American Revolution. Explorations in the History of American Radicalism*, ed. Alfred Young (De Kalb, Ill.: Northern Illinois University Press, 1976), 273-316.

level."<sup>50</sup> A kindred spirit, the Philadelphia doctor Benjamin Rush diagnosed many Americans as suffering from a mental disease he called liberty mania: "Such men expect liberty without law-government without power-sovereignty without a head." Rush maintained that neither rulers nor people could be trusted. The "temple of tyranny has two doors. We bolted one of them by proper restraints: but we left the other open, by neglecting to guard against the effects of our own ignorance and licentiousness."<sup>51</sup> Government to Rush was only functional when it served as a disciplinary institution.

### *1.3.3 Limiting and Affirming the People: an Exemplary Analysis*

The political competence of the few and the many was the key issue of the discourse of popular sovereignty. It was prevalent in all of the new republics, but the mode of argumentation reflected the local structure of politics and the concrete issues that were at stake. The following sources provide an representative example of competing conceptions of popular sovereignty and popular competence, as well as illustrating the adaptability of such arguments to specific issues. The texts from Massachusetts represent vivid examples of radical and limiting interpretations of popular sovereignty employed in a conflict over the old New England tradition of local autonomy at odds with the supreme sovereignty of the Boston government. The Pennsylvania pamphlet reflects the discontent of Independents with the conservative assembly of the Province. The call for a popular convention to

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<sup>50</sup> Adams to Sullivan.

<sup>51</sup> Benjamin Rush, *On the Defects of the Confederation in Selected Writings of Benjamin Rush*, ed. Dagobert Runes (New York: Philosophical Library, 1947), 26-31, 26.

create a new constitution characterizes rulers and people in a fashion which anticipates the strategy Pennsylvania radicals would use to discredit opponents of the Constitution of 1776.

The reconciliation of the principle of popular sovereignty with the limitation of popular power was brilliantly argued by the Massachusetts clergyman Samuel West in his Election Sermon of 1776.<sup>52</sup> West combined the Calvinist notion of human depravity with the Lockean concept of natural rights in assigning a dual role to civil magistrates. Government was instituted in order to maintain the normative "law of nature's God" which men, having fallen from grace, no longer voluntarily obeyed. Magistrates were selected by the people to protect their liberties according to natural law, but they were equally ordained by God "for the good of mankind" since "it is God who has not only declared in his words what are the necessary qualifications of a ruler, but who also raises up and qualifies men for such an important station." West deduced that disobedience "to the lowest officer in the state" was disobedience "to the law of God." On the other hand "the same principles which oblige us to submit to government do equally oblige us to resist tyranny", which was defined as a government that did not conform to natural law.<sup>53</sup> This raised the essential question of who was to ascertain whether a government was tyrannical or not. Obviously no government would ever admit to being a tyranny, but employ disguises, so the citizens had to be able to tell the difference between genuinely good government and a

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<sup>52</sup> Samuel West, *On the Right to Rebel Against Governors* (Boston, 1776) in *American Political Writing During the Foundation Era, 1760-1805*, ed. Charles S. Hyneman and Donald S. Lutz, 2 vols. (Indianapolis: Liberty Fund, 1983), vol. 1, 410-448. The Sermon, tellingly, was based on Titus iii.1.: "PUT THEM IN MIND TO BE SUBJECT TO PRINCIPALITIES AND POWERS, TO OBEY MAGISTRATES, TO BE READY TO DO EVERY GOOD WORK."

mere facade. This raised another problem, however, because West did not trust average citizens to judge the quality of politics. He argued that

in a multitude of cases, many of us, from the want of being properly acquainted with affairs of state, may be very improper judges of particular laws, whether they be just or not. In such cases it becomes us, as good members of society, peaceably and conscientiously to submit, though we cannot see the reasonableness of every law to which we submit [...] <sup>54</sup>

It was possible, in other words, that people wrongly felt laws to be unjust or oppressive - which would be an indicator of a malfunctioning government possibly on the path towards tyranny - out of ignorance. Contrary to Locke, who described the people as passively enduring intolerable levels of abuse, and thus stressed the duty to resist <sup>55</sup>, West, throughout his sermon, felt the need to ask commoners - those not experienced in the art of government - to submit to lawful authority and give it the benefit of the doubt. But who, then, was left to serve as an impartial reliable judge of the rulers' performance?

If it be asked, Who are the judges to determine when rulers are guilty of tyranny and oppression? I answer, the public. Not a few disaffected individuals, but the collective body of the state, must decide this question; for, as it is the collective body that invests rulers with their power and authority, so it is the collective body that has the right of judging whether rulers act up to the end of their institution or not. Great regard ought always to be paid to the judgment of the public. <sup>56</sup>

West did not specify how the collective body of the state could make its judgment known. While elections served to *invest* rulers with power there was no institutional framework for a fundamental *divestment*. West did not

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<sup>53</sup> Ibid., 416; 417; 412.

<sup>54</sup> Ibid., 417f.

<sup>55</sup> Locke, *Second Treatise*, IX, 223-226.

suggest a popular convention or any other institutionalized decision-making process. The public remains an abstract notion, as normative yet open to interpretation as the concept of natural law. Moreover, if, as West insisted, a large number of citizens was not capable "in a multitude of case" of judging the merits of particular laws, why should the collective body be capable of making such a fundamental decision correctly? West seems to be thinking of the public as something resembling the "volonté générale," a unified voice uttering the collective will of the community and thus able to judge governmental deviance from its designated purpose. But how did the idea of an identifiable "collective body" relate to the reality of conflicting broadsides, petitions, remonstrances, newspapers, town meetings and resolutions which produced a cacophony of opinions? Was the public in favor of Independence if, according to Adams' calculation, only a third of the people supported it, with the rest hovering between disaffection and loyalism? If the public was not quantifiable, West might have had in mind a qualitative concept: in every society there were authoritative public voices apart from the magistrates, voices that also represented or even embodied the community and thus carried weight. The press, though it was making claims in this respect, was still only limited in its scope, but in the case of Massachusetts, the clergy represented a vested public authority - a "speaking aristocracy" that guided the "silent democracy,"<sup>57</sup> which in Massachusetts was refusing to break its silence only in respect to British authority. Though he does not explicitly say it, the logic of his argument suggests that West himself represents the voice

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<sup>56</sup> West, *Election Sermon*, 423.

of the public, by virtue of performing his sermon in a public act reflecting and asserting the authority of the Massachusetts clergy as *valentior pars*, the 'better', more authoritative part of the people.

In the political context of Revolutionary Massachusetts, West was legitimizing and encouraging resistance to England while demanding obedience to the Massachusetts assembly - an obedience, which, as events in the western counties indicated, could no longer be taken for granted. The closing of the courts between 1776 and 1780 was a direct challenge to the authority of the government in Boston.

In *Berkshire's Grievances* of 1778 Western Massachusetts citizens explained their position to an investigating committee. Their principal argument was that the end of royal government had returned Massachusetts to a state which was not natural, but clearly antecedent to the formation of a valid governmental contract. Distinguishing between laws as passed by the legislature and a fundamental constitution which was subject to approbation or alteration only by the people, they concluded that "the compact in this state is not yet formed." The citizens accepted the assembly "as a necessary and useful body of Men suited to our Exigencies" as it maintained governmental functions in the light of the war. But they denied it any real authority and instead spoke of their "careful Adherence to their orders." They refused to recognize the executive courts as long as there was no popularly endorsed constitution for fear "that upon our submission we shall sink into a dead Calm and never transmit to posterity a single Right." They also rejected

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<sup>57</sup> The political ideal was expressed in these terms by another New England divine, Samuel Stone. See Chilton Williamson, *American Suffrage. From Property to Democracy, 1760-*

"particular persons appointed for our Rulers" who were "indulging an unnatural temper in vilifying and reproaching their own County."<sup>58</sup> Though using conciliatory phrases, these citizens of Berkshire were expressly claiming sovereignty for themselves as a natural right, which *they* would decide when to invest in a frame of government and representatives *they* deemed acceptable. Whether they were aware of it or not, they had chosen to rely on Locke's radically democratic understanding of popular sovereignty rather than his conservative view of representative government.<sup>59</sup>

William Whiting's response contained the typical figures of Whig rhetoric aiming to disqualify popular competence. He suggested the Berkshiremen's Revolutionary struggle had "not been for the establishment of a free and equal government on the ruins of tyranny, but rather, that they might introduce a state of total anarchy and licentiousness, on the ruins of all government, whatsoever." He stressed the people's gullibility, their inability to control their emotions and think clearly, which rendered them "the dupes and tools of knaves and impostures. These ambitious and designing men, knowing their influence over you to be originally founded [...] on blasting your reason, by blowing up your passions and prejudices into a continual flame [...] constantly endeavor to excite new ones in your breasts." Whiting echoed West in insisting that the Berkshire farmers were unable "accurately to distinguish the principles of a free and equal government, from those of despotism and tyranny." Differentiating between a social and a governmental contract, Whiting argued that the preservation of the former in

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1860 (Princeton: Princeton University Press, 1960), 43.



Massachusetts implied the continuity of assembly authority, since it represented a majority of citizens and majority rule was part of the social compact. He included the warning that eventually "the arm of power shall stop your career and bring you to reflection [...]," an adequate prognosis of the response to Shay's Rebellion eight years hence.<sup>60</sup>

The Philadelphia pamphlet *The Alarm: or, an Address to the People of Pennsylvania on the Late Resolve of Congress* represented the views of the Pennsylvania Independents who were working to overcome the provincial government's extremely conservative position on the conflict with England. Based on the Congressional resolution calling for the creation of constitutions reflecting the states' independence from Crown influence the pamphlet denied the old assembly's right to create a new frame of government and demanded a special constitutional convention. A radical conception of popular sovereignty informed the idea that fundamental law could only be created by special delegates invested with "the full authority of the people for the *especial* purpose." By this they understood their election "by all the freemen throughout the province, including those Germans, or others, who were before disqualified for not having taken oaths of allegiance to our enemy, but are now restored to their natural rights by the late resolve of Congress." Throughout the text the legitimacy of this demand is supported by a positive construction of common men as politically competent. The pamphlet appeals to "every honest and thinking man" to oppose the

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<sup>58</sup> *Statement of Berkshire County Representatives, November 17, 1778*, in *American Political Writing*, vol.1, 455-461, 459-460.

<sup>59</sup> *Divine Right and Democracy*, 44.

<sup>60</sup> William Whiting, *An Address to the Inhabitants of Berkshire County, Mass.* (1778), in *American Political Writing*, vol. 1, 461-479, 462-463.

assembly and stresses the public-mindedness of those demanding a constitutional convention. It emphasizes the rationality and reasonableness of common Pennsylvanians, who proved themselves to be a "decent multitude," not a mob. It was "to the honour of this province" that "by the common consent of Citizens, the public peace was preserved inviolate, for nearly three years, *without law*." The pamphlet closes with an affirmation of citizens' political competence in leaving them to "exercise their own reason" in the matter. The assemblymen on the other hand, though never openly referred to as aristocrats or oligarchs, are disqualified by characterizations typical of the middle and lower class indictments of the better sort as self-interested, effeminate, incompetent leaders whose Tory ideals made them potential traitors. This catalogue of incompetence is allotted considerably more space than legal arguments concerning the assembly's disqualification due to formal obligations to the Crown. The pamphlet chided the people's inadequate representatives as "abettors" to the "bloody minded enemy" by way of their "feeble and intimidating prudence" and "unmanly drowsiness." Guided by "prejudices", "private interests", and "partial connexions" and supported by "men of interested view and dangerous designs" the assembly was "marked with the strongest characters of mischief and ignorance" and clearly "not sufficiently *wise*" to deserve the people's trust.<sup>61</sup>

In the following chapter we will survey the development of politics in provincial Pennsylvania in light of the regional, social, and economic factors

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<sup>61</sup> *The Alarm: or, an Address to the People of Pennsylvania on the Late Resolve of Congress* (Philadelphia, 1776), in *American Political Writing*, vol.1, 321-327; 322; 325, 326f.

that ultimately contributed to the specific and pronounced voice of  
Constitutionalist radicalism.

## 1.4 Deference to Diversity: Politics and Society in Pennsylvania

*"Its highly pluralistic, heavily immigrant population produced a prosperous economy and a lively but poorly integrated society [...]" – Richard A. Ryerson<sup>1</sup>*

Understanding the Revolution in Pennsylvania requires a look at its provincial history. Abrupt as the events of 1776 cut into and across provincial society and its institutions, they were products of Pennsylvania's past. The radical Constitution of 1776 was not merely the product of abstract theorizing, but incorporated, in a dialectic of mimesis and rejection, the political experiences, practices and traditions of the colonial era. The same applies to public political discourse. Contrary to Wood's assertion, the social, as well as the political and personal antagonisms it addressed went deep into the very marrow not only of the present, but of the Pennsylvania past.

Constitutionalist radicalism was informed by a 17<sup>th</sup> century heritage preserved in the internecine Quaker struggles of the early provincial period and later through the ongoing rivalry between Proprietor and Assembly.<sup>2</sup> Views on government and society were inspired by the experience of a Quaker hegemony based on a single interest model of society married to realistic practices of politicking in a pluralistic reality and by endless conflicts with the proprietary Penn family. There were, of course, new impulses contributed by recent immigrants such as James Cannon or Thomas Paine. More importantly, old ideas acquired a radical new edge in the Revolutionary

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<sup>1</sup> "Republican Theory and Partisan Reality," 103.

<sup>2</sup> See Ronald Schultz, "The Small-Producer Tradition and the Moral Origins of Artisan Radicalism in Philadelphia, 1720-1810," *Past & Present* 86 (1990), 85-116.

context, as the foundations of deferential politics were shattered. The following survey of provincial history will sketch the conditions of this process to provide some temporal depth to the subsequent portrait of the Pennsylvania discourse community since 1776.

The politics of the province correspond well with the established model of colonial assemblies struggling against the executive over the implementation of competing policies with increasing success.<sup>3</sup> Behind this general phenomenon lay a distinctive set of conditions, some typical of the Mid-Atlantic, others peculiar to Pennsylvania. Not only did they make Pennsylvania unique - every colony was unique in its way - but they indicated the future development of the United States and contributed to the unconventional nature of the internal Revolution in the state. The most important are Pennsylvania's beginnings as a Quaker settlement and the subsequent transformation into an ethno-religiously pluralistic society, primarily through German and Scots-Irish immigration; the economic development of Philadelphia as an entrepot of the Atlantic economy and the powerful merchant elite, as well as the inequality and social dynamics that came with the importance of commercial capitalism; the sectional differences between the urban and agro-commercial East and the western frontier counties; and the proprietary status of the province which gave political constellations a peculiar twist.

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<sup>3</sup> See Jack P. Greene, "The Role of the Lower Houses of Assembly in Eighteenth-Century Politics," *Journal of Southern History* 27 (1961), 451-474.

### 1.4.1 Quaker Conflict and Hegemony

The radicals of 1776 were not the first Pennsylvanians who set out to construct an ideal republic. William Penn dreamed that dream nearly a hundred years prior, but his attempts resulted in the same bitter quarreling and factionalism faced by his successors. By the charter of 1681, Charles II instituted William Penn (1644-1718) and his heirs as the "true and absolute Proprietaries" of the "Province and Seignorie" of Pennsylvania.<sup>4</sup> Penn, a Quaker who had been imprisoned in the Tower for voicing his religious beliefs, received this grant on behalf of the services of his father Admiral William Penn to James, Duke of York, the King's brother. It provided him with the chance to realize his "holy experiment," a community characterized by Quaker principles of religious toleration and social harmony. Prospective settlers were promised freedom to exercise their faith, as well as economic opportunities far greater than those of the Old World.<sup>5</sup> Inspired by the writings of James Harrington, the leading commonwealthman and author of *Oceana*, and advised by Algernon Sidney, another republican hero, the Old Whig Penn became a busy Solon, creating more than a dozen constitutional drafts ranging from designs more conservative than the English system of King, Lords, and Commons to such more radical than the 1776 Constitution.<sup>6</sup>

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<sup>4</sup> Charter for the Province of Pennsylvania (1681), [Online]. 22 January 2000. URL: <http://elsinore.cis.yale.edu/lawweb/avalon/states/pa01.htm>

<sup>5</sup> Frederick B. Tolles, *Meeting House and Counting House. The Quaker Merchants of Colonial Philadelphia, 1682-1783* (New York: Norton, 1948), 33-38.

<sup>6</sup> See J.R. Pole, *Political Representation in England and the Origins of the American Republic* (London: Macmillan, 1966), 83; Alan Craig Houston, *Algernon Sidney and the Republican Heritage in America* (Princeton, N.J.: Princeton University Press, 1991), 232;

The charter established Penn as a feudal lord with far-reaching powers. He was permitted to appoint all officers of government and through land grants could establish a system of vertical dependencies. As a legislator he was to act "by and with the advice, assent, and approbation of the Freemen," whose representatives he would have the right to call into session at pleasure. Within these perimeters Penn was free to organize government and allot powers to its institutions. However, practical considerations and interests intruded into theorizing from the very beginning. The success of the colonization project rested on the willingness of wealthy investors to subscribe for very large tracts of land in order to secure sufficient capitalization. In return for what was in modern terms venture capital, these men, many of whom were wealthy and influential members of the Quaker merchant elite Penn was well-connected with, demanded control of and security for their property, which translated into political power for themselves at the cost of the proprietor and simple freeholders.<sup>7</sup> At one point Penn had considered a highly democratic form of government where power was concentrated in a popular assembly, but he ended up with a plan in which an elite council held key legislative and judicial powers, while the freeman's assembly had only the right of giving or withholding assent to bills.<sup>8</sup>

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Gary B. Nash, "The Framing of Government in Pennsylvania. Ideas in Contact with Reality," *WMQ* 23 (1966), 183-209, 183.

<sup>7</sup> Nash, "Framing," 195f.

<sup>8</sup> Charles P. Keith, *Chronicles of Pennsylvania from the English Revolution to the Peace of Aix-la-Chapelle, 1688-1748* ([rpt.] Freeport, N.Y.: Books for Libraries Press, 1969 [1917], 404 considered this a stronger position than the subsequent right of legislative initiation checked by an executive veto, but he underestimates the extent to which the later Assemblies used this power to constantly push their authority to the limit and successfully extend it.

The Council's election by freemen was not an indication of democratic leanings since it was based on the common assumption, confirmed by reality, of the multitude's deference to persons of property and distinction. Quakers stressed the spiritual equality of all men, but they held conventional views on the necessity of a strict social hierarchy that corresponded to the distribution of wealth.<sup>9</sup> Though Penn's design did not contain a special property qualification for Councilors it essentially conformed to Harrington's legislative division of power in which the body of large land owners introduced legislation, while the lesser property owners' representatives owned a veto.<sup>10</sup>

Pennsylvania's freeholders, however, refused to ratify the frame of government, and the compromise of 1683, which contained modest concessions, satisfied none of the interested parties. In the following years the Council asserted itself against Penn, while the Assembly, though limited in its possibilities, rejected what it considered to be the undue influence of both the Proprietor and the Council. After years of perpetual conflict and political paralysis, exacerbated by religious squabbles among the Quakers<sup>11</sup> and featuring a short period of royal government and the interim Constitution of 1696, a fundamental revision occurred with the Charter of Liberties of 1701 which consolidated previously won concessions and remained the legal foundation of government until 1776.

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<sup>9</sup> Tolles, *Meeting House*, 109ff.

<sup>10</sup> James Harrington, *The Art of Lawgiving in Divine Right and Democracy. An Anthology of Political Writing in Stuart England* (London: Penguin, 1986), 395-417, 405f.

<sup>11</sup> See Jon Butler, "'Gospel Order Improved': The Keithian Schism and the Exercise of Quaker Ministerial Authority in Pennsylvania," *WMQ* 31 (1974), 431-452.



Under the new unicameral system, an annually elected assembly representing the freemen of the province held the legislative power, while the proprietor or his governor, advised by a Council of his choice, embodied the executive.<sup>12</sup> Two competing political factions, whose different social bases were reflected in their Whiggish emphasis on property in the former and liberty in the latter case, evolved within this constellation. The group led by James Logan, the Proprietor's secretary, represented the interests of the proprietor, the city and its "substantial Quaker merchants," while their opponents, under the leadership of the long-lived David Lloyd, formed a "country party" of county farmers (who were not necessarily insubstantial, of course, but outside the proprietary circle).<sup>13</sup> In the following years, the assembly, under Lloyd's dynamic leadership, continued to assert and extend its power in conflicts with the proprietary executive. Logan's group in turn was able to successfully compete in Assembly elections. One of the most important effects of this perpetual rivalry was that both groups resorted to electioneering, wooing voters with aggressively styled broadsides in their attempts to win a majority of the Assembly seats. The Lloydians resorted to a rhetoric of popular rights and competence and warned of the subversion of the legislative by a tyrannical self-interested proprietary power. In a language remarkably similar to Constitutionalist argumentation Lloyd claimed that "a Mean Man of small Interest, devoted to the faithful Discharge

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<sup>12</sup> This assembly enjoyed the right to choose its own speaker and officers, assemble and adjourn at its own behest and "all other Powers and Privileges of an Assembly, according to the Rights of the free-born Subjects of England, and as is usual in any of the King's Plantations in America." See *Charter of Privileges Granted by William Penn, esq. to the Inhabitants of Pennsylvania and Territories, October 28, 1701* For details on the suffrage regulations see ch. 2.4.1.

<sup>13</sup> Tolles, *Meeting House*, 15f.

of his Trust and Duty to the Government, may do more Good to the State than a richer or more learned Man, who by his ill temper, and aspiring Mind, becomes an Opposer of the Constitution by which he should act."<sup>14</sup> The opposition in turn had early begun to expose the Lloydians' alleged incompetence to the voters, but there were also the typical complaints about the "mobbish" people and their dangerous "levelling spirit"<sup>15</sup> The political conflict reached new heights in the 1720s over the issue of paper money emissions, which were favored by small traders and farmers and opposed by the proprietary and merchant interests.<sup>16</sup> Lieutenant-Governor Sir William Keith sided with the Assembly and, after his dismissal, built a popular power base through "election clubs," but Keithians and Lloydians soon became embroiled in factional struggles of their own.<sup>17</sup>

In the 1730s internecine struggles subsided and a unified Quaker party emerged as the representative of provincial interests. It remained pitted against the proprietary family which was turning away from its Quaker roots towards Anglicanism and began rearing a non-Quaker patronage network. The predominantly Anglican proprietary party that emerged as a distinct group by about 1750, but continued evolving and consolidating into the 1770s, was a small group of gentleman landholders and proprietary officers, connected by frequent intermarriage, and established in political and social institutions such as the City Corporation and the Dancing

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<sup>14</sup> Quoted in Tolles, *Meeting House*, 15f.

<sup>15</sup> Pole, *Political Representation*, 96; In the election of 1710, the entire Assembly of 26 was turned out and replaced by supporters of William Penn, a remarkable occurrence that surely owed something to effective campaigning; quotes in Tolles, *Meeting House*, 16; 20.

<sup>16</sup> Richard A. Lester, "Currency Issues to Overcome Depressions in Pennsylvania, 1723 and 1729," *The Journal of Political Economy* 46 (1938), 324-375, esp. 334ff.; Keith, *Chronicles*, vol. 2, 666ff.

Assembly. They controlled executive and judiciary offices, managed proprietary lands, and grew increasingly distant in wealth and social status from average Philadelphians.<sup>18</sup>

Relations between the two interests worsened under the proprietorship of Thomas Penn who was determined to increase his profits from the province and curb the Assembly's influence to restore what he considered a proper balance of powers.<sup>19</sup> Up and into the French and Indian War the struggle over Assembly and Proprietary authority repeatedly crystallized around the connected issues of Indian and land policy, the power of the purse, and proprietary privileges. The Quakers aimed at peaceful coexistence with the local Delaware tribe, while the proprietary family was involved in the international power politics concerning expansion into the Ohio Valley. Demands for contributions to military efforts challenged the Quaker's pacifism, as well as involving issues of property rights and fiscal authority, as in the War of Jenkin's Ear in 1739.<sup>20</sup> Matters came to a head during the French and Indian Wars, as the Assembly insisted on its right to control the funds it allocated for defensive measures. When the Delawares, who had been driven into the arms of the French, waged war in the back country after Braddock's defeat in 1755, the Assembly proposed to finance a militia by taxes which would have affected the Proprietor, while the Governor argued for proprietary exemption. At the heart of the conflict were

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<sup>17</sup> Pole, *Political Representation*, 98ff.; Keith, *Chronicles*, 688f.

<sup>18</sup> See Stephen Brobeck, "Revolutionary Change in colonial Philadelphia. The Brief Life of the Proprietary Gentry," *WMQ* 33 (1976), 410-434.

<sup>19</sup> See James H. Hutson, *Pennsylvania Politics, 1746-1770. The Movement for Royal Government and Its Consequences* (Princeton, N.J.: Princeton University Press, 1972), 6ff.

<sup>20</sup> The Governor requisitioned indentured servants for an expeditionary force, depriving the masters of their labor. See Tolles, *Meeting House*, 23; Pole, *Political Representation*, 108.

two irreconcilable interpretations of the constitutional structure. The proprietors insisted on their seigneurial status as holders of a royal grant with concomitant privileges, which implied the exemption of their land holdings from provincial taxes and included a monopoly on purchasing rights of Indian land. From the proprietary perspective the Assembly's increasing influence, notably the full power of the purse since 1723 and powers of appointment threatened the destruction of the salutary balance between proprietary and popular power and moved Pennsylvania towards a system of pure democracy. The Assembly whiggishly countered that the proprietary land monopoly was the key to corrupting the political system through patronage and predicted a decline into tyranny. This argument once again structurally preempted elements of the debate between Republicans and Constitutionists after 1776.

The Quaker party derived its authority from the claim of representing the true and full interest of the province, while the proprietary group was viewed as a self-interested faction. This conviction rested on the assumptions that there was a common interest in Pennsylvania and that it could only be that of the Quakers as original founders of the Commonwealth.<sup>21</sup> It seemed natural that the yearly Quaker meeting, though considered a non-political affair, inevitably served as an unofficial caucus for Assembly candidates on the 'Old Ticket', as it came to be known.<sup>22</sup> The Assembly's conception of representation was classical. Its relative homogeneity, small size and low turnover rate made it an oligarchy rather

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<sup>21</sup> Pole, *Political Representation*, 101; 113ff.

<sup>22</sup> *Ibid.*, 103; Tolles, *Meeting House*, 63f.

than a delegation of the people and warranted a theory of virtual representation in which voting signified little more than an acclamation of prominent persons most noted for "Virtue, Wisdom, and Ability," as the 1701 Charter phrased it.<sup>23</sup>

In fact, Pennsylvania was already fragmenting into heterogeneous groups with different interests and the military crises had made abundantly clear that the Quakers were not able in times of war to effectively act in the province's interest (whether from their peace testimony or their obsession with the internal proprietary enemy). While they had been working towards an unrealistic reconciliation with the Delawares, Governor Morris offered bounties for Indian scalps as part of his draft for declaration of war in 1756. After the protest of leading Quakers failed to effect a reversal, they found it necessary to resign their public functions and for the first time - though only briefly - lost control of the Assembly<sup>24</sup> Though the Quaker party remained intact and retained its label, it now cast off its distinctive sectarian identity and subsequently relied on the support and leadership of non-Quakers such as Benjamin Franklin. Surviving proprietary attempts to bar Quakers from the Assembly in wartime and to disfranchise Quakers and Germans, it faithfully continued to pursue an anti-proprietary course, even after Penn had succeeded in drying up its source of revenue. This merely increased the

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<sup>23</sup> Richard A. Ryerson, "Portrait of a Colonial Oligarchy: The Quaker Elite in the Pennsylvania Assembly, 1729-1776," in *Power and Status: Officeholding in Colonial America, 1729-1776*, ed. Bruce C. Daniels (Middletown, Conn., 1986). A table of legislative turnover is found in Richard Alan Ryerson, *The Revolution Is Now Begun. The Radical Committees of Philadelphia, 1765-1776* (Philadelphia: University of Pennsylvania Press, 1978), Appendix A.

<sup>24</sup> See Ralph Ketcham, "Conscience, War, and Politics in Pennsylvania, 1755-1757," *WMQ* 20 (1963), 416-439; also Tolles, *Meeting House*, 26; Pole, *Political Representation*, 102ff.; see Richard Middleton, *Colonial America. A History, 1585-1776* (Oxford: Blackwell, 1992), 413ff. on the competition between Spain, France and England over the Northwest.

Assembly's resentment, which, after the failure of all traditionally available means, culminated in the attempt to royalize the colony in 1764.<sup>25</sup>

#### *1.4.2 Ethnocultural Pluralism, Sectionalism and the Politics of Heterogeneity*

One of the central developments, if not the most important, in the province since about 1720 was the growing stream of non-Quaker immigration, which would eventually create an incongruence between the Quakers' claim of representing the common interest of the province and their demographic status as a minority, large and socially prominent as it might have been.

The first white settlers of what later became Pennsylvania were small groups of English, Dutch, and Swedish people. They had been prominent among the trouble-makers who rejected Penn's frame of government in 1683, but faded into numerical insignificance in later years.<sup>26</sup> The first Quakers comprised a large majority of English settlers, smaller groups of Welshmen, Rhineland Germans, Dutch, and French, who were soon culturally assimilated, and some entrepreneurs from New York and the West Indies. But as English immigration declined it was primarily Germans and Scots-Irish who crossed the Atlantic in search of a better life. Between 1720 and 1755 about 70,000 non-Quakers settled in Pennsylvania, forever making the Friends a minority in the colony they had founded. 40,000 predominantly Lutheran-Reformed Germans settled in York, Lancaster,

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<sup>25</sup> See Hutson, *Pennsylvania Politics*, 244f.

<sup>26</sup> Nash, "Framing," 205f.

Berks and Northampton Counties, while 30,000 Presbyterian Scots-Irish from Northern Ireland spread across the entire province, dominating the southern and western sections. As a result of several immigration waves, the English and Welsh population was reduced to 25 to 30 percent of the total by 1755, on par with the Scots-Irish, while the Germans constituted 40 to 45 percent of a total population of approximately 140,000. Quakers now accounted for only 15 percent of the population in "their" province, outnumbered by a 20-25 percent share of Presbyterians and 35-40 percent members of German Reformed and Lutheran churches. A number of other minorities populated the counties and the city, among them Anglicans and German Sectarians, as well as small Baptist, Methodist, and Jewish congregations in Philadelphia.<sup>27</sup>

This demographic revolution obviously prompted responses by the old inhabitants and the established power structures, as immigrants became at first a modest, but soon a determining factor in Pennsylvania society and politics. Sectional, ethnic, and religious diversity synergistically reinforced centrifugal tendencies in the province which had to be countered by new political strategies. What resulted has been recognized as an embryonic manifestation of the classic style of American politics - a need for negotiation and coalition building among diverse interest groups.<sup>28</sup> The Proprietary party remained a coterie of landed gentlemen and proprietary dependents which was generally not sufficiently organized to mobilize voters on its behalf. The

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<sup>27</sup> Alan Tully, *William Penn's Legacy: Politics and Social Structure in Provincial Pennsylvania, 1726-1755* (Baltimore: Johns Hopkins University Press, 1977), 53f.

<sup>28</sup> See Douglas Greenberg, "The Middle Colonies in Recent American Historiography," *WMQ* 36 (1979), 396-427, 400; 422ff., where Greenberg suggests that the common Mid-

Quaker Party, on the other hand, while clinging to its ideal of social harmony learned to employ patronage, balanced tickets, and political maneuvering to hold its own and maintain a precarious equilibrium of interests to its advantage. Beyond its base among Friends and German Sectarians, it relied on Lutheran and Reformed Germans, groups of Anglicans and even some Presbyterians, merchants as well as mechanics, urban and rural constituencies. The combination of a deferential politics of virtual representation, "machine politics" relatively sophisticated for their day and age, as well as high levels of prosperity and economic individualism creating content citizens explain the stable and conservative aspect of Pennsylvania society, which became particularly evident in the calm reaction to British policies after 1763 in comparison with other colonies. But for all its success the Quaker party, too frequently preoccupied with its struggles against proprietary power, was nonetheless unable to prevent massive convulsions, badly misjudged public sentiments in the 1760s, and finally, failing to adapt to radically changing circumstances in the 1770s, lost its hold over the Province.<sup>29</sup>

Numerous as they were, Germans had resources enough to establish their own parallel culture, retaining their language and customs, frequenting their own taverns, businesses, and, of course, churches. Involved in disputes of their own, mainly based on religious differences, they remained politically passive on the provincial level. Though Germans occupied from

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Atlantic experience was defined by political change lagging behind socio-economic developments.

<sup>29</sup> Allan Tully, "The Quaker Party and Proprietary Policies: The Dynamics of Politics in Pre-Revolutionary Pennsylvania, 1730-1775," in: *Power and Status*, 75-105; also Benjamin H.



about 18 to 25 percent of county offices between 1758 and 1775 they held an average of only 8 percent of Assembly seats for that period with significant increases after 1764 and 1774.<sup>30</sup> Their dislike of the French and Indian War, conscription, and taxes made them susceptible to Quaker influence in the 1750s and early 1760s, which was successfully exerted through a liaison with German community leaders.<sup>31</sup> While their continued exposure to Indian attacks during the war evoked complaints and aggressive protests against the Quaker party, on the whole Germans seemed to prefer enjoying the fruits of negative liberty, without feeling the need to transform the power of numbers into clearly defined political clout.<sup>32</sup> Nonetheless, many Anglo-Pennsylvanians reacted xenophobically to the strong German ethnocultural presence, fearing a 'hostile takeover', demanding repressive measures, mobilizing negative stereotypes, and questioning German loyalty to Province and Crown - Franklin's "Palatine boors" come to mind. Over the years, however, they came to be accepted and partly assimilated to the Anglo-Pennsylvanian culture. By the 1760s they were distributed across the political spectrum and by the time of the Revolution their loyalty, now to the United States, was not in doubt, many of them serving in high political offices.<sup>33</sup>

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Newcomb, "Effects of the Stamp Act on Colonial Pennsylvania Politics," *WMQ* 23 (1966), 257-272. The term "machine politics" is used by Newcomb, 266.

<sup>30</sup> Wolfgang Splitter, "The Germans in Pennsylvania Politics, 1758-1790: A Quantitative Analysis," *PMHB* 122 (1998), 39-76, 43; 44; 61.

<sup>31</sup> Pole, *Political Representation*, 110.

<sup>32</sup> Wayne L. Bockelman and Owen S. Ireland, "The Internal Revolution in Pennsylvania: An Ethnic-Religious Interpretation," *Pennsylvania History* 41 (1974), 125-159, 140; Hutson, *Pennsylvania Politics* 25f.; Splitter, "Germans," 76.

<sup>33</sup> Glenn Weaver, "Benjamin Franklin and the Pennsylvania Germans," *WMQ* 14 (1957), 536-559; However, Splitter, "Germans" concludes that Germans remained underrepresented on the state level, while adequately mirroring their demographic weight in the Counties.

The relationship between Scots-Irish Presbyterians and English Quakers would come to be characterized by mutual distrust and misgivings. Proving themselves to be aggressive frontiersmen bent on winning, securing and improving land in the west, they had no use for Quaker qualms about Indians. The combination of ethnic, denominational, and political differences added up to a pronounced sectionalism which would acquire a particular significance for the Revolution.<sup>34</sup> Politically, the Scots-Irish failed to establish themselves as an independent power, holding only about ten percent of Assembly seats in the 1750s and early 1760s. They were weakened by the internal division into Old and New Lights effected by the Great Awakening and generally tended towards supporting the proprietary group, one of whose leading figures, William Allen, was the most conspicuous Presbyterian in the province. Philadelphia politics were secondary while settlers were concerned with building their communities, but the neglect of the frontier counties, especially regarding their military defense during the French and Indian Wars, and their under-representation in the Assembly, increasingly evident as the western population continued to grow, became perennial grievances leading to an enormous build-up of frustration about the Quaker legislators.<sup>35</sup> "For God's sake, are we always to be slaves, must we groan forever beneath the yoke of three Quaker Counties?" one pamphleteer summarized the situation. The critical situation on the Frontier

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<sup>34</sup> See W. Roy Smith, "Sectionalism in Pennsylvania During the Revolution," *Political Science Quarterly* 24 (1909), 208-235.

<sup>35</sup> The Quaker-dominated Eastern Counties of Philadelphia, Chester, and Bucks occupied eight seats each, plus two for the City of Philadelphia, while the five Western counties had a total of ten. Based on the actual number of taxable inhabitants, the apportionment, based on the Philadelphia County ratio of population to representatives, should not have read 24:2:10

in the wake of Pontiac's War finally led to a violent release of aggression. The settlers' hatred of the Indians found a target in various communities of Christianized Native Americans, who were declared to be spies and collaborators. After a massacre of the Conestoga Indians, between four- and seven-hundred well-armed men, most of them Scots-Irish Presbyterians, marched on Philadelphia to claim the lives of Moravian Indians who had been evacuated to the city, and of Israel Pemberton, who was involved in the 'pro-Indian' Friendly Association. The situation was aggravated by the fact that a large segment of the city population sympathized with the Paxtoneers. Progressive historians viewed this as the beginning of the alliance between frontiersmen and the urban lower classes which would destroy the old government in 1776.<sup>36</sup> Pemberton fled while about 200 Quakers actually took up arms - a shock to the community - and Benjamin Franklin rapidly organized a militia of about 1000 men. As it turned out, a group of negotiators headed by Franklin was able to convince the rioters, 250 of which had crossed the Schuylkill, to turn back, having been assured that their grievances would be speedily redressed. The climactic episode revealed the depth of the divisions straining the province and augured ill for the Quaker party. Backcountry resentment did not abate, a heated pamphlet war ensued, and the Assembly was inundated with petitions from the western counties. The proprietary party had declared its solidarity with the frontiersmen in the hope of forging a powerful support base there. However,

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but 19:4:22. See Brook Hindle, "The March of the Paxton Boys," *WMQ* 3 (1946), 461-486, 463.

<sup>36</sup> See Charles H. Lincoln, "Representation in the Pennsylvania Assembly Prior to the Revolution," *PMHB* 23 (1899), 23-34.

the West continued to be denied equal representation in the Assembly.<sup>37</sup> Not surprisingly, it came to be an Anti-Assembly, pro-Independence stronghold in the Revolution - and "Presbyterian" became a synonym for the forces that congealed into the Constitutionalist party in 1776.

The turbulent 1760s reached another climax a year later in the Assembly's campaign for royalization, the failure of which led to significant political realignments, weakening the Quaker Party and contributing to the formation of a distinct Presbyterian interest. After negotiations with Thomas Penn in England and attempts to elicit Crown support had failed, leaders of the Quaker Party, most prominently Benjamin Franklin and his protégé Joseph Galloway, sought a final solution to the seemingly unending conflict with the proprietor. In the Spring of 1764 they launched a campaign to secure support for a Petition to the crown to buy the province from its proprietor.<sup>38</sup> The ill-fated scheme ended in an electoral disaster and produced bizarre ideological contortions. As the petitions reveal, a majority of Pennsylvanians did not consider the external authority of the Crown an alternative to the external proprietorship of the Penns. The Presbyterians, suspecting a Quaker intrigue, rejected the plan despite their own complaints about proprietary land policy. Isaac Norris and John Dickinson, two leading Quaker party men, took a strong stand against it.<sup>39</sup> Rural Quaker leaders, aware of public sentiments, split the party by running on anti-royalization platforms, while the staunch supporters of the plan in Philadelphia suffered a

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<sup>37</sup> Hindle, "Paxton Boys," 481ff.

<sup>38</sup> This account follows Hutson, *Pennsylvania Politics*, 122-178.

<sup>39</sup> Dickinson, who became a mortal enemy of Galloway, was to become the leader of the moderate Whigs opposing English policy, drafting his famous *Farmer's Letters*, while Galloway ultimately turned loyalist.

humiliating defeat in the 1764 election. Franklin and Galloway lost their seats to the Presbyterian candidates Charles Thomson and George Bryan, who became leading radicals, one in the committee movement of the 1770s, the other as a principal figure in the Constitutionalist party.<sup>40</sup>

As the colonies rose in reaction to the new English assertion of Crown authority, the Pennsylvania parties found themselves in awkward positions. The Quakers, traditionally the party championing popular rights against executive usurpation, excused the Stamp Act and called for moderation, displaying their continuing hold on a large part of the urban population as they kept a lid on Anti-British activities. The royalization project remained alive as the party, mobilizing voters as never before, made a convincing comeback in the 1765 election, while John Hughes, its leader in the Assembly, was holding the disreputable office of Stamp distributor. The incoherent response to the Act of the proprietary group ranged from the organization of Anti-Stamp-Act mobs to vocal as well as reserved acknowledgments of resistance, motivated by what was seen as an opportunity to badly damage the internal enemy. That the Quaker party prevailed was owed to its higher degree of organization. Galloway worked hard to achieve a submissive plea for repeal of the Stamp Act and ensured that the celebrations after the fact dwelt not on victory and colonial rights, but on "loyalty, gratitude, and Imperial unity." The Proprietary attempt to unseat Galloway in 1766 on the Stamp Act issue by revealing him as the author of the apologetic "Americanus" article failed. Only in the 1770s would

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<sup>40</sup> See John J. Zimmerman, "Charles Thomson, 'The Sam Adams of Philadelphia'," *The Mississippi Valley Historical Review* 45 (1958), 464-480; Joseph S. Foster, *In Pursuit of*

Galloway's consistently conservative approach toward relations with England become untenable, as mechanics deserted him for his rejection of non-importation and his plan of Union was discarded as naive or Tory-minded.<sup>41</sup>

The clamor over royalization subsided as the plan was shelved in England and the following years witnessed a surprising rapprochement of the proprietary and Quaker party signified by mutual concessions. Pennsylvania was confronted with a number of external challenges on which a joint position was articulated and both groups pursued a politics of ingratiation with the Crown, taking a very conciliatory approach in the subsequent series of American-British conflicts. The Proprietary-Anglican and Presbyterian coalition of the mid-Sixties faltered and Presbyterian presence in the assembly decreased until 1771, when it began to increase sharply.<sup>42</sup> But the ruling elites seriously misjudged popular sentiments and their ability to keep them in check. The insufficient leadership of the Assembly and the conservatism of the merchant elite in resisting England led to a massive erosion of their political and social authority. Extralegal councils and committees, increasingly consisting of inexperienced men from lower social strata, took the helm and would change the face of Pennsylvania politics forever.

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*Equal Liberty. George Bryan and the Revolution in Pennsylvania* (University Park: The Pennsylvania State University Press, 1994).

<sup>41</sup> Newcomb, "Stamp Act," 270.

<sup>42</sup> Bockelman and Ireland, "Internal Revolution," 132 (graph).

### *1.4.3 Social Diversity and the Emergence of Popular Radicalism*

Philadelphia's population on the eve of the Revolution was not only highly diverse, but also highly stratified. Colonial societies viewed themselves as divided into three basic orders of men: the better, middling, and lower sort. The first included wealthy landholders as well as merchants and professionals - men who did not perform manual labor. Artisans or mechanics and average shopkeepers and yeoman farmers who performed manual labor, but were independent and at least modestly propertied formed the second group, while the meaner mechanics, unskilled wage and day laborers and sailors constituted the lower sort. At the very bottom of society were indentured servants and slaves, who were considered the temporary and permanent property of others.<sup>43</sup> There was a measure of upward mobility in Pennsylvania, and an artisan might excel a merchant in wealth despite his lower social status, though they generally - and realistically - were content with maintaining their status, not improving it. But the most conspicuous dynamic in eighteenth-century Pennsylvania and America as a whole was simply that the wealthy were getting wealthier, and the poor poorer. In Philadelphia this meant that the merchant class on the whole had benefited from economic developments in the second half of the century and was doing reasonably well even through the crises of the 1760s. The proprietary gentry, leading an aristocratic lifestyle based on its income from land rents, had also seen a considerable increase in its wealth and together with the top

15 percent of the merchant class formed the social elite of the province.<sup>44</sup> While shopkeepers and mechanics had opportunities for improvement, many of them struggled just to maintain the status quo and were anxious over declining into poverty and dependency. Wage laborers had to contend themselves with their lot, as they stagnated at the end of the social spectrum without hope of improvement, but ready to fill the alms- and workhouses when the economic boom-bust cycle reached its nadir and work was not to be had. The significant and visible increase in urban poverty disquieted the community and raised fears of social turmoil and dissolution.<sup>45</sup>

Politically the middle and lower strata of society in Pennsylvania were passive, failing to articulate a distinctive consciousness in the public sphere. The conflicts between Assembly and Proprietor rarely touched upon their lives. Election turnout was generally considerably lower than the colonial franchise warranted and voters duly elected their social superiors into office year after year.<sup>46</sup> This does not mean that different groups of laboring people did not have distinct beliefs and identities, as the previous chapter has shown.<sup>47</sup> But it took the Revolutionary context to bring these ideas into a

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<sup>43</sup> Billy G. Smith, "Philadelphia: The Athens of America," in *Life in Early Philadelphia. Documents from the Revolutionary and Early National Periods*, ed. Billy G. Smith, 3-26, 7.

<sup>44</sup> Brobeck, "Proprietary Gentry;" Thomas M. Doerflinger, *A Vigorous Spirit of Enterprise. Merchants and Economic Development in Revolutionary Philadelphia* (Chapel Hill, N.C.: University of North Carolina Press, 1986), 16.

<sup>45</sup> Gary B. Nash, *The Urban Crucible. Social Change, Political Consciousness, and the Origins of the American Revolution* (Cambridge, Mass.: Harvard University Press, 1979), 374ff; Billy G. Smith, "Inequality in Late Colonial Philadelphia: A Note on Its Nature and Growth," *WMQ* 41 (1984), 629-645; On responses to poverty see Gary B. Nash, "Poverty and Poor-Relief in Pre-Revolutionary Philadelphia," *WMQ* 33 (1976), 3-30.; John K. Alexander, *Render Them Submissive. Responses to Poverty in Philadelphia, 1760-1800* (Amherst: University of Massachusetts Press, 1980).

<sup>46</sup> Ryerson, "Portrait of a Colonial Oligarchy."

<sup>47</sup> Steven Rosswurm, *Arms, Country, and Class. The Philadelphia Militia and the 'Lower Sort' During the American Revolution, 1775-1783* (New Brunswick, N.J.: Rutgers University Press, 1987), 24ff. points out that deference was not necessarily internalized, but there was often simply no viable alternative.



public space where they clashed with competing ideas and thus enforced higher levels of group consciousness among mechanics as well as merchants that lead to clear articulations of interests through new institutional channels.<sup>48</sup> The mobilization campaigns of the 1760s had already been unusual in scope, bringing more voters to the polls than ever before. The first committees were formed to coordinate activities protesting English policies, but they were manned, as usual, by leading merchants. But in the debate over nonimportation following the Townshend acts, mechanics began to challenge the position of recalcitrant merchants and articulated a perspective of their own.

Pennsylvania merchants, as Thomas Doerflinger has explained, followed a "logic of moderation." Though genuinely concerned about their liberties, they advocated a temperate course since they were doing well under the status quo, rightly feared substantial damage to their business in the case of a more severe conflict, and were, by the nature of their occupation as importers, dependent on stable relations with England. The Quaker majority among merchants was disposed by its faith not to question the powers that be and, in respect to the internal politics of the province, was concerned that political upheaval might result in a Presbyterian hegemony spelling the end of religious freedom. Though merchants supported the first phase of nonimportation, many were not willing to continue under the risk of severely damaging their business. Material interests played a role in the 1771 schism among the merchant community when dry-goods merchants

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<sup>48</sup> Young, "How Radical Was the American Revolution?," 331f.; Doerflinger, *Vigorous Spirit*, 168.

with depleted stores ended the boycott, while wet-goods merchants with open supply lines opted for continuation.<sup>49</sup>

Mechanics became avid supporters of non-importation because it eliminated their major competition - cheaper, better English imports. American manufacturing had experienced a boom during the war years, but subsequently suffered doubly from its disadvantaged position in the empire's mercantilist system. The patriotic enthusiasm for homespun offered interesting opportunities for local petty producers. When the merchants responded hesitantly to the Townshend Acts of 1768 mechanics became independently active and after the repeal, two opposing camps - dry-goods merchants versus wet-goods merchants and mechanics argued over the continuation of nonimportation. In June 1771 they formed a "Mechanicks Committee" to enforce the boycott.<sup>50</sup> Although unsuccessful in this respect, Clement Biddle observed that "the lead of Affairs here is (I think) now got too much out of the hands of the merchants."<sup>51</sup> By the next wave of protest, over the 1773 Tea Act, a core group of radicals headed by Charles Thomson, had evolved which heavily relied on mechanic support and was censured for its endorsement of the Boston Tea Party by Anglican and Quaker merchants.<sup>52</sup> Forcing the merchants who had been consigned to sell the East-India company's tea to back down, they prepared for a further round of non-intercourse and non-consumption of British goods, despite vocal complaints by the dry goods merchants. In one of the last compromises, Thomson

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<sup>49</sup> Doerflinger, *Vigorous Spirit*, 168-180.

<sup>50</sup> Charles S. Olton, "Philadelphia's Mechanics in the first Decade of the Revolution, 1765-1775," *JAH* 59 (1972), 311-326, 319.

<sup>51</sup> Quoted in Rosswurm, *Arms*, 41.

managed to form a common committee of all involved groups for communicating with Boston over the Tea crisis and Port Bill, though not without mechanic protests about the questionable mode of election that forced them to accept moderates or have no committee at all.<sup>53</sup>

In the eyes of self-confident middling men the conservatism of merchants and the languid Assembly disqualified these groups as effective representatives and leaders of the community. Political pamphlets accused them of unpatriotic, self-interested behavior and emphasized the political rights of mechanics and the superior civic virtue of the middling sort. A "Brother Chip" complained that "we have tamely submitted [...] so long, that those Gentlemen make no scruple to say, that the Mechanics (though by far the most numerous, especially in this Country) have no Right to *speak* or *think* for themselves. [...] Have we not an equal Right of electing, or being elected?"<sup>54</sup> In the wake of the founding of the "Patriotic Society, " which was to serve as a mechanic lobbying organization, "Publius" legitimized the artisan claim to power:

[...] experience proves, that the very men whom you entrust with the support and defense of your most sacred liberties, are frequently corrupt, not only in *England*, but also in the Colonies. [...] If ever therefore your rights are preserved, it must be through the virtue and integrity of the middling sort of people, as farmers, tradesmen, &c. who despise venality, and best know the sweets of liberty."<sup>55</sup>

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<sup>52</sup> Richard Alan Ryerson, "Political Mobilization and the American Revolution: The Resistance Movement in Philadelphia, 1765-1776," *WMQ* 31 (1974), 565-588, 568f.

<sup>53</sup> Charles S. Olton, *Artisans for Independence. Philadelphia Mechanics and the American Revolution* (Syracuse, N.Y.: Syracuse University Press, 1975), 62f. As a result of the mechanics' protest six of their number were added to the slate and the two most offensive candidates, the conservative William Smith among them, were removed; see Olton, "Philadelphia's Mechanics," 324.

<sup>54</sup> Quoted in Olton, *Artisans for Independence*, 52.

<sup>55</sup> *Ibid.*, 55.

This was the language of Constitutionalist radicalism and writers were in fact voicing certain demands, such as opening Assembly sessions to the public, which would become part of the Constitution's efforts at democratization.<sup>56</sup> In the 1771 election the mechanic vote deserted Joseph Galloway, shifted to the Dickinson ticket, and succeeded in electing an artisan tailor into the assembly. Mechanics were increasingly running for and occupying local offices. At the same time members of the lower sort were showing more confidence, as when sailors violently resisted custom officers' attempts at collecting taxes for small quantities of merchandise they sold on their own. They employed tar and feathering and other means of public humiliation to drive home their point.<sup>57</sup> But this was only the first phase in the development of a radical movement. Already several hundred new men had entered politics through the committee system, but most of them were still merchants, though generally younger, less affluent, and more frequently Presbyterian than the established elite.<sup>58</sup> The mechanics had succeeded in establishing themselves as a constituency with considerable influence and prepared the ground for further advances. Between 1774 and 1776 a second wave of committee activity radicalized Pennsylvania politics, leading to the ultimate break with the Assembly and the securing of Pennsylvania's vote for independence.

Though the Quaker Party was having a more difficult time in the Assembly many voters remained conservative until the very end, requiring

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<sup>56</sup> *Ibid.*, 56.

<sup>57</sup> Rosswurm, *Arms*, 31ff.

<sup>58</sup> Ryerson, *Revolution Is Now Begun*, 86-88. The appendices provide extensive information on the names, occupations, and incomes of all known men involved in the committee movement.

the radicals to develop a strategy of circumvention. In this they were aided by the radicals in the Continental Congress who needed Pennsylvania on their side, especially as the question of Independence became a serious alternative in 1776. An enlarged and radicalized city committee was to assure the province's participation in a Continental Congress - the Assembly immediately chose a conservative delegation of its own, ignoring instructions by a convention of resistance committees, only to find that the appointees themselves were turned around and endorsed the Continental association, a coordinated boycott which would be overseen by local committees.<sup>59</sup>

As the mechanic leadership consolidated itself in unison with radical merchants in the Committee of Sixty-Six elected in November 1774, new men appeared out of nowhere representing even more radical sentiments that were embodied in the Committee of One Hundred created in August 1775, on which mechanics already held a 45 percent share of seats. Conservatives styled them "needy, desperate men, who could not lose anything but might gain something in the contest [...]."<sup>60</sup> Desperation there was, as the effectiveness of non-importation brought the economy, including local producers, to a standstill, while England remained intransigent. Economic hardship pushed the middling and lower sort even further. Radical ideology emanated from the *United Company of Philadelphia for Promoting American Manufactures*, formed by mechanics in 1775, and the militia which became the institutional focus of the lower sort. On April 25, 1775 about 8000 men of all denominations, ranks, and ethnic backgrounds met and

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<sup>59</sup> This section follows Ryerson, "Political Mobilization," and Olton, *Artisans for Independence*, 65-80.

formed an Association. Conservative gentlemen joined out of pressure and in the hope of exercising a moderating influence on armed members of the lower sort, who constituted the bulk of militiamen. James Allen of the powerful Allen dynasty confided to his diary that "I have no opinion that this association wil[ll] be very useful in defending the City: as they have refused to be bound by any [Articles] & have no subordination. My inducement principally to join them is that a man is suspected who does not; & I chuse to have a Musket on my shoulder, to be on a par with them; & I believe discreet people mixing with them, may keep them in."<sup>61</sup>

Militiamen came to represent the "left wing" of the Pennsylvania resistance movement, pursuing an agenda of pronounced egalitarianism and democratic procedure as radical conceptions of politics and society were extended into the military sphere. They demanded a voice in the choice of uniforms, calling for simple affordable hunting shirts to "level all distinction," struggled for a militia law that would guarantee adequate compensation, supplies (poorer men could not afford buying their own guns and equipment), and compulsory service in order to fairly distribute the burden of military service. A Committee of Privates would try offenses among privates and participate in cases involving officers and privates. Officers' proposals would require the assent of the company. The Committee of Privates, consisting of new men of moderate means with extensive ties to the lower sort, became an influential voice in Pennsylvania politics and a node of radical thought and activity. It demanded the suffrage for unnaturalized

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<sup>60</sup> Quoted in Olton, *Artisans for Independence*, 73

<sup>61</sup> "Diary of James Allen", HSP.

German and other disfranchised Associators, and, despite its Whiggish fear of standing armies, supported the idea of taking impoverished men into paid militia service.<sup>62</sup> Only after the Committee had pleaded with associators in an appealing to place the public good above legitimate associator interests did they reluctantly, after having rejected previous proposals, endorse a bill that formally legalized and organized the Association.

In 1776 the committees, radicalized by another wave of newcomers to politics, became the prime movers for Independence, which both the conservative Galloway group and Dickinson's moderates opposed. Thomas Paine's *Common Sense* brilliantly articulated the dual plea of the radicals for an independent America and a new conception of popular government. Though Adams detested Paine's "silly projects" of unicameral government he was instrumental in providing Congressional support for the Pennsylvania radicals, since Pennsylvania's commitment to Independence hinged upon the displacement of the Assembly by the committee radicals.<sup>63</sup> On May 10 Congress passed a resolve which "recommended to the assemblies and conventions of the United Colonies, where no government sufficient to the exigencies of their affairs has been hitherto established" to "adopt such government as shall, in the opinion of the representatives of the people, best conduce to the happiness and safety of their constituents in particular and America in general." A committee consisting of John Adams, Richard Henry Lee, and Edward Rutledge then formulated a preface with which the resolve was published on May 15. It stated that "it appears absolutely irreconcilable

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<sup>62</sup> Rosswurm, *Arms*, 49-72.

to reason and good Conscience, for the people of these colonies now to take oaths and affirmations [...] under the Crown of Great Britain, and it is necessary that the exercise of every kind of authority under the said crown should be totally suppressed [...]."<sup>64</sup> This formulation could and was meant to be interpreted to mean that a government such as Pennsylvania's, though fully functional, could no longer serve as a legal representative of the people as it legally owed fealty to the King. Pennsylvania radicals immediately referred to the Congressional Resolve as an argument for denying the assembly's legitimacy and began organizing a provincial congress which would make preparations for a constitutional convention as the first step in forming a government dissociated from the Crown and grounded entirely on the principle of popular sovereignty. David Hawke has argued that it was only through the dedication and manipulative talent of a small group of radical zealots - among them Paine, Timothy Matlack, James Cannon, Thomas Young, Christopher Marshall and the future Anticonstitutionalist Benjamin Rush that the Assembly could be destroyed, Independence endorsed, and a new Constitution established in what was still a generally conservative province.<sup>65</sup> "I aver, there is more opposition to independence in this Province, than in all the Continent besides," Thomas Young complained.<sup>66</sup> It is a fact that the Quaker party succeeded in filling vacated seats with its candidates in the May by-election of 1776. Even in the Fall elections under the new frame of government, the Constitutionlists failed to

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<sup>63</sup> See ch. 2.6.2 on Paine; Adams to Benjamin Rush (Quincy, April 12, 1809) in *The American Enlightenment*, 162-165, 163.

<sup>64</sup> Quoted in David Hawke, *In the Midst of a Revolution*, 120.

<sup>65</sup> *Ibid.*, 165-179.



carry Philadelphia, gaining their majority only through the staunch support of the frontier counties. "The rich, having been used to govern, seem to think it is their right; and the poorer commonality, having hitherto had little or no hand in government, seem to think it does not belong to them to have any," a "gentleman in a neighbouring state" tried to explain this phenomenon.<sup>67</sup> But despite a continuing power base among parts of the populace, both outsiders and insiders realized the old powers were fighting a losing battle. Dr. James Clitherall, on visit to Philadelphia from Charleston, observed "that parties ran high-the body of the people were for Independency. The Proprietary, John Penn, and most of the gentlemen attached to his interest, were against it lest the form of government should be changed [...]." James Allen, Assemblyman and member of one of the leading families, observed that "moderate men look blank" adding: "The plot thickens; peace is scarcely thought of; Independency predominant. Thinking people uneasy, irresolute & inactive. The Mobility triumphant."<sup>68</sup> The success of the radicals in winning "independence and a republic"<sup>69</sup>, as the studies by Ryerson and Rosswurm show, was not a matter of an isolated group of extremists launching a coup d'état. Their success rested on the results of a decade-long process involving the mobilization and politicization of thousands of citizens who were "less affluent, less well educated, and far more obscure" than the

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<sup>66</sup> An Elector [Thomas Young], "To the Free and Independent Electors of the City of Philadelphia," *PG* (May 15, 1776).

<sup>67</sup> "Extract of a letter from a gentleman in a neighbouring state to his friend in this city, dated July 16, 1776," *PEP* (July 27, 1776).

<sup>68</sup> "Extracts from the diary of Dr. James Clitherall, 1776," *PMHB* 22 (1898), 469; Diary of James Allen, HSP.

<sup>69</sup> An Elector, *PG* (May 15, 1776).

province's established political class.<sup>70</sup> Their activity, legitimized through the articulation of an inclusive model of politics virtually stunned the representatives of the old elite and fundamentally altered Pennsylvania's political structure and the nature of its political discourse.

Just as a myriad of factors influenced whether statistically seemingly identical members of the social elite became Whigs, Tories, or Loyalists, a complex net of variables determined the behavior of members of the middling and lower sort, who occupied a spectrum of positions from traditional acquiescence to democratic radicalism. The very fact that such a range of choices beyond deference now existed in forms beyond the early modern rituals of crowd action testifies to the revolutionary change that occurred in Pennsylvania. The radical movement was not the work of a homogenous and united underclass and its aim was not to "turn the world upside down," even if its detractors accused it of just that. But it transformed the political and social landscape of Pennsylvania as a new consciousness of rights, interests, and conflicts of interest evolved among previously apolitical parts of the population. The discourse community that evolved to ponder the meaning of the republic after 1776 was broadened in content, its hierarchical structure was leveled at least in part. The polarization that occurred through the struggle over the Constitution tends to obscure the diversity of opinions and interests which shaped the Constitutionalist and Republican coalitions after 1776. Before moving to the analysis of the

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<sup>70</sup> Ryerson, *The Revolution Is Now Begun*, 202. Olton, *Artisans for Independence*, 76 described the May election as a "last-ditch effort by traditional political forces to stem the ineluctably rising radical tide."

ideological constructions of and exchanges between these parties it will be useful to give a very brief outline of politics between 1776 and 1790.

#### *1.4.4 Power Struggles, 1776-1790*

A Provincial Conference in June made the necessary preparations for the Constitutional Convention which sat from July to September and declared the new Constitution to be in force on September 28, 1776.<sup>71</sup> Opponents quickly organized and voiced their opposition in several meetings in October and November. But they failed to prevent the organization of a government under radical control, though it was severely impaired due to the military situation and domestic obstruction. The well-organized drive for a new convention in the Spring of 1777 was countered by affirmative petitions, and hopes for a quick revision were smashed when the British occupied Philadelphia in September and the government fled to Lancaster. After the British evacuation in June 1778 a compromise was struck in autumn to lay the issue before the people in a referendum. The issue was widely debated and a flood of petitions in favor of the Constitution served as justification for the Constitutionals to cancel the plebiscite. During this time Constitutionals passed a series of test-acts which aimed at discouraging Tories, but were equally effective in barring Anticonstitutionals from the polls since they demanded allegiance to the Constitution in its current form. The oaths were widely criticized as illiberal, but staunchly defended by

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<sup>71</sup> See ch. 2.3.1.

radicals as necessary weapons in the battle against dangerous internal enemies.<sup>72</sup>

In 1777 Constitutionals had formed the Whig Society. It was complemented in 1779 by a Constitutional Society and by the opposition's Republican Society. These clubs functioned as party headquarters where policy was planned and statements were issued and their names were soon identified with the rivaling groups. These groups "nominated candidates, fought election campaigns, adhered to clearly understood though unwritten platforms, and voted in the legislature with soldierly precision," deserving the title of the "first party system" in America.<sup>73</sup>

The composition of the two parties continued the trend of the early 1770s. Constitutionals proved particularly attractive to the less affluent, the western counties, non-commercial and frontier farmers, Presbyterians and the Scots-Irish. Republicans were preferred by majorities of the well-to-do and wealthy, professionals such as merchants and lawyers, the eastern counties, Quakers and Anglicans, and men of English descent. Germans were about split between the parties. An addition of the estimated property of Constitutionalist and Republican party members reveals about a 1:2 ratio.<sup>74</sup>

The Constitution remained a key issue in public discourse. The Constitutionals viewed it as a bulwark of the people's liberty against what they characterized as the aristocratic pretensions of Republicans, who were

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<sup>72</sup> See ch. 2.4.3.

<sup>73</sup> Jackson Turner Main, *Political Parties Before the Constitution* (Chapel Hill: University of North Carolina Press, 1973), 174. For a view that stresses the lack of party cohesion see James Mott Aldrich, "The Revolutionary Legislature in Pennsylvania. A Roll Call Analysis," University of Maine: Unpublished Dissertation, 1969, 162-171.

identified as members of the old elite, neutrals and Tories. The Republicans attacked its unicameral system as legislative tyranny and accused its defenders of incompetence and self-interested designs. However they only resumed their campaign for replacement when they gained a 13-12 majority in the Council of Censors in 1783, a body elected to review the government's performance and to suggest constitutional amendments. Lacking the 2/3 majority required to call a convention the Republicans launched an aggressive campaign for a new Constitution. It backfired and when the Censors reassembled in June 1784 the Constitutionlists, by a series of resignations and new attendances had gained a 14-10 majority.<sup>75</sup>

A number of other issues was characterized by ideological differences, as well as a politics of interest. Rampant inflation climaxed in a movement for price controls in 1779 which the Constitutionlists supported under massive pressure from the street. The attempts at price-fixing turned into an ideological exchange between supporters of a moral economy which held property interests socially responsible and advocates of economic liberalism arguing for free trade and the unrestricted use of private resources.<sup>76</sup> The failure of the price-fixing system led to social unrest climaxing in a battle between radical militiamen and a group of Republicans at James Wilson's home on October 4, 1779, an event that became known as the Fort Wilson Riot. The Constitutionlist government's military intervention against the militiamen disrupted the lower-middle sort coalition.

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<sup>74</sup> Main, *Political Parties*, 206ff; Roland Baumann, "The Democratic-Republicans of Philadelphia. The Origins, 1776-1797," Pennsylvania State University: Unpublished Dissertation, 1970, 594; 597.

<sup>75</sup> Arnold, *Republican Revolution*, 152-173.

<sup>76</sup> Foner, *Tom Paine*, 145-182.

Its organizational core having been shattered the lower sort's political movement dissolved into an "inchoate mass of discontent."<sup>77</sup>

In 1780 the Republicans gained a majority in the Assembly by carrying the mechanic vote in Philadelphia plus the eastern counties. The return to politics of John Dickinson as President of the Council in 1782 symbolized the new strength of the conservatives. Pennsylvania was being wracked by monetary crises, mutinies among unpaid soldiers and squabbles with neighboring states, but the Republicans managed to hold on to power until the Constitutionals staged a comeback in 1784/85.<sup>78</sup> The Bank of North America became the issue radicals had been looking for to attract agrarians while winning back the support of the urban middle sort. Robert Morris had become one of the most influential men in Pennsylvania in the course of devising a system of public credit for the Confederation. The Bank of North America, incorporated in 1782 was a key component in his system of economic nationalism which aimed at fusing the interests of economic elites to an American republic. Constitutionals attacked it in an anticipation of Jacksonian rhetoric as a monopoly giving a small group of private men special privileges and a dangerous influence on the state's economy and politics. Plans for an emission of paper money could and probably would have been torpedoed by the hard-money bankers simply by the refusal to accept the notes at nominal value. The *vox populi* sided with the Constitutionals. While farmers desired cheap money, long-term mortgages

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<sup>77</sup> See Rosswurm, *Arms, Country, and Class*, 203-227; John K. Alexander, "The Fort Wilson Incident of 1779: A Case Study of the Revolutionary Crowd," *WMQ* 31 (1974), 589-612.

<sup>78</sup> For an overview see Brunhouse, *Counter-Revolution*, 121-135; On the mutiny of the Pennsylvania line see Mary A. Y. Gallagher, "Reinterpreting the 'Very Trifling Mutiny' at Philadelphia in June 1783," *PMHB* 119 (1995), 3-35.

and a land bank, mechanics became anxious about the bank creating deflation, which was drying up the economy and complained of high interest rates they could no longer afford to pay in view of the economic slump. Despite protests that a repeal of the charter constituted an arbitrary infringement of property rights the Constitutionalist majority, after intense debates in the Assembly and the press, rescinded in 1785.<sup>79</sup>

The following years were characterized by the decline of the Constitutionalist party. After initial liberalizations the test-oaths were abolished for good by the Republicans in 1786, making available new voter pools for their party. Quakers and sectarian Germans and the traditional support from eastern counties, together with merchants, traders, mechanics and manufacturers attracted by the commercial-cosmopolitan perspective of the Republican platform assured a clear majority. The bank was rechartered and control of "Constitutionalized" institutions such as the College of Philadelphia, regained. Pennsylvania Republicans played an important part in the creation of the Federal Constitution, while Constitutionlists became Antifederalists without exception. After the successful ratification it was clear that the state constitution would also be revised along the lines of the Federal example. A convention was called in November 1789 which proclaimed the new Constitution on September 2, 1790.<sup>80</sup>

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<sup>79</sup> Janet Wilson, "The Bank of North America and Pennsylvania Politics: 1781-1787," *PMHB* 66 (1942), 3-28; M.L. Bradbury, "Legal Privilege and the Bank of North America," *PMHB* 96 (1972), 139-166; for an overview see Arnold, *Republican Revolution*, 216-225.

<sup>80</sup> Brunhouse, *Counter-Revolution*, 191-227.

## PART II

### THE PUBLIC POLITICAL DISCOURSE IN PENNSYLVANIA

#### 2.1 Sovereignty, Suffrage, and Representation

*"As in a natural, so in the civil Body, all the Parts are harmonious; there is no superfluous Order, none whose real Interest is detached from, or inconsistent with, the public Good. [...] The Nature and End of Government is not so mysterious, but a Person of common Sense, with tolerable Application, may attain a competent knowledge thereof, and with an upright Heart, Honourably perform any Part Providence may assign him." - Abraham Williams<sup>1</sup>*

As republicans the American Revolutionaries subscribed to the concepts of popular sovereignty and representation. The people were the ultimate source of all power in a legitimate polity, but power in the form of law-making and execution was exercised by elected representatives. The ritual of election signified the transfer of the people's power to their "trustees" and the latter's obligation to act on behalf of the electorate, lest they be replaced at the end of their term. However, this general maxim left room for interpretation. A major part of the political discourse since 1776 was devoted to reasoned debates, raging disputes, and even tumultuous riots, all about the question of who constituted the people and what characterized their relation to their representatives. Differences in political theory manifested themselves in a spectrum of positions on electoral rights, the proportions of representation, and the very foundations of citizenship. Nowhere was the struggle fiercer than in Pennsylvania. Here, reckless power politics aiming at depriving the enemy of his potential voters blended with a genuine ideological gulf between Constitutionalist and Republican positions both

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<sup>1</sup> "An Election Sermon" (Boston, 1762) in *American Political Writing*, vol.1, 3-19, 10; 14.



informed by discourses of natural rights, virtue, and political economy, but understood and combined in highly distinctive fashions.

While issues of colonial representation within the British imperial system were central to the debate until 1776 and informed much subsequent thought, the focus after Independence shifted to the question of citizenship and citizen's rights in the new republics. More than any other right, the franchise came to symbolize the individual's participation in the political process. It became, as Mark Kruman states, "the standard of full citizenship."<sup>2</sup> The virulence of the debate in Pennsylvania was massively increased by two contextual factors: the presence of a large neutralist and Tory element which made questions of loyalty and citizenship even more pertinent than in other provinces; and the severe political, economic, social, and economic crises that shook the state between 1776 and 1785 increasing social hostility and party wrangling. The combined influence of these factors resulted in complex and seemingly paradoxical notions of electoral rights that defy simple categorizations into classical/liberal or modern/pre-modern.

Meaning and relevance of the franchise were intimately connected with the problem of representation that had played such an important role in the conflict between Britain and her North American colonies. The Americans had refused to accept taxes laid by Parliament because they claimed they were not represented in that body. This argument rested on the fundamental principle of Anglo-American political thought that depriving someone of part of his property required his consent. Taxation as a withdrawal of property was only legal if effected by a body in which the taxed

individual was represented and thus implicitly consented to his taxation through his representative. Where this did not apply there could be "no Liberty, no Happiness, no Security; it is inseparable from the very idea of Property, for who can call that his own, which may be taken away at the Pleasure of another?"<sup>3</sup>

The British fully agreed with the principle of "no taxation without representation." However, they insisted that the Americans *were* represented, even if they did not elect members of Parliament. This body represented all British subjects and not merely those men who had physically participated in its election. Parliament pursued an indivisible public good with equal regard to every individual within the British realm. The electors choosing members of Parliament were themselves representative of the entire nation and it was thus irrelevant whether any American went to the polls in person or not. He fared no worse than the cities of Manchester, Birmingham, or Leeds, the merchants of London, or, in fact, "nine Tenths of the People of Britain" who did not elect MPs either. In the words of Thomas Whatley, Secretary of the Treasury under Grenville: "The Colonies are in exactly the same Situation: All British Subjects are really in the same; none are actually, all are virtually represented in Parliament; for every Member of Parliament sits in the House, not as Representative of his own constituents, but as one of that august Assembly

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<sup>2</sup> Kruman, 107.

<sup>3</sup> *The New York Petition to the House of Commons* (October 18, 1764) in *The Stamp Act Crisis. Prologue to Revolution*, ed. Edmund S. and Helen M. Morgan. New, revised edition (New York: Collier Books, 1965 [1953]), 8-14, 9.

by which all the commons of Great Britain are represented."<sup>4</sup> Within the conceptual frame of virtual representation the matter of voting rights was evidently secondary. There was no need to consider the inclusion of any disenfranchised part of the population, whether corporations, small property holders, women, or Americans.

How did the Americans respond to the idea of virtual representation, which Whatley argued for in his eloquent pamphlet, and which was enshrined in Blackstone's commentaries? The most prominent response, Daniel Dulany's *Considerations on the Propriety of imposing Taxes in the British Colonies* embraced the principle and turned it against Parliament. Virtual representation made sense in England, because there was a fundamental mutuality throughout society.

"The interests therefore of the non-electors, the electors, and the representatives, are individually the same; to say nothing of the connection among neighbours, friends, and relations. The security of the non-electors against oppression, is that their oppression will fall also upon the electors and the representatives. The one can't be injured, and the other indemnified." But there was no such "intimate and inseparable relation between the electors of Great Britain and the inhabitants of the colonies."

Though their long-term interests were "allied", this connection was not tangible "being deducible only by a long train of reasoning which few will take the trouble to [...] investigate." The English might actually exploit the colonies to relieve their own burdens, the consequences for themselves being "generally remote" and failing to "alarm the fears and engage the

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<sup>4</sup> [Thomas Whately], *The Regulations lately Made concerning the Colonies and the Taxes Imposed upon Them, Considered* (London: 1765), in *Stamp Act Crisis*, 17-23, 21.

passions of the English electors."<sup>5</sup> It was with this understanding of American distinctiveness in mind that the Stamp Act Congress concluded that "the people of these Colonies are not, and from their local Circumstances cannot be, Represented in the House of Commons in Great Britain."<sup>6</sup>

As Dulany's argument proves, it was possible to question the British position without questioning the principle of virtual representation. Gordon Wood and others have argued, that this is essentially what happened. When Americans started to think about representation and election in their new republics they were still guided by the ideal of a single interest society whose political leaders worked for a clearly definable 'common weal'. Consequently they did not pay any particular attention to the problem of electoral rights and tended to retain colonial regulations as entirely satisfactory.<sup>7</sup> When Antifederalists in the late 1780s insisted on small homogenous republics, they were furnishing arguments for virtual representation, and the elitists among them, such as George Mason, certainly thought in terms of a virtuous elite of representatives pursuing the common good independently of electoral influences.<sup>8</sup>

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<sup>5</sup> Daniel Dulany, *Considerations on the Propriety of imposing Taxes in the British Colonies, for the purpose of Raising a Revenue, by Act of Parliament*. Second Edition (Annapolis, 1765) in *Sources and Documents*, 24-32, 26; 27.

<sup>6</sup> *Declarations of the Stamp Act Congress*, in *Stamp Act Crisis*, 62-63, 63.

<sup>7</sup> See Wood, *Creation*, 173-181. Kruman also mentions the work of Greene and Pole as representative of this established view, which he then proceeds to refute. However, Wood is, as so often, more differentiated than the criticism suggests. His sections on actual representation in *Creation* (181-196) show he was aware of this tradition and its consequences for the suffrage in American political practice, even if he concludes that "few Americans in the 1780's were willing to face up boldly to the far-reaching implications" their notions of actual representation had for the central classical republican idea of a transcendent public good (quote on p. 196).

<sup>8</sup> See Cecelia M. Kenyon, "Men of Little Faith: The Anti-Federalists on the Nature of Representative Government," *WMQ* 12 (1955), 3-43.

But virtual representation was by no means an uncontested concept. Thus the Virginian Richard Bland formulated quite a different response than Dulany in his reply to Whatley's pamphlet. He dismissed the idea of virtual representation as "not only paradoxical, but contrary to the fundamental Principles of the English Constitution." It was incomprehensible "how Men who are excluded from voting at the election of Members of Parliament can be represented in that Assembly, or how those who are elected do not sit in the House as Representatives of their Constituents." Bland expressed the conviction that representatives were delegates representing the voice of the men who had elected them to the legislature. He based this understanding on the political history of Anglo-Saxon England, where, at some point in time, the Parliament of all freeholders had been replaced by one consisting of the representatives of all freeholders - a tradition undermined by the introduction of the forty Shilling property qualification in the Tudor era. That ninety percent of the British people were disfranchised was not an argument for depriving Americans of their rights, but an indicator of the corrupted state of British politics. Bland thought it would be "a Work worthy of the best patriotick Spirits of the Nation to effectuate an Alteration in this putrid Part of the Constitution" but he concluded that "the Gangrene has taken too deep Hold to be eradicated in these Days of Venality."<sup>9</sup>

Even Wood concedes that the circumstances of colonial politics were such that the theory and practice of representation was from the very beginning geared towards an older, medieval understanding of

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<sup>9</sup> Richard Bland, *An Inquiry into the Rights of the British Colonies* (Williamsburg, 1766) in *American Political Writing*, Vol. I 67-87, 73f.

representation based on delegation and instruction that the English had been moving away from since the late fifteenth century.<sup>10</sup> It was only in the revolutionary context, however, that the inconsistencies between this doctrine and the classical theory of government surfaced and that radical conclusions started to be drawn from it. As in the case of constitutional thought, Wood sees the locus of change in the 1780s, while Kruman perceives a wide-spread reliance on instructions, the most conspicuous manifestation of representative dependency, already in 1776.<sup>11</sup>

The implications of the doctrine of actual representation were profound in ways that could not have been anticipated in the 1760s. If representation was not virtual, if it depended on the active selection of delegates representing their constituencies, the right to vote was no longer incidental, but fundamental. After all, those who had no vote had no voice in the decisions that affected their life, liberty, and property. Bland recognized this when he noted that the suffrage was an "essential Right; a Right without which [...] all other Liberties were but a Species of Bondage."<sup>12</sup> But he found a convenient legitimization for the submission to the laws by those who remained excluded from the franchise even under the conditions of a liberal freehold suffrage. By their continuing residence they expressed their membership in the social contract through which they enjoyed the protection of their natural rights and implicitly acknowledged the regulations that ensured this protection. They had an unquestionable right to depart, but if

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<sup>10</sup> Wood, *Creation*, 183f.; on the prevalence of instructing representatives see Kruman, 76-81.

<sup>11</sup> Kruman, 76-81.

<sup>12</sup> *Ibid.*, 72.

they did not, they were bound to obey the laws of the realm, even as non-voters.

But it was equally possible to construct an ultra-democratic argument: if every individual was only obliged to submit to laws it had consented to, and if consent was expressed via the election of the representatives who made the laws, then submission to the laws could only be expected of enfranchised individuals. Ergo, all individuals recognized as citizens must have a right to vote.<sup>13</sup>

The presence of both the theories of virtual and actual representation in American discourse during the Revolution ensured the widest possible range of alternatives in the question of voting rights - from a view of the suffrage as a privilege which could be restricted almost ad infinitum without endangering the liberty of the people to an inclusive definition of the vote as a basic right inherent in citizenship. There were, in fact, few Revolutionaries, whether among the radicals of Pennsylvania or die-hard High Federalists of later periods, in favor of either extreme. The majority of opinions on voting rights lay in the spectrum ranging from property requirements to the taxpayer suffrage for adult males. This seemingly narrow span, it needs to be emphasized, constituted a major distance in the eighteenth-century context. Wood has argued that the movement towards white adult male suffrage beyond property qualifications alone justifies the term Revolution.<sup>14</sup> Property qualifications had come under increasing attack in the 1770s. With the writing of the first state constitutions they became a pivotal issue, positions

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<sup>13</sup> See Pole, *Political Representation*, 466f. on the use of this argument by English radicals.

<sup>14</sup> Wood, "Equality and Social Conflict," 706.

on which reflected divergent interpretations of republicanism. The issue of voting rights for free blacks and women, most prominent in Massachusetts and New Jersey, respectively, are further proof of a spirit of republican experimentation as well as a good measure of uncertainty over the suffrage question.<sup>15</sup> The Revolution opened a realm of possibility, of alternatives that lead away from the traditional understanding of the franchise, a process most strikingly exemplified by the vote for women in New Jersey from 1776 to 1807.<sup>16</sup> The 19<sup>th</sup> century trend towards adult white male suffrage, which entailed the systematic disfranchisement of free African-Americans, illustrates the subsequent contraction into a new narrowly defined status quo, which, despite reformist challenges, survived until the Civil War and beyond, into the 1960s.

Pennsylvania's taxpayer suffrage and the accompanying debate seem to prefigure the Jacksonian "era of the common man," the roots of which do in fact reach back into the Constitutionalist-Republican discourse.<sup>17</sup> But the Pennsylvania radicals' approach toward the franchise is not an expression of liberalism. Their democratic egalitarianism was intertwined with clearly traditional notions of citizenship. A suitable label for what looks like a conceptual hybrid in retrospect might be 'democratic exclusivism', or the less

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<sup>15</sup> An anonymous Pennsylvanian illustrates the sense of newness in the building of governments, stating that "it will probably be of benefit to have some little difference in the forms of government, as those which do not like one, may reside in another, and by trying different experiments, the best form will the sooner be found out, as the preference at present rests on conjecture." *Four Letters on Interesting Subjects* (Philadelphia, 1776) in *American Political Writing*, vol. I, 368-389, 387.

<sup>16</sup> The status of women as autonomous individuals became an important issue in regard to the question of the property rights of the wives of disowned loyalists. See Joan R. Gundersen, "Independence, Citizenship, and the American Revolution," *Signs* 13, (Fall 1987), 59-77. Blacks enjoyed the right of the suffrage, at least formally, in most free states until they were disfranchised during the first third of the 19<sup>th</sup> century. See Winthrop D. Jordan, *White Over Black. American Attitudes Toward the Negro, 1550-1812* (Baltimore, Md.: Penguin Books, 1968), 412-414.

<sup>17</sup> See Kim T. Phillips, "The Pennsylvania Origins of the Jackson Movement," *Political Science Quarterly* 91 (1976), 489-508, 491.



obviously oxymoronic 'classical republicanism from the bottom up'. The society conceived by the Constitutionals relied on the classical belief in a single interest society and its citizens' virtue - i.e. the subordination of their private interest to the public good. However, they awarded this badge of republican citizenship to the common man rather than to the established elite of wealthy, educated gentlemen traditionally considered to be the proper source of wisdom and virtue.<sup>18</sup> They envisioned a homogenous, harmonious polity, but proposed to find it not in a system of deference, but in a community of equals. This was to be created by excluding the unvirtuous, self-interested element - "the aristocracy" - and its minions from the body politic. The practical result of this hybrid theory was a perplexing combination of a radical democratization of electoral rights and their severe curtailment through a series of undemocratic, discriminatory test oaths.<sup>19</sup>

How could this paradoxical practice be successfully justified?<sup>20</sup> How could a popular communalist discourse dominate the politics of the most heterogeneous and economically developed region of North America?<sup>21</sup> I will argue that much of this success was owed to the condition of war. On the

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<sup>18</sup> One of the clearest American statements to this effect is the "Essex Result" which soberly stated that "we are to look further than to the bulk of the people, for the greatest wisdom, firmness, consistency, and perseverance." Such "qualities will most probably be found amongst men of education and fortune." From those "whose private affairs compel them to take care of their own household, and deprive them of leisure, these qualifications are not to be generally expected." Theophilus Parsons, *The Essex Result* (Massachusetts, 1778), in *American Political Writing During the Foundation Era, 1760-1805*, 2vols. (Indianapolis: Liberty Press, 1983) vol.1, 480-522, 490f.

<sup>19</sup> Wood perceives a wide gap between rhetoric and reality, but while there was surely no "rising of the masses against the few" it is clear from the work of social historians such as Steven Rosswurm that the lower sort and middling sort were actively conceptualizing their experience in democratic and egalitarian terms. See Wood, *Creation*, 89 and Steven Rosswurm, *Arms, Country, and Class: The Philadelphia Militia and the 'Lower Sort' During the American Revolution, 1775-1783* (New Brunswick and London: Rutgers University Press, 1987).

<sup>20</sup> A pioneering study of American suffrage remarks that the Constitutionals' "system of loyalty oaths" was "so harsh indeed as to be incompatible with their professed regard for democratic practices." Chilton Williamson, *American Suffrage. From Property to Democracy, 1760-1860* (Princeton, N.J.: Princeton University Press, 1960), 120.

one hand the conceptions of unity and virtuous sacrifice appealed to and morally elevated the community in the wake of numerous war-related crises. On the other hand a clearly defined internal political enemy merged with the external enemy to produce a formidable *Feindbild* on which the political, social, and economic turmoil affecting Pennsylvania since 1776 could convincingly be blamed. As a language of crisis and conspiracy Pennsylvania radicalism thus both gave meaning to and derived its meaning from the existential threat of war.

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<sup>21</sup> For Philadelphia as an economically progressive city see Sam Bass Warner, Jr., *The Private City. Philadelphia in Three Periods of its Growth* (Philadelphia: University of Pennsylvania Press, 1968), 3-21.

## 2.2 Ancient Constitution or Mechanical Polity? Thinking the Pennsylvania Republic in 1776

*"[...] it appears highly necessary to lay before you in the plainest manner the danger of allowing a legislative body, which is the creature of the constitution to alter, amend or regulate the same."*  
"The Considerate Freeman No. II,"<sup>1</sup>

### 2.2.1 Pinpointing the Moment of Constitutional Transformation

As Independence became more and more of a real possibility in early 1776, Americans shifted their attention from the problem of their role within the British constitutional system to that of creating a constitutional basis for thirteen sovereign republics. The consensus historians of the 1950s, who de-emphasized the revolutionary nature of this process, stressed the continuity with colonial traditions in the new systems of governments. This political continuum was viewed as thoroughly liberal. Since the days of Hartz, scholars have once again come to acknowledge the considerable changes the American Revolution brought about in constitutional thought. As the Revolution has come under ever closer scholarly scrutiny, the relationship between tradition and innovation and the process of transformation and innovation has become more difficult to define. Conservative intentions bred unexpected innovations while seemingly innovative ideas, at second glance, reveal rich genealogies. It seems hard to deny that the Federal Constitution of 1787 could not have been thought in 1763. But there is no straight path between these two political worlds, rather an intricate maze of clashing perceptions, ideas, and interests, in which high

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<sup>1</sup> *PP* (November 19, 1776).

theory effortlessly merged with local *Realpolitik* as communities split over the proper definition of shared conceptual vocabularies.

Another aspect merits attention. All too easily, the developments between 1763 and 1787 can come to be seen as developments *towards*, do we construct a long and winding road to Philadelphia as we invest Revolutionary constitutional thought with a *telos* that both the subsequent longevity of the Federal Constitution and the eloquence of Federalist rhetoric temptingly suggest. While any scholar is free to consider the Constitution the epitome of American statecraft, it seems disingenuous for historians, though not perhaps for political scientists, to measure earlier or competing political theories with a Constitutional yardstick. This does not mean, of course, that we cannot employ the benefit of hindsight in explaining how certain ideas in the Federal Constitution reach back to discussions in 1776, 1763, or, for that matter, the Putney debates.

Two questions are crucial for a clearer understanding of the Revolutionary process: at what point did innovation outweigh tradition? Where do we locate the significant turning point in constitutional thought that marks the difference between what was constitutionally conceivable in 1763 and in 1789? More specifically: should the turning point be located at the end, the middle, or the beginning of the 'long Revolution', in 1789, 1776, or 1763? And what part do classical republicanism and liberalism - and their relation to each other - play in terms of the development of constitutional thought between tradition and innovation?

Gordon Wood's revisionism replaced the liberal continuity model with a classical republican tradition reaching up to 1776. In *The Creation of the*

*American Republic* Independence, as the moment when classical theory became republican practice, marked the beginning of the transformation to liberalism. In terms of constitutional thought, Wood argued that in 1776 a majority of Americans still lacked a clear understanding of constitutions as a higher law distinct from statute law. It was generally accepted that assemblies, which had transformed themselves into provincial congresses, wrote and amended constitutions while exercising legislative functions. Power was concentrated in the legislatures which were viewed as organically connected to the people, contrary to the emasculated executive. Wood does observe isolated assertions of the distinctiveness of constitutional law, but principally from groups "most fearful and estranged from the Whigs' assuming power." Though these views were accepted "rapidly" in the following years, there were in 1776 only "rudimentary efforts to *make effective* the distinction [my emphasis, T.C.]." <sup>2</sup> The full development of a 'modern' constitutional theory as represented in the Federal Constitution required an essential factor added only during the 1780s - increasing dissatisfaction with and suspicion of the legislatures, which until then had been accepted as self-evidently representing the people's interests. <sup>3</sup> It was the growing distrust of the people's representatives, who came to be seen as part of a heterogeneous structure of competing interests, that led to demands for sharply differentiating between law-making and constitution-making bodies and for clearly circumscribing legislative authority by means of a supreme law. This changing understanding of the meaning of

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<sup>2</sup> Wood mentions North Carolina freeholders, some New England towns, and New York mechanics Wood, *Creation*, 308; 309.

<sup>3</sup> *Ibid.*, 328.

constitutions is an important part of the political-institutional aspect of what Wood regards as the transformation from classical republicanism to liberalism.

Wood's thesis has recently been challenged by Marc Kruman, who has little use for a stringent classical republican-liberal differentiation. Echoing Bernard Bailyn, he sees as the unifying theme of Revolutionary discourse the "pervasive fear of arbitrary power" which served as a catalyst amalgamating classical republican and liberal ideas to form a "distinctly American alloy" of political thought incorporating both "devotion to the commonweal and commitment to the security of individual rights."<sup>4</sup> By 1776, Kruman argues, Americans had already realized from their experiences with the Crown and Parliament that virtue alone was an insufficient means of protecting liberty. As a result they devised "mechanical polities" which provided institutional safeguards to ensure a diffusion and limitation of governmental power. Thus the Revolutionaries of 1776 understood Constitutions to be fundamental laws which served to restrain the power of governments. The executive and legislative branches were equally distrusted. The special nature of constitutional law and of constitution-making bodies was frequently asserted and popular consent to constitutional constructions was sought in various forms. Provincial congresses, even if they grew out of assemblies, were thought of as clearly distinct from ordinary legislatures. Declarations of Rights and the separation of powers were employed as mechanisms to restrain governmental power in the interest of preserving the people's liberty. In other words, the Revolutionaries of 1776

had already made the transition from conceiving themselves as an organic *Gemeinschaft* in which government embodied society and mirrored its order to the model of a modern individualized *Gesellschaft* where representatives were mistrusted delegates restrained by constitutional, institutional, and electoral mechanisms.<sup>5</sup> Consequently, the Federal Constitution represented no intellectual innovation over the early state constitutions, but merely a nationalized version featuring some technical improvements.

The following discussion will show why the interpretations of both Wood and Kruman are not satisfactory, at least for Pennsylvania. In their desire to grasp the essential character of constitutional thought in 1776 they gloss over differences in political theory which are themselves essential for a proper understanding of subsequent developments in the discourse on republican government. It is necessary to step up to the Revolutionaries of 1776 and examine the patterns of competing constitutional conceptions. What may perhaps appear as a minor variation from a distance, becomes a fundamental difference in the context of grand theory while simultaneously reflecting competing interests in nitty-gritty power struggles. Constitutional traditionalism and modernism coexisted in different ways within different Revolutionary milieus.<sup>6</sup> In their tendency to generalize Wood and Kruman mistakenly focus on the question of the presence or absence of modern constitutional thought in 1776. As a result they end up with incomplete

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<sup>4</sup> Kruman, xii; 155.

<sup>5</sup> *Ibid.*, x; ch. 2 discusses constitutional theory.

<sup>6</sup> This should actually not surprise Wood. After all he gave a compelling description of John Adams' anachronistic adherence to a classical interpretation of politics that had been surpassed by Madison and the Federalist mainstream. I am arguing for a similar constellation in reverse. see Wood, *Creation*, ch. XIV (The Relevance and Irrelevance of John Adams).

pictures that contradict each other. Some of those contradictions can actually be resolved by taking a more pluralistic approach to the subject.

Wood is clearly mistaken about the lack of modern constitutionalism in 1776 except among disaffected groups. Radical Pennsylvanians were vocally demanding a separation of constitutional and positive law even before Independence. Embodying the middling sort's demand for a greater share of political power, they demanded and employed constitutional restraints as a means of increasing their influence and restraining the traditional power elites, just as social conservatives veered toward notions of government that supported the leadership claims of those elites. On the other hand, the radicals were far from constructing a mechanical polity in the sense of the Federal Constitution, as Kruman supposes. Their distrust was focused on institutions and practices representing elite power such as senates distinguished by property qualifications or executives with veto and excessive appointment powers. Disregarding institutional checks and balances they concentrated power in the popular legislatures which they trusted to have made truly representative of the people at large by broadening the electorate and increasing its role in the political process.

### *2.2.2 Radicals, Conservatives, and Constitutional Thought*

The most recent and thorough study on Revolutionary ideology in Pennsylvania, *A Republican Revolution* by Douglas Arnold examined the three most important pamphlets from 1776 dealing with constitutional issues: "Demophilus" *The Genuine Principles of the Ancient Saxon, or English, Constitution* (subsequently *Genuine Principles*); *Four Letters on Interesting*



*Subjects* (subsequently *Four Letters*), and *An Essay on a Frame of Government for Pennsylvania* (subsequently *Essay*).<sup>7</sup> Arguing within Wood's interpretive frame, Arnold concludes from his reading that there is no "totally coherent body of political theory" of constitutional thought evident in the texts, as they blend old-fashioned and innovative elements and reveal many "inconsistencies and unresolved problems." On the other hand he notes that "it will not do to underestimate [...] the extent to which certain American thinkers, particularly in Pennsylvania, had worked out the basic principles by the outbreak of the Revolution." He lists the four essential principles contained in these representative pamphlets that formed the common ideological ground which would inform the political thought of both Constitutionalists and Republicans:

- I. Inalienable natural rights, such as religious liberty, representation, and the civil liberties contained in Bills of Rights.
- II. Distrust of power from which followed the necessity of preventing tyranny and corruption through constitutional devices such as the prohibition of plural officeholding, rotation in office, checks and balances between governmental branches.
- III. The idea of government as servant and product of the people, expressed in arguments for equal representation, residential requirements for representatives, local participation in government, and annual elections.
- IV. The "emerging conception of constitutions as fundamental law" and the need for conventions, which implied a 'modern' concept of popular sovereignty.<sup>8</sup>

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<sup>7</sup> Arnold, *Republican Revolution*, 25-40. Selsam, 174-175, briefly outlines some ideas of the *Essay*, *Four Letters* and *Genuine Principles* but fails to provide any interpretation.

<sup>8</sup> Arnold, *Republican Revolution*, 38-40.

In this chapter, I want to revisit Arnold's sources and examine some additional material, in order to revise his interpretation and suggest of way of resolving the argument between Wood and Kruman. Instead of emphasizing what these texts have in common, I will point out differences and try to explain them in the context of the Wood - Kruman debate. Thus I would restate Arnold's points as follows:

- I. While there was certainly no visible disagreement about the need to explicitly guarantee certain fundamental rights in 1776 (1787, as we know, is a different story), what areas should be covered, and to what extent, was by no means a matter of unanimity. Thus the quality of religious freedom became an issue in the debate over the necessity and supposedly dangerous laxity of religious test oaths. The subsequent discussion of the 1776 Constitution will also address the issue of property rights, which were not as clear cut as the language of the Constitution suggests.<sup>9</sup> However, these issues were not addressed in the pre-constitutional texts under analysis, so this point, in the context of the present argument, can be conceded.
- II. Distrust of power must be differentiated according to who was more - or most - distrusted with power, since it was the specific 'distribution of distrust' among the totality of political agents (i.e. electors and the various branches of government) which decisively determined the structure of constitutional and governmental models designed to preserve liberty.
- III. The idea of government as servant of the people was a shibboleth used to legitimize both traditional and modern, both radically egalitarian and relatively authoritarian models of republicanism.<sup>10</sup> We need to look closely at how and from what political position this relationship of "servitude" is further qualified in particular texts.
- IV. As to the development of constitutional thought, we need to ask whether Kruman and Wood can be reconciled, at least in the Pennsylvania context, by locating traditional and modern constitutional thought not along a chronological but a political axis. To put it in the form of a thesis: the advanced constitutionalism which would shape the

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<sup>9</sup> See ch. 2.2.2.

<sup>10</sup> A typical example is the sermon by Samuel West discussed in ch. 1.3.3.

Federal constitution existed in the shape of disparate conceptions as early as 1776, which were linked to particular political positions. They were there, but not yet integrated, as Kruman assumes. However, Wood's and Arnold's description of these conceptions as inchoate is equally inadequate, because they read them from the perspective of a Federal Constitution which did not yet exist and would adopt these ideas for a different purpose. In 1776 they were part of coherent political ideologies different, even diametrically opposed, to the Constitutional logic of Madison and the Federalists. The definitions of the constitution as a fundamental law and the people as the entire political community instead of just one estate were developed in Pennsylvania in the context of democratic radicalism, from which they spread out into mainstream political discourse within which they could be employed for politically conservative purposes by the Republicans, and later the Federalists. Bringing all these issues together in an analysis of the argumentative structures of key sources will provide us with a basic morphology of constitutional thought in Pennsylvania in 1776.

All of the texts under consideration were published anonymously, one author employed a pseudonym. Evidence concerning authorship is circumstantial, based on inductively linking the content to opinions of known figures, rather than on external evidence. Thus "Demophilus" has been identified with George Bryan, who would emerge as one of the leaders of the Constitutionalist Party. This attribution, accepted by Kruman, is questionable, since "Demophilus" was a bicameralist and Bryan a fervent unicameralist.<sup>11</sup> Tom Paine has been eloquently argued for as author of the *Four Letters*, though the ideas expressed in the text also match up well with George Bryan's *Whitlocke* writings. The *Essay* has been attributed to John

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<sup>11</sup> See Kruman, 54; Joseph S. Foster, *In Pursuit of Equal Liberty. George Bryan and the Revolution in Pennsylvania* (University Park, Pa.: The Pennsylvania State University Press, 1994), 80.

Dickinson, the moderate Whig leader.<sup>12</sup> These speculations are only relevant insofar as they clearly show the first two texts' association with Pennsylvania radicalism, while the latter is representative of the moderate Whiggism Dickinson represented. There are few other moderate essays on constitutional thought preceding the constitution for the simple reason that most moderates would have been happy to retain the Pennsylvania government as it was, except for an eradication of references to the Crown. *Hints* occupies an ideologically intermediate position, closest, perhaps, to the *Genuine Principles*. Though it has never been identified as such, there can hardly be any doubt that it was the work of Benjamin Rush, the Philadelphia physician and signer of the Declaration of Independence.<sup>13</sup> Rush was part of the radical group in the Spring of 1776, but became a leading opponent of the Constitution. The ambivalence of his "conservative radicalism" is already evident in this early design of government.

The chronological order of the texts cannot be completely reconstructed. The newspaper article *Serious Questions* appeared May 16 and is probably the earliest document. *Four Letters* refers to a "late remonstrance" by supporters of the old assembly, which is most likely the one of May 22, so this could feasibly be the next text in line. Since "Demophilus" gives the full text of the Declaration of Independence and speaks of the upcoming constitutional convention his text must have been

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<sup>12</sup> See *American Political Writing*, 340; Alfred Owen Aldridge, *Thomas Paine's American Ideology* (Newark: University of Delaware Press, 1984), 219ff.; Williams, "Influence," 32; 33.

<sup>13</sup> On Rush see ch. 2.5. A detailed argument for this thesis will follow at some point in the future, but the main evidence is: linguistic correspondences with texts by Rush; the use of medical metaphor typical of Rush; correspondence of an uncommon combination of political ideas, including bicameralism, opposition to oaths and to religious oaths in particular, the role of education in politics, and rejection of slavery.

written between July 4 and 15, when the convention did assemble. The *Hints* were published July 16. This leaves only the *Essay* which contains no pointers to the time of its writing or publication. However, the casual way in which it refers to a new republican government suggests that Independence was imminent or had been already declared.<sup>14</sup>

On May 16, one day after the Congressional Resolve, the *Pennsylvania Evening Post* published an article that posed "Serious Questions" and provided "suitable answers" concerning a new constitution.<sup>15</sup> It begins by denying the legal authority of the proprietary government. The author points out that "every officer of it is bound by oaths of allegiance and fidelity to our enemies." and that the "chief magistrate" was "wholly independant of the people both in fortune and authority." Not just the association with Britain, but the very concept of a proprietary governorship is unacceptable as all power must derive from the people. The current situation provides "the only opportunity which, perhaps, will ever be offered" Pennsylvanians to alter a system "against the defects of which they have long contended." The author proceeds to lay out his plan: it was necessary that the people, from whom all authority to govern was derived, form a "new constitution of government." This could not be undertaken by the "officers of the old constitution" since "bodies of men have the same selfish attachments as individuals" and would therefore act contrary to the popular interest,

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<sup>14</sup> Ford, "Adoption," 453, not only attributes the *Essay* to Dickinson, but states it was printed in the middle of July. Unfortunately he does not provide a source. Williams, "Influence," 32, believes it was written as a criticism of the Constitution, which would put the date in August or September, when the Convention was debating drafts. The proposed frame was ordered to be printed for consideration on September 5; see Arnold, *Republican Revolution*, 40.

<sup>15</sup> "Serious Questions proposed to all friends to the rights of mankind in Pennsylvania, with suitable Answers," *PEP* (May 16, 1776).

establishing "Aristocracies" and replacing a "tyranny of the one [i.e. the proprietor, T.C.] for the tyranny of many." This argument is similar to that made by John Adams in *Thoughts on Government* when he warned of concentrating power in a single legislature, because, "liable to all the vices, follies, and frailties of an individual [...] a single assembly [...] would make arbitrary laws for their own interest [...]"<sup>16</sup> Constitution builders required "wisdom and integrity," by which was meant "as much if not more natural than acquired sense and understanding." Their qualification was, in other words, not just a matter of learned erudition, but of a well developed common sense. Furthermore these men "can be under no favor to frame political distinctions in favor of any class or set of men" - they must "regard not the person of the rich, nor despise the state of the poor, but [...] prefer justice and equity to all things [...]" Finally, to prevent them from forming an interest separate from the commonality "the moment the constitution is framed [they] must descend into the common paths of life [...]" The author even suggests that members of the convention should never be able to hold any political office thereafter. The idea of a popular constitutionalism was affirmed by the suggestion of popular ratification. The constitution was to be circulated among the people for at least six months for public discussion and review and to collect suggestions for amendments, after which time the convention, with additional new delegates, would make appropriate alterations. The resulting document constituted the "Social Compact of the People" and was "unalterable in every point" except by a repetition of the whole process. The same or another convention would then draw up a

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<sup>16</sup> John Adams, *Thoughts on Government* (1776), 404.

separate "*charter of delegation*" which established the exact powers of government. This seems to suggest that the social compact was reserved for constituting a society in terms of a Lockean social contract as well as inscribing fundamental rights, while the charter determined the specific structure of government.

The author's democratic radicalism is evident in his insistence that the legislative is to check the executive and judiciary, but must itself be "so constituted as never to be able to form an interest of its own separate from the interest of the community at large." He endorses an unspecified form of bicameralism with both branches independent of each other, but both "dependent on the people." The latter would be effected through universal male suffrage and eligibility for all offices, "[n]othing but Atheism or open immorality to exclude any man," - an inalienable right the author emphasizes should be guaranteed as part of the social compact. Lastly, to ensure the adherence of the people's representatives to the constitution, a triennially chosen Committee of Inquiry was to check on possible infringements of the Social Compact, the use of public funds, and the "conduct of all officers, whether legislative, executive or judicial; particularly to see that no branch of the legislature exceed the bounds prescribed to it in the *Charter of Delegation*."

Of the *Four Letters on Interesting Subjects* the first two focus on Toryism and the need for a national perspective in Revolutionary politics in a style reminiscent of *Common Sense*. Like 'Serious Questions' the author assails the power structure in Pennsylvania, noting that "the misfortune of these '*middle provinces*' has been, that the circle of duplicity was

considerably enlarged therein by the addition of the Proprietary interest of [sic!] that of the Crown."<sup>17</sup> Letter Three argues for the invalidity of the colonial charters and discusses the case of Pennsylvania in more detail. Here, the author picks up on the established American redefinition of a charter of government which must not be understood as a sovereign grant of privileges, but as a contractual agreement requiring the participation and consent of all affected parties: "All constitutions should be contained in some written Charter; but *that* Charter should be the act of *all* and not of *one man*. Magna Charta was not a grant from the Crown, but only agreed or acceded to by the Crown, being first drawn up and framed by the people."<sup>18</sup> The last letter addresses constitutional theory in more detail. It is here that the author makes one of the earliest and clearest statements in Anglo-American political discourse on the difference between the traditional and modern definitions of a constitution. He notes that none of the many writings on constitutions "have properly defined what is meant by a *Constitution*" and that the term tends to be incorrectly used as a synonym for "form of government." Thus England has in King, Lords, and Commons a form of government, but actually lacks a "fixed Constitution." For a constitution sets down what "form of government" shall be and, more importantly "What shall be its power?" Parliament can legally set these standards at will and is thus an arbitrary power. No constitution "says to the legislative powers, 'Thus far shalt thou go, and no farther.'"<sup>19</sup> The author of *Four Letters* emphasizes the controlling and restraining aspect of constitutions when he opposes

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<sup>17</sup> *Four Letters*, 370.

<sup>18</sup> *Ibid.*, 382.

<sup>19</sup> *Ibid.*, 384f.



provincial instructions to Congressional delegates. He believes that a "continental Constitution, when fixed, will be the best boundaries [sic!] of Congressional power" within which delegates ought to be free to consider the general good as opposed to regional interests.<sup>20</sup> Like so many other Pennsylvanians the author suggests an institution for regularly checking whether the constitution has remained intact. His "*Provincial Jury*" is supposed to be elected every seven years "to enquire if any inroads have been made in the Constitution, and to have the power to remove them," changes in the constitution requiring a popular majority, however. The idea of constitutional inspection is explicitly based on Machiavelli's concept of *ridurre ai principie*, the return to first principles.<sup>21</sup>

"Demophilus" position is highly compatible with that of the lesser known, but earlier "Serious Questions."<sup>22</sup> As a running comment on a pamphlet by the English Whig Obadiah Hulme entitled *An Historical Essay on the English Constitution*<sup>23</sup>, *Genuine Principles* argues for the simple egalitarian republicanism of small communities allegedly practiced in Anglo-Saxon England as the "best model [...] to copy" for Pennsylvanians seeking a new form of government. The author observes that "[i]n most states men have been too careless in the delegation of their governmental power" as a result of which "the *deputies* have [...] at length become possessors in their own right; and instead of *public servants*, are in fact the *masters* of the

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<sup>20</sup> Ibid., 388.

<sup>21</sup> Ibid., 389.

<sup>22</sup> *Genuine Principles* has been used in a great number of studies, including Wood's *Creation*, Arnold, and Kruman. It has received additional exposure by being included in the collection by Lutz and Hyneman, who considered it "the most full blown" example of an American recourse to the idea of an Anglo-Saxon republicanism in pre-Norman England; cf. *American Political Writing*, 340.

public." The transferal of decision-making processes from involved citizens to governmental institutions threw the Saxons and their successors into "a political stupor" from which they "have never, to this day, thoroughly awakened, to the sense of the necessity there is, to watch over both legislative and executive departments in the state."<sup>24</sup> Like "Serious Questions," "Demophilus" proposes, as the most adequate safety mechanism against power abuses by representatives of the people, that a "constitution or *sett of fundamental rules* by which even the supreme power of the state shall be governed, be formed by a convention of the delegates of the people, appointed for that express purpose: which constitution shall neither be added to, diminished from, nor altered in any respect by any power besides the power which first framed it."<sup>25</sup> The work of the convention is then to be made available for evaluation and suggestions to the public, though no explicit mode of ratification is suggested. "Demophilus" proposes a "decennial meeting of delegates" to inspect the "conduct of the government" in order to "keep the constitution in health an vigor [...]. This would be effectually holding the supreme power in its *only* safe repository *the hands of THE PEOPLE*."<sup>26</sup>

These essays combine classical elements of the Whig tradition with a radical understanding of popular sovereignty that bears the marks of 'liberalism'. On the one hand the authors subscribe to the idea of a single interest society based on the elementary quality of virtue. "Serious

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<sup>23</sup> On Hulme, see Trevor Colbourn, *The Lamp of Experience*, 33-38 *passim*.

<sup>24</sup> *Genuine Principles*, 350; 341; 349. Surprisingly Kruman does not quote this statement which perfectly illustrates his thesis.

<sup>25</sup> *Ibid.*, 341.

<sup>26</sup> *Ibid.*, 362f.

Questions" explicitly states that his constitutional plan must be obtained by the "virtue and unanimity of the people, particularly those who have arms in their hands." It is the virtuous citizen, and particularly the militiaman whose virtue extends to include the martial Machiavellian virtù, who will fight for the public good - not just against an external enemy, but also against "[m]en of sinister views and designs" who "will endeavour to sow divisions" and against those "families" who "will endeavor to get all power into their hands, and form an oligarchy or aristocracy."<sup>27</sup> "Demophilus" ideal state is easily recognizable as Montesquieu's small republic of rough equals, projected into a Saxon Golden Age. He repeatedly stresses the importance of a participatory politics which includes widespread political knowledge and public debate of issues by all citizens, as well their ability to defend themselves with arms.<sup>28</sup> The classical republican recourse on the virtuous citizen is connected, however to a radical and modern understanding of popular sovereignty. Government is not understood to represent different orders of society, as in John Adams' republicanism, or degrees of wealth, as in the *Essex Result*.<sup>29</sup> Rather, all branches of government are equally dependent on the undifferentiated body of the people. "Serious Questions," as we have seen, endorsed universal male adult suffrage and an equally full eligibility to any political office. This is a thoroughly modern definition of suffrage as an individual right as opposed to a privilege.<sup>30</sup> It is so radically inclusive as not to have been realized in the United States for white males until the Jacksonian Era, and for African-American men (whom the author

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<sup>27</sup> "Serious Questions".

<sup>28</sup> *Genuine Principles*, .351; 363.

<sup>29</sup> See ch. 2.6.

neither specifically in- or excludes) until the middle of the twentieth century. All essays, it hardly needs to be said, breathe the Lockean spirit in their very definition of government as instituted to protect natural rights (though the theorist "Demophilus" actually mentions is Burlamaqui).

As to their constitutional theory, all three texts confirm an important element of Kruman's thesis. They explicitly voice their general distrust of representatives as holders of a potentially corruptive power, including legislators. First and foremost they understand constitutions to be fundamental laws by which the people as sovereign prescribe the bounds of power for their representatives. As democrats they further insist on the government's dependence on the people in a version of what Staughton Lynd called bicameralism from below: the people check the legislative; the legislative checks the other branches of government. Though two authors endorse bicameralism, we do not find Adams' formulation of the senate as a means of restraining the ambitions or passions of the assembly.<sup>31</sup> This danger is sufficiently checked by the assembly's dependence on the people and the constitutional frame provided by the people. It is significant that "Serious Questions" employs the same image of assemblies as selfish individuals found in Adam's *Thoughts on Government*. But where Adams is referring to a single assembly in need of checking by the executive and second legislative chamber, the Pennsylvanian uses it to argue for a constitutional convention distinct from the legislative. In "Demophilus" text, the second branch appears as something of an expert group on history and

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<sup>30</sup> For a detailed discussion on voting rights, see ch. 2.1.2.

<sup>31</sup> See ch. 2.6.

jurisprudence that will serve to ensure the highly important "clearness, fullness, and consistency of the laws." It is evidently not meant to check sinister self-interested schemes by an assembly consisting, the author assumes in this context, of "honest men" with good intentions.<sup>32</sup> *Four Letters*, anticipating the actual constitution, suggests a unicameral legislature, as a second legislative body would do more harm than good and would not function as a check on the assembly.<sup>33</sup> The potential dangers emanating from all branches of representative government, on this the three authors agree, are most effectively compensated by the institution of a popularly formed constitution, not by an institutional system of checks and balances. Good government ultimately depends on the political competence and virtue of the people, qualities these writers trust are sufficiently developed among Americans.

We find a somewhat different approach in the *Essay*, which, whether written by Dickinson or not, reflects a more traditional Whig view of government. Though equally insistent on annual elections for the assembly - but not the other branches of the legislature - it combines them with a complex form of mixed government. This tricameral system consists of an assembly, council, and senate all of which have to concur on legal bills.<sup>34</sup> This system provides the political stability and checks which the radical proposals derived from a fixed constitution and the control of the people at large. The *Essay* does "not demonstrate a clearly-defined conception of the

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<sup>32</sup> *Genuine Principles*, 362; 361f.

<sup>33</sup> *Four Letters*, 385f.; see ch. 2.6.

<sup>34</sup> The author has greater faith in councils, i.e. groups of men, than in individuals. Thus, though he wants to achieve the same balancing effect as Adams, he denies the governor a veto power, which the New Englander considered essential to mixed government.

distinctive nature of a constitution," as Arnold notes.<sup>35</sup> It merely suggests that a change in the frame of government should require a 2/3 majority in the legislative bodies and counties. The author makes no mention of a distinct Bill of Rights, though he stresses the necessity of guaranteeing religious liberty. Contrary to the egalitarian principle voiced in "Serious Questions" that every elector may hold any office, there is a clear distinction between the people and their representatives in terms of competence, with the exception of assemblymen. The *Essay* proposes a system of filtration which, though different from the method suggested by the Federal Constitution more than a decade later, serves the same purpose: to ensure that only the most capable individuals hold the more exalted offices in government. This is achieved by a regulation that any office above assemblyman can only be held by person who has held all lower-ranking offices. Thus, a senator would have to have served as an assemblyman; a councilor as senator; a lieutenant-governor as councilor; and the governor as lieutenant-governor (providing the chief executive with no less than ten years of political experience, but probably a good deal more). Additionally, the author proposes age limits of 25, 35 and 40 years for assemblymen, senators, and councilors, respectively.<sup>36</sup> Anticipating the Senate rotation of the Federal Constitution, the *Essay* proposes a third of the council and Senate to be elected annually. They are to be elected indirectly, by delegates of the people, another typical means of filtration. In a certain respect this design is reminiscent of Adams' *Thoughts on Government*. The assembly is evidently

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<sup>35</sup> Arnold, *Republican Ideology*, 35.

<sup>36</sup> *Essay*, 13; 15; 16.

meant to reproduce a mirror image of the people - understood as an order of men, not the totality of citizens - while the other branches of government, embracing the popular chamber, represent the superior political intellect of a distinct elite. However, the author no longer defines this distinction in absolute terms of ranks or property, but in gradualist terms of political competence. All members of the government are, if indirectly, elected by the people and will consequently represent the will of the people. Their higher qualifications achieved through filtration processes result in their having a better judgment on political issues than the average citizen. But this judgment is not necessarily a result of wealth enabling leisure, which in turn permits education, erudition, the broadening of horizons. Instead, competence is measured in terms of political service. The classical republican virtue of the aristocratical order, wisdom, is thus reintroduced as professional experience, coupled with age. Regardless of whether the author did in fact expect only propertied men to serve political functions, his plan of government does not contain it as a category, stressing professionalism in its place. This is a conceptualization remarkably close to that of 1787.

Rush's *Hints for a Form of Government* subscribed to a government and constitution based on the authority of the people, but had not fully developed the idea of a constitution as fundamental law.<sup>37</sup> He endorsed an egalitarian polity of tax-paying freemen eligible for all elections and offices and was the only author to suggest a genuine ratifying convention. Just as in the other proposals, the constitution would be publicly circulated, but

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<sup>37</sup> "Hints for a Form of Government for the State of Pennsylvania, submitted to the consideration of the Convention now sitting in Philadelphia," *PEP* (July 16, 1776).

contrary to *Serious Questions* the second convention would not contain the old delegates, who might resist amendments of their original frame, but be "new." The *Hints* did not view the constitution as inviolable. Rush restricted this quality to "trial by jury and the habeas corpus act" which were to be the "immutable parts of the constitution." Everything else would be subject to amendment by the assembly with the important qualification of the consent of two thirds of the electorate confirmed by a ballot vote. In this respect Rush was in agreement with the author of the *Essay*.

What conclusion can we draw from our review of the constitutional discourse in Revolutionary Pennsylvania prior to the first constitution? Marc Kruman argued that the republicans of 1776 had already developed the theory of government that would serve as the foundation for the Federal Constitution. Their experience with Parliament had infused them with a general distrust of government that included legislative representatives. In response they devised the republican remedies which together formed what Kruman called the mechanical polity: written constitutions and Declarations of Rights created by popularly elected conventions; annual elections, systems of rotation, equal and direct representation; a separation of powers that resulted in a system of checks and balances among the institution of governments.

I believe Kruman is right in asserting that the elements that make up the Federal Constitution existed by 1776 - but they had not been combined yet in the distinctive way that made it a Federalist constitution. Rather, we find, at least in Pennsylvania, two competing models: a highly developed concept of constitutions as fundamental law inextricably linked to a radical



reading of popular sovereignty and equality; and a concept of mixed government anticipating a separation of powers, connected with mechanisms that distinguish the higher institutions of government from the people. I agree with Kruman that it makes little sense to differentiate between classical republican and liberal modes here. Both approaches blend tradition and innovation: a modern understanding of popular sovereignty combines with the classical notion of virtue, while the mechanical understanding of checks and balances retains the idea of an aristocracy of wisdom in a transmogrified form.

Kruman is also correct about Americans having acquired a general distrust of power by 1776. But general as it may have been, it was nonetheless organized in hierarchies of distrust which varied with different political outlooks. Democratic radicals reserved their greatest suspicion for the executive branch and for senates or councils, which they denied represented any sort of superior intellectuality or virtue. Consequently they shifted power to the assemblies. This did not mean they trusted assemblies. Democrats merely saw no logic in having them controlled by the other branches of government which were even less reliable. They believed they had to be checked by the only trustworthy political agent, the people. This was achieved by popularly written constitutions, annual elections, rotation, constitutional inspections and various other mechanisms. Moderate Whigs, on the other hand distrusted the assemblies not because they were different from the people at large, but *too much* like them. As social conservatives they continuously retained a measure of suspicion against popular power, even during the Revolutionary euphoria of 1776. Though the people might

be generally honest and good-willed their lack of education and self-discipline made them the easy prey of demagogues and "designing men," or their own passions. Potentially, the sovereign people were always also the anarchic and licentious mob. Government therefore required institutions not under the direct control of the people, where individuals with superior competence could exude a stabilizing influence. While they checked the popular assembly, it in turn served as the guardian of the people's liberty in controlling a Senate's or governor's predilection for power. In the reliance of Whig thought on the idea of mixed government, which was developing towards the modern concept of a separation of powers, the notion of a constitution as fundamental law remained underdeveloped. In Pennsylvania, competing concepts of government thus formulated competing responses to the problem of distrusting representatives. Democratic thinkers - those who had more faith in the people than in their leaders - were the ones who developed advanced conceptions of constitutions as fundamental law. They envisioned them as instruments for the control of governmental power by popular power. Those less inclined to place their faith in the people were simultaneously beginning to transform the notion of mixed government into a modern concept of institutional checks and balances. As Wood rightly perceived, it was the distinct accomplishment of the Federalists to combine these concepts into the democratic republicanism of the Federal Constitution. And he is correct in perceiving that this intellectual achievement was deeply indebted to the political discourse that had occurred in Pennsylvania since 1776.<sup>38</sup>

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<sup>38</sup> This development, however, should not be construed as an evolution. Arnold's and

Both Kruman and Wood have made correct and vital observations on the state and development of political thought during the Revolution. The factor that both of them neglected is that of a synchronic differentiation in concepts of government. A differentiation not based on a dichotomy of classical and liberal thought, but on the existence of 'virtuous democrats' and 'liberal aristocrats.'

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Wood's judgment that constitutional thought in 1776 was still incoherent seems to imply its progressive evolution towards the Federal constitution as the finished product, the logical conclusion. But perhaps it would be more helpful for an understanding of 1776 to ignore subsequent developments instead of using them as a yardstick for earlier conceptions.

## 2.3 The Constitution of 1776: Democracy, Rights, and Community

*"[...] I contemplate the rising genius of the times, and flatter myself that nothing short of perfection in all things will be the happy issue of public deliberations." E.<sup>1</sup>*

### 2.3.1 The Making of the Constitution

On May 20, five days after the publication of the Congressional Resolve calling for independent state governments, a public meeting chaired by Daniel Roberdeau, which "was conducted with the utmost decorum and harmony," used it as the basis for denying the Assembly's representative nature and thus its right to frame a new government "as the chartered power of this House is derived from our mortal enemy the King of Great-Britain, and the members thereof were elected by such persons only as were either in real or supposed allegiance to the said King, to the exclusion of many worthy inhabitants, whom the aforesaid resolve of Congress hath now rendered electors."<sup>2</sup> The meeting proposed a provincial conference of committees with at least one hundred delegates which was supposed to make preparations for a constitutional convention. Not only did radicals view the Assembly as an obstruction of the patriotic cause - the patriotic cause was also an opportunity to destroy the old frame of government with its unresponsive assembly and self-interested proprietor. The Pennsylvania Gazette advertised a pamphlet "shewing [...] that the Proprietary's interest ever was, and ever will be dangerous, and in the end destructive of the province" and an "Elector," referring to the 1764 campaign for royal government asserted:

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<sup>1</sup> *PEP* (September 21, 1776).

"The truth is, fellow citizens, that your constitution *always was an imperfect thing*, otherwise so many of your *wisest men* had never been led into [...] *treason* [...] by their efforts to have it altered. They had indeed no probable alternative but to accept a royal government [...]: the case is widely different now.<sup>3</sup>

The initiative was with the committees and the conservatives in the Assembly were unable to put up any significant resistance. On June 12 the Assembly released its delegates to the Continental Congress from their instructions to oppose Independence, but this concession did not prevent its demise. The conservative member James Allen confided to his diary that he had "been very active in opposing Independence & change of Government; but the tide is too strong [...]."<sup>4</sup> Crippled by absenteeism, the old assembly adjourned on June 14, as the Provincial Conference and then the Convention began exercising legislative and executive functions. Though it reconvened on August 26 and on several days in September, it consistently failed to obtain a quorum and, after settling its accounts and reprobating the Convention on several issues, adjourned for good on September 26. William Penn's Frame of Government had been obliterated. Did this mean that, as one historian put it, the "rule of the Eastern aristocracy was over?"<sup>5</sup>

The Provincial Conference that met from June 18 to 25 was a creation of the counties' Committees of Safety and Inspection and continued the practice of introducing previously un- or underrepresented men into the

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<sup>2</sup> "The Protest of Divers of the Inhabitants of this Province, in behalf of Themselves and Others," *PG* (May 25, 1776).

<sup>3</sup> *PG* (May 29, 1776); An Elector, "To the Free and Independent Electors of the City of Philadelphia," *PG* (May 15, 1776).

<sup>4</sup> Diary of James Allen, HSP.

political sphere. Of its 108 delegates only three had ever been assemblymen.<sup>6</sup> 39 percent of the delegates were Presbyterians, 25 percent Reformed or Lutheran, only 18 percent Quakers and 14 percent Anglican. Scots-Irish and Germans were the largest ethnic groups with about a 25 percent share each. Of the 25 Philadelphia delegates, fourteen had been assessed at less than 50 pounds in property, which meant they would have been theoretically disqualified from voting under the old Charter.<sup>7</sup>

The suffrage regulations set by the Conference for the election of Convention delegates anticipated the liberalization and restriction of electoral rights under the Constitution of 1776. Basically all persons were admitted who were "qualified by the Laws of this Province to vote for Representatives in Assembly," provided they swore an oath or affirmed (a term supplied for Quakers, who refused secular oaths) that they had abjured allegiance to King George and would not "directly or indirectly" oppose either the establishment of a "free government" in Pennsylvania or Congressional measures taken against England. On a petition from "the German Associators of the City Liberties of Philadelphia," the suffrage was extended to include all Associators of at least 21 years age, who had resided in the province for at least a year and had paid or been assessed for provincial or county taxes. All voters were also eligible as candidates for the convention, provided they were willing to swear an oath of allegiance and to

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<sup>5</sup> Selsam, 168.

<sup>6</sup> Ryerson, *Revolution Is Now Begun*, 229.

<sup>7</sup> Bockelmann and Ireland, "Internal Revolution," 143; Ryerson, *Revolution Is Now Begun*, table 16, 232f.

uphold the principle of religious liberty and testified to their belief in the trinity and the Bible.<sup>8</sup>

The men elected to the Convention were "intirely unacquainted with such high matters," as one critic put it. "Not a sixth part of us ever read a word on the subject," the conservative delegate Thomas Smith complained. To him, most of the delegates were ambitious upstarts who would "go to the devil for popularity, and in order to acquire it, they have embraced levelling principles[...]."<sup>9</sup> Members of the social elite, who had a formal education, had served in high political offices, or owned considerable property were scarce indeed. The statistics resemble those of the Provincial Conference. Of the delegates whose denomination is known, 40 percent were Presbyterians, 26 percent were Lutheran or Reformed, and only 15 percent were Quakers or Anglicans. In the 1775 Assembly, they latter groups had still held shares of 40 percent and 23 percent, respectively, the 1755 Assembly had been 81 percent Quaker.<sup>10</sup> Though the radical Philadelphia leaders who dominated the Convention were generally men of moderate means or status, the majority of the city delegates did not entirely conform to this profile. Benjamin Franklin, absent for much of the convention, although he served as its President, was a rich, leisured gentleman, though he sympathized with radical ideas at this point in time. Owen Biddle and George Clymer were substantial merchants, while George Schlosser has been identified both as a merchant and as a tanner. David Rittenhouse, a highly respected and famous clock and instrument maker, astronomer, and surveyor was a

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<sup>8</sup> Proceedings of the Provincial Conference of Committees of the Province of Pennsylvania held at Carpenter's Hall Philadelphia (Philadelphia, 1776).

<sup>9</sup> Quoted in Rosswurm, *Arms*, 104.

mechanic by status, but not a common man by any means, though ideologically a red hot democrat. Only Frederick Kuhl, Timothy Matlack, and James Cannon, perhaps the principal author of much of the Constitution, were 'moderate' men in the socio-economic sense, but Franklin, Rittenhouse, and probably Schlosser, despite their wealth and status, were rooted in, or had close ties to the artisan community.<sup>11</sup> The change in Pennsylvania politics is nicely illustrated by the fact that the conservatively minded gentlemen in the convention could not hope to control or even direct their social inferiors. Their opinions, which they forcefully expressed in their opposition to the Constitution, do not seem to have had much impact on the creation of the frame of government. They registered their disagreement with the majority by withholding their signatures from the final document.<sup>12</sup>

A look at the delegates of Pennsylvania's westernmost county, Westmoreland, which was only created in 1773, shows that most of them were middle-aged, well-to-do Presbyterian community leaders, who were not looking for social, but for political democracy which would ensure equal representation and equal access to power for themselves and their constituents.<sup>13</sup> The radical leadership which dominated the convention and

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<sup>10</sup> Bockelmann/Ireland, "Internal Revolution," 129; 130; 143.

<sup>11</sup> William H. Egle, "The Constitutional Convention of 1776. Biographical Sketches of its Members," *PMHB* 3 (1879), 96-101; 319-330; 438-446; and *PMHB* 4 (1880), 89-98; 225-233; 361-372. Ryerson, *Revolution Is Now Begun*, 233 identifies the German Lutheran Schlosser as a tanner, while Egle describes him as a "successful" merchant, who supported the patriotic cause with considerable sums of money.

<sup>12</sup> Twenty-three of the ninety-six delegates, of whom only one was apparently absent, did not sign, though several of these were possibly absent for other reasons. See Selsam, 164.

<sup>13</sup> Six out of eight were Presbyterians, three ruling elders. Landowners held between 300 and 1500 acres at the time of the 1783 census. Two had stone houses, a sign of status and wealth, two were slaveholders, a third was a revered hero and leader of backcountry guerrilla warfare against Indians and Eastern Indian traders. Many launched successful careers in politics. Compiled from John R. Nesbitt, "Old Westmoreland's Delegates to Pennsylvania's 1776 Constitutional Convention," *Western Pennsylvania Historical Magazine* 55 (1972), 255-267.



would constitute the core of the Constitutionalist party thus consisted of local elites from the western counties, who fundamentally opposed the old eastern-dominated system, as well as the spokesmen of the urban mechanic interest.

### *2.3.2 Individual Rights and the Interest of the Community*

In their attempt to pour their image of a just society into a constitutional mold, Pennsylvania's radical Founding Fathers drew on the same political vocabulary used by other Revolutionaries. It was the lexicon of mantras which Americans had been chanting since 1763: natural rights to liberty and property, equal representation, the need for virtue, the danger of standing armies. But these words acquired a special meaning in the minds of men who had felt excluded and misrepresented, who endorsed property rights but distrusted wealthy elites. They used the discourse of individual rights and public virtue to construct a unique model of an egalitarian republic that clearly signified their intention of breaking with the traditional structures of government.

The dual importance of community and individual is asserted in the very first sentence of the constitution: "WHEREAS all government ought to be instituted and supported for the security and protection of the community as such, and to enable the individuals who compose it to enjoy their natural rights [...]". What follows is a paraphrase of the Declaration of Independence, concluding with the assertion that "it is our indispensable duty to establish such original principles of government, as will best promote the general happiness of the people of this State, and their posterity, and

provide for future improvements, without partiality for, or prejudice against any particular class, sect, or denomination of men whatever." The reassertion of a government's duty to serve the general good and never to act partially is more than a set phrase. The reference to differences of class and religion reflects a consciousness shaped by the experience of the difficulty of equitable government in a community as diverse and stratified as Pennsylvania. The new frame of government was meant to provide the solution to this problem. When the founders christened their republic a "commonwealth" they were quite serious.

A recurrent theme of the Constitution is property. The Declaration of Rights begins its enumeration with the guarantee of "certain natural, inherent and inalienable rights, amongst which are, the enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining happiness and safety."<sup>14</sup> The detailed reference to property rights makes this paragraph more explicitly Lockean than even Jefferson's Declaration with its vague "pursuit of happiness."

Property plays a prominent role in several other regulations. Article VIII's explication of "no taxation without representation" defines property as an integral part of its owner: it states "that every member of society must make a contribution towards the protection he enjoys, both financially (through taxes) and physically (through militia duty). Both these duties are subject to qualifications, which the article syntactically analogizes. Property "can be justly taken" only under the condition of personal or representative

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<sup>14</sup> Constitution of Pennsylvania (1776), Article I. All further references to articles and sections refer to the Constitution of 1776, except where noted otherwise.

consent and conscientious objectors cannot be compelled to perform military service - both cases would constitute violations of a person's fundamental personal rights. The conscientious objector, however, is obliged to pay a due in place of putting his body at the service of the public. Financial duty can compensate physical duty, as both constitute a voluntary donation of part of one's person to the community. The article stresses the voluntarist aspect in concluding with a general affirmation of the principle of consent - the power of any law over an individual is void without some previously expressed consent to the rules of governance. Section 41 adds that taxes must be regulated by laws and that monies collected must serve the public interest better in this form than if they remained private property so that "taxes can never be burthens."

The *habeas corpus* article prescribes the traditional limits to search and seizure, including the seizure of property.<sup>15</sup> The importance of property in the legal sphere is emphasized even more clearly in the subsequent article which guarantees the right of trial by jury in "controversies respecting property."<sup>16</sup>

A formulation used in the proposed frame of government, which did not make it into the final version illustrates an artisans' angle on property rights. Section 29 provides against excessive bail and calls for moderate fines, the draft version elaborating that "mens tenements, apparel, bedding, and the necessary tools of their trade or calling" shall not be taken from

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<sup>15</sup> Article X.

<sup>16</sup> Article XI.

them.<sup>17</sup> Men, in other words, were not to be deprived of the property which enabled them to live in dignity and retain their independence through labor, instead of becoming paupers.

The last reference to property is in Section 43 of the frame of government, a regulation which rings more of medieval peasant's rights than of modern constitutionalism. It extends fowling and hunting rights to all inhabitants "on the lands they hold, and on all other lands therein not inclosed; and in like manner to fish in all boatable waters, and others not private property." This is the only reference in the Constitution to communal restrictions on property rights.<sup>18</sup> The provision is a reminder that a wealth of regulations on the use of private property for the benefit or protection of the community and the state were common in the eighteenth-century Atlantic world. There was, first of all, the general governmental taking power in the form of forfeiture, eminent domain, and taxation.<sup>19</sup> There was the institution of sumptuary laws regulating the consumption of luxuries for moral purposes, a concept applauded by ascetic American Whigs in the wake of the non-importation movement.<sup>20</sup> Mercantilism obviously implied restrictions on the use of private property, precedence being given to the authority and

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<sup>17</sup> "The Proposed Plan or Frame of government for the Commonwealth or State of Pennsylvania," *PEP* (Sept. 10, 1776).

<sup>18</sup> It is based on a traditional practice of viewing wild animals as common property which, while transformed into hunting privileges of the elite in England, was upheld in the colonies and necessarily implied the right of trespass. The privacy of private property was thus restricted to enclosed land, which usually meant cultivated or residential areas, and non-navigable bodies of water. See Forrest McDonald, *Novus Ordo Seclorum. The Intellectual Origins of the Constitution* (Lawrence: University Press of Kansas, 1985), 35. For a detailed discussion of limitations of property rights see McDonald, 13-36.

<sup>19</sup> The latter was bound by the principle of consent, as we have seen, but McDonald gives some examples of a very liberal use of eminent domain without compensation in New England, though this was not an issue in Pennsylvania. Forfeiture became common practice during the Revolution in the confiscation of loyalist estates.

economic interest of the state. Perhaps the publicly most visible form of economic regulation in the interest of the community was the assize of bread, which prevented bakers from charging the price for their products that the market would bear, i.e. prevented them from fully realizing the profit potential of their property. The overriding interest of maintaining order by preventing food riots canceled the right of individuals to dispose of what they owned as they saw fit.<sup>21</sup> The Lockean language of the Constitution regarding property and property rights suggests a thoroughly modern liberal possessive individualism, which was in the process of overcoming traditional notions of property control, except for some residual customs represented by public hunting and fishing rights.

The constitution enumerates a number of other fundamental individual rights. Continuing the Quaker tradition of religious toleration, which was writ large in the Pennsylvania charter, Article II of the Declaration of Rights guaranteed the freedom of men to worship God "according to the dictates of their own consciences and understanding of religion." Persons could neither be compelled against their will to support any religious establishment nor were they to suffer abridgments of their civil rights on account of their "religious sentiments." The "right of conscience in the free exercise of religious worship" was to remain unencumbered by any external authority. The only qualification was the oath demanded of Assemblymen by which

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<sup>20</sup> John Adams endorsed them, but apparently did not think they could be enforced. See *Thoughts on Government* (Boston, 1776) in *American Political Writing during the Founding Era*, 401-409, 407.

<sup>21</sup> Not surprisingly, Adam Smith attacked the practice as superfluous, preferring a 'natural' price regulation through competition. Adam Smith, *The Wealth of Nations*, Book 1, Part 2 [online] URL: <http://arts.adelaide.edu.au/person/DHart/ETexts/Liberalism/AdamSmith/WealthOfNations1776/Book1.html#anchor238679> [June 16, 2001].

they had to acknowledge monotheism and the divine origin of the Old and New Testament.<sup>22</sup>

Article X explicated the venerable tradition of *habeas corpus* which included individuals' "right to hold themselves [...] free from search and seizure" without presentation of legal warrant. Unique to all state constitutions was the affirmation of the people's "right to freedom of speech," as well as "of writing, and publishing their sentiments."<sup>23</sup> It was followed by the assertion of the people's right to bear arms. The Declaration of Rights concluded with Articles XV and XI. The former granted citizens the "natural inherent right to emigrate from one state to another," or to "form a new state in vacant countries, or in such countries as they can purchase, whenever they think that thereby they may promote their own happiness."<sup>24</sup> The latter affirmed the right of assembly.

Guaranteeing the right to life, liberty, and property, freedom of conscience and religion, free speech, a free press, freedom of movement and assembly, and even the right to bear arms the Constitution could easily be read as a catechism of political liberalism, even libertarianism. A second look, however, reveals these negative liberties to be embedded in an ideology of community and obligation by which individual rights could be restricted, or were understood as a means of promoting the public good.

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<sup>22</sup> The emulation of the Convention delegates' oath was a response to critics who considered an earlier version, a mere affirmation of the belief in God, as well as the new text, insufficient. "[F]arewell Christianity when Turks, Jews, infidels, & what is worse Deists and Atheists are to make laws for our State," one concerned Christian complained. Bitter as the debate was, it was soon eclipsed by the row over the political test oaths. In its petition to the Council of Censors, the Jewish community in Philadelphia would argue that the oath was in fact inconsistent with Article II of the Declaration of Rights. See Stephen A. Smith, *Prelude to Article VI: The Ordeal of Religious Test Oaths in Pennsylvania*. [online] URL: <http://www.uark.edu/depts/comminfo/cambridge/oaths.html> [October 12, 1998]

<sup>23</sup> Article XII.

Thus Section 43 can be considered not so much a vestige as a hint that notions of property were not as unequivocal as the Constitution's Lockean phrasing suggests to the modern reader. Remarkably, an earlier draft of the Declaration of Rights contained an "Agrarian Law," a concept which James Harrington had first proposed in 1656. The article stated that "an enormous proportion of Property vested in a few individuals is dangerous to the Rights, and destructive to the Common Happiness of Mankind; and therefore every free state hath a right by its laws to discourage the Possession of such property."<sup>25</sup> Unique in American Revolutionary history, this demand for communal strictures on the ownership of private property might have been a result of the experience with the proprietary form of government and the immensely wealthy landholding gentry it created. Despite its rejection by a majority of delegates, it indicates the presence of communitarian convictions which qualified individual property rights in the wake of the public good. Small property holders evidently had no desire to abolish property, but knowing from experience that large concentrations of property created dependencies and translated into political dominance, some form of redistribution was feasible to ensure "the security and protection of the community." The Constitution retained this principle only in the weakened form known from other state constitutions, commanding the "future legislature of this state" to "regulate intails in such manner as to

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<sup>24</sup> Article XV.

<sup>25</sup> James Harrington, *Oceana* in *The Political Works of James Harrington*, ed. J.G.A. Pocock (Cambridge: Cambridge University Press, 1977), 231; quoted in Rosswurm, *Arms*, 104. See John N. Schaffer, "Public Consideration of the 1776 Pennsylvania Constitution," *PMHB* 98 (1974), 415-437, 418f. Harrington believed that power rested on property. A republic existed because the greater part of the land was in the hands of freemen, and no political

prevent perpetuities."<sup>26</sup> In this light the preservation of public hunting and fishing rights in Section 43 can be seen as an expression of anxiety over the possibility of a small group of men taking control over a majority of the land. That constitutional law was felt to be necessary to prevent a repetition of what had already occurred in England in a country as wide and empty (by European standards and once Indian possession was discounted) as Pennsylvania indicates the extent to which an excessive concentration of property was seen as a genuine danger by the radicals. The struggle over defining property and property rights in the context of America's transition to capitalism, and the fear of economic oligarchy as a stepping stone to political oligarchy would manifest itself in numerous arguments and activities among Pennsylvanians concerning price controls, business practices, currency issues, and banking.<sup>27</sup>

The combination of negative and positive liberty, of individual rights and their utilization for the public good is evident in several formulations of the fundamental law. Thus people have a right to bear arms both "for the defence of themselves and the state." The armed individual is understood to be the armed citizen also, who has the duty (see Article VIII) and is best suited to defend his community. For, as the article continues with a standard argument of classical republicanism, "standing armies in the time of peace

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mechanism could preserve it, if the balance of property shifted to the few. The idea of the Agrarian was propagated in *Cato's Letters*.

<sup>26</sup> Sec. 37. Entail designates the practice of limiting the passage of an estate, especially land, to a specified line of heirs in order to prevent it from being divided. Abolishing the practices of primogeniture and entail was considered by Jefferson to be an indispensable means of preventing the formation of aristocracies of wealth instead of aristocracies of virtue and talent. See Merrill D. Peterson, *Thomas Jefferson and the New Nation* (London: Oxford University Press, 1970), 113-115.

<sup>27</sup> For struggles informed by divergent views on the duties and rights of property see Foner, *Tom Paine*, 145-183.



are dangerous to liberty." Though the Constitution is already marked by the Revolutionaries' experience that in times of war a standing army is unavoidable, it upholds the ideal of the citizen soldier. Not surprisingly, the persons obliged to perform militia duties, freemen and their sons, are practically identical with the group of enfranchised citizens.<sup>28</sup>

Similarly, the freedom of speech and the press, as well as the freedom of assembly were seen as prerequisites for individuals to fulfill their public roles as citizens, as well as protecting their liberties. Thus the right of assembly enabled people "to consult for their common good" as well as "to apply to the legislature for redress of grievances, by address, petition, or remonstrance."<sup>29</sup> Section 35 of the Constitution affirms that the "printing presses shall be free to every person who undertakes to examine the proceedings of the legislature, or any part of government," emphasizing that freedom of expression is expected to serve a public purpose rather than some kind of libertarian self-realization.

Virtue and the public good are concepts essential to the constitution, suggesting the influence of classical republican ideas. Article V once more asserts that government serves the "public weal" and not "any single man, family, or sort of men, who are part only of that community." A Madisonian problematization of how government is to react to conflicting private interests struggling for influence is absent. The democratic theory of the Constitution, manifested in electoral regulations virtually amounting to white manhood suffrage indicates a conviction that even an extended community of citizens

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<sup>28</sup> Sec. 5.

<sup>29</sup> Article XVI.

was capable of defining a common interest. Nonetheless the people's representatives are to be "persons most noted for wisdom and virtue," a phrase nearly identical with the old Charter's formulation "of most Note for Virtue, Wisdom and Ability."<sup>30</sup> This virtue and wisdom is clearly separated from wealth, however, as traditional property qualifications for electors and candidates were abolished. Virtue is also important in the citizenry - Section 45 of the Constitution states that "Laws for the encouragement of virtue, and prevention of vice and immorality, shall be made and constantly kept in force." In this context "religious societies or bodies of men" devoted to "the advancement of religion or learning, or for other pious or charitable purposes" are declared as deserving of governmental support.

What did the Constitution mean by virtue, if it was not associated with wealth or a gentleman's education? Article XIV provides the answer. It calls for a "frequent recurrence to fundamental principles," which are "absolutely necessary to preserve the blessings of liberty, and keep a government free" - which is why the "people ought [...] to pay particular attention to these points in the choice of officers and representatives[...]." The concept of a return to the basic foundations of the community is an adaptation from Machiavelli's *Discorsi*. It is a key concept of classical republican thought which sees the polity in a consistent decline that can only be overcome by a return and strict adherence to its virtuous roots.<sup>31</sup> These are explicitly

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<sup>30</sup> Sec. 7; *Charter of Privileges Granted by William Penn, esq. to the Inhabitants of Pennsylvania and Territories.* 1701. [Online]. URL: <http://elsinore.cis.yale.edu/lawweb/avalon/states/pa07.htm> [January 22, 2000]

<sup>31</sup> "In order for a religious community or a republic to exist for any length of time it is necessary to frequently return it to its beginnings." Niccolò Machiavelli: "Discorsi" in: *Politische Schriften*, ed. Herfried Münkler (Frankfurt: Fischer 1990, S. 234) [translation from German by T.C.].

referred to in the Constitution as consisting in "a firm adherence to justice, moderation, temperance, industry, and frugality [...]."

These values do not seem to embody either the Ciceronian virtue of a sacrifice of private interests to the public, nor Machiavelli's militaristic *virtù* or Rousseau's patriotic *vertue*. The first thing that comes to mind, in fact, is Ben Franklin's well-known recipe for the way to wealth - not surprising perhaps, in a Constitution made by artisans, shopkeepers and self-made independent farmers.<sup>32</sup> They are the virtues of the market, of the successful capitalist who builds wealth through accumulation and reinvestment. Yet these values do not serve a privatistic economic interest in this political context, but constitute the basis of a republican community. This they do in two ways. Firstly, they function as public virtues in the sense of what Samuel Adams called the "Christian Sparta." Besides its economic function, this code of conduct represents Christian meekness *and* the self-denial necessary to overcome one's self-interest for the public good. As such it becomes the foundation for a spirit of public service by eradicating the vices in the path of masculine *virtù*. In John Adams' words: "Frugality is a great revenue, besides curing us of vanities, levities, and fopperies, which are real antidotes to all great, manly, and warlike virtues."<sup>33</sup>

This interweaving of the market, of religion, and of classical public-mindedness testifies to the polyvalence and integrating power of the

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<sup>32</sup> "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." "Advice to a Young Tradesman," (1748) *The Autobiography of Benjamin Franklin & Selections from His Writings* (New York: Illustrated Modern Library, 1944), 234. Franklin's list of virtues in the autobiography contains all of the qualities listed in the Constitution; *Ibid.*, 93f.

<sup>33</sup> John Adams, *Thoughts on Government*, 408.

Revolutionary virtue defined by Pennsylvania's fundamental law. As the term is employed in the Constitution, it functions as a focus of private, public, i.e. political, and Christian conceptions of morality, not isolated, but reinforcing each other. Virtue is thus not simply a codeword signifying the presence of classical republicanism but represents an integrated conception fusing private and communitarian, moral and political objectives.<sup>34</sup> The private virtues of citizens and public servants are considered essential for government to remain uncorrupted. Consistent with this conception religion can be unequivocally defined as a matter of individual conscience, while as an institution it immediately acquires political relevance as a pillar of social order.

A further dimension of virtue is contained in the Constitution, though it is not explicitly spelled out. This is the Machiavellian understanding of virtù represented by the armed citizens, the *popolo armato*, who are willing and able to fight on behalf of their community. It was a recurrent motif in the militia debates which will be covered in detail in the following chapter. In the Constitution this conception is reflected in the eligibility of the same group of persons, taxpayers and their sons of 21 years, both for militia duty and the suffrage. Every full citizen is a citizen-soldier also, every man willing to sacrifice his life for the community must be granted full citizenship rights.

Finally there is the question of the Constitution itself. Chapter 2.1 has shown that radicals had developed a clear conception of a constitution as a fundamental law created on the authority of the people. But did the framers

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<sup>34</sup> See James T. Kloppenberg, "The Virtues of Liberalism. Christianity, Republicanism, and Ethics in Early American Political Discourse," *JAH* 74 (1987), 9-33.

think of it as the foundational wellspring of a virtuous community, or was it conceived in Lockean terms as a pragmatic agreement of the people subject to alteration by the popular will? The answer is yes and yes. The classical interpretation of the Constitution is evident in the conception of the Council of Censors, the subject of the Constitution's forty-seventh and last article. Censors were an institution known from Hellenic and Roman antiquity. They were guardians of public morality who ensured that citizens and officials were censured for breaches of the community's norms. Both Montesquieu and Rousseau remarked the usefulness of censors and the concept enjoyed some popularity in European republican schemes without ever being put into practice.<sup>35</sup> In America, the idea was prominent only in Pennsylvania and only that state's Constitution and that of Vermont, which was modeled upon the former, contained a provision for such a body.<sup>36</sup>

"In order that the freedom of the commonwealth may be preserved inviolate forever," the Council of Censors was to be elected every seven years "to enquire whether the constitution has been preserved inviolate in every part; and whether the legislative and executive branches of government have performed their duty as guardians of the people, or assumed to themselves, or exercised other or greater powers than they are intitled to by the constitution."<sup>37</sup> This formulation, as well as the whole concept of 'censorship' is a further reference to the "return to first principles," the classical conception that a constitution embodies a republican ideal which is inevitably corrupted through time and thus needs to be periodically

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<sup>35</sup> Louis H. Meader, "The Council of Censors," *PMHB* 22 (1898), 265-300.

<sup>36</sup>

<sup>37</sup> Sec. 47.

reclaimed by the community. The censors were empowered to call a popularly elected convention in order to consider amendments, but only if they saw an "absolute necessity" to do so for the sake of preserving the "rights and happiness of the people."

Critics of the Constitution complained that this regulation, which made amendments possible only septennially and thus not before 1783, was at odds with a much more Lockean formulation in the Declaration of Rights which stated "that the community hath an indubitable, unalienable and indefeasible right to reform, alter, or abolish government in such manner as shall be by that community judged most conducive to the public weal."<sup>38</sup> There was never any agreement on whether this right was sufficiently covered by Section 47. Contradictory notions of the relationship between constitutional and popular sovereignty can in fact be extrapolated from these laws. From a classical point of view the Constitution ranked higher than the will of the people because the people themselves, through their delegates, had created it in the foundational moment of the republic, when they were in possession of the greatest virtue. The Constitution thus embodied and preserved the best qualities of the citizens while they were exposed to the inevitable corruption of time which they could only overcome by a frequent return to the first principles they had enshrined in their original law. On the other hand, a liberal notion of sovereignty gave the people an unrestrained right to refashion government - in the common interest. From the perfectionist perspective of the Enlightenment, it was likely that new and

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<sup>38</sup> Article V. See Benjamin Rush, "Observations on the Government of Pennsylvania," in *The Selected Writings of Benjamin Rush*, 54-84, 73ff.

improved means of preserving liberty might be discovered as human knowledge and experience increased (the Revolution was a "great experiment" after all) which might necessitate ameliorative changes in the Constitution.<sup>39</sup> When the opposition pressed hard for a new convention in 1777, the Constitutionalist Assembly grudgingly agreed to have the people vote on the question, reneged however, after a flood of petitions which, if it does not prove the popularity of the Constitution, at least shows the radicals' talent for political mobilization. In this context the Whig society, in a congratulatory petition to the Assembly dating from May 16, 1777, declared that it would "concur [...] in the amendment of any part of the present Constitution, when, either upon experiment or by candid inquiry into the rights of things, such amendment shall be found or judged to be necessary." The contradiction lurking between the mixed language of classical and modern politics never became a problem for the Constitutionalist because of the confidence they invested in popular rule. To them the Constitution represented both the virtue and the common sense of the people, it was a 'good,' i.e. common-wealth oriented, as well as a rationally constructed, simple and effective frame of government. The already considered it more or less perfect because it emphasized popular sovereignty, the liberty and authority of the people at large, as no other constitution did. "Demophilus" had suggested a Council of Censors for the republican purpose of "keeping the constitution in health and vigor, by having an opportunity to see that it did not depart from its first principles." He continued by asserting that "This

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<sup>39</sup> Thomas Paine repeatedly took the latter position, taking what appears to be rather a pragmatic approach to constitutions.

would be effectually holding the supreme power in its *only* safe repository *the hands of the people*."<sup>40</sup> The key first principle, in other words, was popular sovereignty itself. Significantly, section 47, in defining the censors' task, applies the phrase "preserved inviolate" to the noun phrases "freedom of the commonwealth" and to the "constitution." The two, one can surmise from this semantic analogy, were thought of as identical. The theoretical contradiction between Article V and section 47, was resolved inasmuch as both were ultimately expressions of the attachment to a radical definition of popular power.

It is clear from the convictions expressed in the Constitution that a mere mechanical system of checks and balances which would utilize the irrepressible self-interest of men to secure government from just those interests was unthinkable for Pennsylvania's Founding Fathers. Constructing the provincial past as an example of factional rule that created injustice, ill will and confusion, they presented an inclusive egalitarian republic as an alternative system in which differences could be overcome by a high level of virtue and by including the entire tax-paying population in the process of political deliberation. The Constitutionals' radicalism lay in the faith they put in the virtue and common sense of the citizenry and in a democratic order in which the only check was that of the government by the people at large.

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<sup>40</sup> Demophilus, "Genuine Principles," 363.



### *2.3.3 The Popular Foundation of Power*

Historians have agreed on characterizing the Pennsylvania Constitution of 1776 as the most democratic of the American Revolution. Numerous features of the frame of government testify to the Pennsylvania framers' egalitarian republicanism which can be reduced to two basic principles. First, power was to remain as close as was feasible in a representative system to the people. Second, the broadest possible definition of the people was to be employed. This section will discuss the realization of these principles in the frame of government, while a detailed interpretation of the theoretical underpinnings of conceptions of suffrage, citizenship, and representation as revealed by the public discourse on the Constitution is reserved for the following chapter.

Small, homogenous, and in no way proportionate to the demographic structure of the province the old Assembly embodied the principle of virtual representation. The new legislature was constructed according to the principles of actual representation. This first of all required a larger representative body. The old assembly had consisted of thirty-six members, supplemented by the concession of twenty-two further seats by 1776. The new assemblies of 1776 and 1777 consisted of a total of seventy-two representatives. Equal representation was a major issue in Pennsylvania, in fact one of the primary reasons the disadvantaged western counties had been eager to abolish the old government. Under the new frame representatives were to be apportioned by taxable inhabitants, "the only principle which can at all times secure liberty, and make the voice of a

majority of the people the law of the land," as the Constitution declared. Together with a senate, the idea of a representation of property, which would be enshrined in many other constitutions in the form of high property qualifications for electors of a second legislative body, as well as by apportionment according to the size of tax quotas, was rejected. Tax lists were to be collected and submitted by 1778, up to which point representation was fixed absolutely at six persons for the city of Philadelphia and each of the counties.<sup>41</sup> The number of taxables was to be septennially reassessed.<sup>42</sup> The Constitution also expressly granted citizens the right to instruct their representatives, a key aspect of actual representation.<sup>43</sup>

Probably the most conspicuous feature of the Constitution was its unicameral Assembly. The Whig theory of government rested on the idea of a balance of powers. The traditional tripartite division of society into three estates or principles - King, Lords, and Commons, or monarchy, aristocracy, and democracy, was translated into a balanced republican government consisting of the executive, a council or senate, and a popular assembly. From writing *Thoughts on Government* until the end of his life John Adams did not cease to drive the point home that only three bodies independent of each other constituted a stable system of government. A single assembly pitched against a governor would always end with one power undermining the other, the result being either a legislative or an executive tyranny. In a

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<sup>41</sup> This created a contemporary disadvantage for the more densely settled eastern counties, which western radicals were probably more than comfortable with.

<sup>42</sup> Sec. 17.

<sup>43</sup> Article XVI.

governmental triad, the competition between any two bodies was compensated by the interception of the third.<sup>44</sup>

The Pennsylvania Founding Fathers ignored this wisdom, as they vested the legislative power in a popular assembly and modest executive powers in a council chaired by a president.<sup>45</sup> They were prone to avoid an upper house, which they deemed a superfluous and dangerous repository of "tyranny and confusion."<sup>46</sup> Tyranny because it embodied the aristocratical pretensions of self-interested men of great property, whose ambition it was to gain all power for themselves. Confusion, because an additional body introduced a new institutional interest that would obstruct the work of government and create factions.<sup>47</sup> Proceeding from the idea of a common interest in society it seemed logical to mirror it in a single assembly which faithfully embodied the citizens' will. The representatives of the people would not be controlled by senators, but by the people themselves.<sup>48</sup> This principle was enshrined in Article IV of the Declaration of Rights, which, asserting the sovereignty of the people, concluded that "therefore all officers of government, whether legislative or executive, are their trustees and servants, and at all times accountable to them."

The Constitution contained a number of regulations which were supposed to ensure popular control, most of which had been demanded in some form in political writings prior to the Convention. First of all, annual

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<sup>44</sup> Adams, *Thoughts on Government*, 404f.

<sup>45</sup> Sections 1, 2, and 3. In a sense they were simply continuing the Pennsylvanian tradition of unicameralism. For the question to what extent it was nonetheless a departure see ch. 2.6.

<sup>46</sup> "The True Interest of America," *PP* (July 1, 1776).

<sup>47</sup> See the detailed discussion in ch. 2.7.

<sup>48</sup> See ch. 2.2.

elections and a system of rotation were supposed to ensure that members of the government were "restrained from oppression" by being frequently and regularly reduced "to a private station."<sup>49</sup> Legislators were not allowed to serve more than four years in seven.<sup>50</sup> Rotation was also applied to the delegates to Congress and the Councilors. Secondly, politics would be public, contrary to the colonial practice. Section 13 declared that the "doors of the house in which the representatives of the freemen of this state shall sit in general assembly, shall be and remain open for the admission of all persons who behave decently [...]." On a motion by at least two delegates the assembly's votes and proceeding were to be printed on a weekly basis, and in the case of ballot votes a legislator had the right "to insert the reasons of his vote upon the minutes."<sup>51</sup> The traditional task of the senate of calmly reviewing bills possibly passed by the assembly in haste or ignorance was explicitly ascribed to the people at large in a section worth quoting in full:

"To the end that laws before they are enacted may be more maturely considered, and the inconvenience of hasty determinations as much as possible prevented, all bills of public nature shall be printed for the consideration of the people, before they are read in general assembly the last time for debate and amendment; and, except on occasions of sudden necessity, shall not be passed into laws until the next session of assembly; and for the more perfect satisfaction of the public, the reasons and motives for making such laws shall be fully and clearly expressed in the preambles."<sup>52</sup>

Thirdly, the legislators were restricted by the frame of government itself since they had "no power to add to, alter, abolish, or infringe any part of this

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<sup>49</sup> Article VI.

<sup>50</sup> Sec 8.

<sup>51</sup> Sec. 14.

<sup>52</sup> Sec. 15.

constitution."<sup>53</sup> Finally, to further prevent abuses of power, assemblymen were not allowed to hold any other offices, except in the militia, nor were there to be any offices of profit "the usual effects of which are dependence and servility unbecoming freemen, in the possessors and expectants; faction, contention, corruption, and disorder among the people." These provisions were standards of the radical Whig repertoire with its jeremiad of "placemen and pensioners," but they were also lessons learned from the reality of the provincial government. Plural officeholding had functioned as an important means of sustaining a homogenous power elite and sinecures had been the proprietor's principal means of patronage. The prevention of this practice was what many radicals primarily meant when they spoke of a separation of powers.

Under popular and constitutional control, the assembly exercised all governmental powers except a small number reserved for the council. The pluralization of the executive indicates the desire of the framers to diffuse even the modicum of influence left to this highly distrusted branch of government. While councilors were permitted a three year term, they were elected in three shifts, just like modern Senators, and could not be reelected for four years after serving a full term. "By this mode of election," the Constitution assured,

"more men will be trained to public business, there will in every subsequent year be found in the council a number of persons acquainted with the proceedings of the foregoing years, whereby the business will be more consistently

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<sup>53</sup> Sec. 9.

conducted, and moreover the danger of establishing an inconvenient aristocracy will be effectually prevented."<sup>54</sup>

Limited as it was, the delegates of the Convention felt a need to install preventive mechanisms against the formation of an aristocratic faction in the executive. What powers it actually had predominantly lay in the appointment of "judges, naval officers, judges of the admiralty, attorney general and all other officers, civil and military, except such as are chosen by the general assembly or the people, agreeable to this frame of government, and the laws that may be made hereafter."<sup>55</sup> The plural executive also sat as a court and had the right of granting pardons, except in cases of impeachment - which were tried before the president and council -, murder, and treason. It communicated with other state governments, could lay business before the assembly, and, obviously, executed legislative decisions. The president served as commander in chief of the military with the council's approbation. The executives' salaries were granted by the assembly, an obvious means of exerting pressure. Fees, licenses, and other former sources of gubernatorial income were now to be paid into the public treasury.<sup>56</sup>

The judiciary was independent, though weaker than in other states. Supreme court judges were only appointed for seven year terms instead of during good behavior. They were to have a fixed salary, which would be granted by the assembly. The struggle that later ensued over the size of judges' salaries, a complicated issue in the light of rampant inflation, showed that this regulation did not prevent legislative attempts at manipulating the

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<sup>54</sup> Sec. 19.

<sup>55</sup> Sec. 20.

<sup>56</sup> Sec. 33.

judiciary. The Assembly was also responsible for removing judges for misbehavior.<sup>57</sup> The same regulations applied to justices of the peace. Contrary to other judges, these local officers were, however, popularly elected, just as sheriffs, coroners, and other city or county offices. This was an important endorsement of the principle of local autonomy and democracy.

In 1776 John Marshall was only a Richmond lawyer and a supreme court was still far from wielding the power of judicial review. It can be considered a further indicator of the trust the Constitution placed in the people that an early form of judicial review was entrusted to special elected representatives of the people. For the Council of Censors, in taking account of the governments' activities and judging their constitutionality performed just this task.

The Revolutionaries expected great things from their new frame of government, no less than the dawning of a new age of social harmony, freedom, and prosperity. " 'Faction, contention, corruption, and disorder among the people,' will be done away - *Eutopia, paradise*, and all the *beatitudes of religious votaries* will be open before us," one enthusiast eulogized. "Nations from every other part of the globe, hearing of our complete happiness, will *flock* hither, [...] and in return we shall be *enriched* (for wealth is no crime) by their commercial connexion [...]"<sup>58</sup> This quote indicates that the Constitutionalist emphasis on equality and virtue did not

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<sup>57</sup> For the debate on judges' salaries see e.g. "Extracts from the Minutes of the General Assembly," *FJ* (Jan. 1, 1782) and "A Countryman," *FJ* (Jan. 16, 1782); Sec. 23. The fact that judges could not hold other offices that might make them liable to corruption, as well as the rotating membership of the Assembly were mentioned as further factors contributing to judiciary independence. See "Remarks on the Resolves against the Plan of Government," *PEP* (Nov. 9, 1776).

<sup>58</sup> *PEP* (Sep. 21, 1776)

entail the notion of a Christian Sparta. Political homogeneity and ethno-cultural diversity, public virtue and material prosperity were entirely reconcilable. The one-year residency requirement indicated that radicals were not looking to establish a closed community - an unlikely concept considering Pennsylvania's immigration history and the fact that many Constitutionalists were themselves recent immigrants. Though many of their convictions identified them as agrarian-localists, the radicals were capable of integrating those aspects of commercial-cosmopolitanism which they deemed beneficent to the people at large.

In sum, the Constitution was a monument to the radicals' faith in the people's competence and virtue. The combination of Lockean and classical fabrics out of which Pennsylvania's fundamental law was woven revealed as a pattern the will to focus power in a legislative body chosen by a broad electorate endowed with many liberties, powers, and duties. The institutions and mechanisms employed to realize this goal were not unique or entirely innovative if taken one by one. Pennsylvania had always had a unicameral legislative and Georgia instituted one also. New Jersey's suffrage regulations were more liberal inasmuch as they gave the vote to free blacks and single women, while South Carolina also instituted the taxpayer franchise. The sons of freeholders had been enfranchised in Rhode Island since colonial times. Annual elections for assemblies were ubiquitous and rotation widespread. New York even had a council of revision which very remotely resembled the Censors.<sup>59</sup> But the stringency with which the radical

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<sup>59</sup> See *The Federal and State Constitutions*, passim. For an overview of electoral regulations see Robert J. Dinkin, *Voting in Provincial America: A Study of Elections in the Thirteen*



Pennsylvanians combined these various democratic mechanisms into a popular frame of government was indeed unique among the thirteen states, as was the forceful articulation of a well-developed model of a virtue-based participatory egalitarian democracy. The audacious combination of the taxpayer suffrage and candidacy with a weak plural executive and the calculated absence of a senate representing an aristocratic counterbalance was any moderate Whig's nightmare.

Besides the legislature, the people i.e. the politically enfranchised citizens, stood at the center of Pennsylvania's democratic constitution. This made their definition a matter of the greatest importance and controversy. The issue of the franchise, its expansion and contraction, became the supreme issue in power politics as well as in theoretical discourse. Here the Constitutionals developed a liberal conception of voting rights, based however, not on the rejection of the idea of virtue, but its relocation.

## 2.4 Democracy and Exclusion: Constituting the Virtuous Citizen

*"The People best know their own wants and necessities, and therefore, are the best able to rule themselves. Tent makers, cobblers, and common tradesmen, composed the legislature of Athens. - Anonymous"<sup>1</sup>*

There were two argumentative approaches to the problem of defining who was a fully enfranchised citizen: equality and inequality. Equality, as Gordon Wood pointed out, was the battle cry of the radicals, most loudly heard in Pennsylvania.<sup>2</sup> Inequality was the principle that social conservatives insisted upon to legitimize a privileged role within the political system for the men of greater property. This equation is not incorrect, but incomplete. What is most characteristic about the discourse of Pennsylvania radicals is that they argued with both equality *and* inequality. They consistently asserted that the kind of men who had previously been marginalized in the political sphere were equal in rights and competence to traditional elites. Just as consistently they asserted that common men were actually superior. The first line of argument was based on rights talk, starting from the key principle of liberalism that every (male white) individual counted equally. The second was Aristotelian, positing the existence of worthier and less worthier men based on gradations of virtue and corruption. But Aristotle and the whole tradition of ranks and orders was perversely stood on its head, for it was the men of middling and lower property who were here defined as best representing the common interest of society. Again there were two different lines of argumentation within this discourse of commoner superiority. We

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<sup>1</sup> *The People the Best Governors* (New Hampshire, 1776) in *American Political Writing*, vol. 1, 390-400, 391.

have already encountered the first in the constitution: by identifying public virtue with the Protestant work ethic inimical to small property holders, this class of men was constructed as embodying the greatest virtue of the commonwealth. This quality was set in opposition to the idleness of both the decadent better sort and the indolent poor. This idea was connected with the second definition of virtue employed in Constitutionalist discourse, that of martial patriotism. Virtue defined the sacrifice made by men of the middle and lower classes who served in the army and militia. Idealized as citizen-soldiers defending the republic on the field of honor, these men, irrespective of their material worth, wrote their attachment to the community in their own blood, while great landowners and substantial merchants indulged in self-interested speculation and profiteering.

Constitutionalist radicalism thus contained discursive structures that articulated a common virtue, i.e. a superiority of the lower and middle ranks as opposed to a demonized gentry, as well as a specific claim to middle class leadership. This dualism reflects the influence of different groups within the Constitutionalist party with different ideologies, as well as the range of meanings contained in virtue-discourse which could express solidarity, establish claims, or assert differences. The combination of the ideas of a plebeian equality of rights and superiority of virtue formed the basis of the Constitutionalist conception of the suffrage.

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<sup>2</sup> Wood, *Creation*, 86.

### 2.4.1 Equality: Expanding the Suffrage

Though opinions differed on the definition of the electorate as much as on the nature of representation, there was a general maxim unchallenged within mainstream republican discourse: the citizen as elector had to be independent of other individuals and attached to, i.e. identifiable as a member of, the community. Personal autonomy signified he would not serve as the mere instrument of another citizen's will, and be able to form an uninfluenced opinion. Attachment implied undivided loyalty to one's political community, obviously a matter of particular importance in the civil-war scenario of the American Revolution. Thus the Pennsylvania Constitution used the definition "free men having a sufficient evident common interest with, and attachment to the community" to define the electorate.<sup>3</sup> Age, gender, race, property, length of residence, and loyalty were the parameters on the basis of which personal independence and communal attachment were gauged. Minors, women, indentured servants, slaves, and the insane were considered to have no will, or no will of their own. The first three groups were traditionally considered part of a household headed by the *pater familias* who represented the family in the public sphere. Married women

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<sup>3</sup> This conviction is expressed explicitly in most other state constitutions. The Maryland constitution of 1776 entitles all "inhabitants" to the civil rights of "the common law of England and the trial by jury" but reserves the suffrage to "every man, having property in, a common interest with, and an attachment to the community." "Constitution of Maryland" in *The Federal and State Constitutions, Colonial Charters, and Other Organic Laws of the United States*, ed. Benjamin Pereley Poore, 2 vols. (Washington D.C: Government Printing Office, 1878, 817;818. Virginia's Bill of Rights, the first of all the states' and a model to many granted the right of election to "all men, having sufficient evidence of permanent common interest with, and attachment to the community." (Ibid., 1909). Many constitutions, e.g. Virginia's and Delaware's simply maintained the colonial property requirements as proof of independence (Ibid., 1909; 274).

suffered coverture, i.e. their identity - and property - was subsumed under their husband's. Single women, particularly widows posed a legal problem, however. As in the case of blacks, white men had to take recourse to essentialist arguments to deny their political qualification. John Adams consequently stated that "nature has made them [women, T.C.] fittest for domestic cares."<sup>4</sup> Legally defined as property, slaves only had a passive political function. They contributed to fulfilling property qualifications their owners might have to meet. The infamous three-fifths clause in the Federal Constitution played on the implicit paradox of slaves being both property and human beings. Their partial consideration in the proportional allotment of representatives, benefiting the slave states, most clearly marks the limits of Revolutionary republican theory and of theory per se, being a blatant expression of bare-naked power politics.

Very few Americans deviated from the assumption that the public citizenry of the new republics would consist of adult, white males. But this group, already a minority, was further reduced according to the standards of independence and attachment. A certain length of residency was the first indicator of an identification with the community. But by far the most important factor was property: first of all, it was the guaranty of an individual's independence through self-sufficiency. A propertyless man had to sell his labor to another and thus depended on him for his livelihood. Thus he was restrained in the exercise of his free will. Giving such men the vote would have created a system of clientism in which enfranchised marionettes

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<sup>4</sup> "Letter to James Sullivan," (Philadelphia, May 26, 1776) in *The American Enlightenment*, 183-185, 183. See Linda K. Kerber, *Women of the Republic. Intellect and Ideology in*

would "talk and vote as they are directed by some man of property, who has attached their minds to his interest."<sup>5</sup> Secondly, property represented a stake in society. One of the polity's primary purposes was the protection of property. Thus a property owner did not only have a right to be represented, but could be expected to have an interest in supporting the political order. For the same reason it appeared logical to exclude the propertyless since the vote gave them a voice in decisions over others people's property which would not negatively affect them, but may lead to a redistribution of property to their benefit.<sup>6</sup> Thus the battle cry of American resistance to Britain - no taxation without representation - applied in the reverse also: no representation without taxation. Finally, the destitute could not be expected to have the knowledge necessary to form a reasonable judgment on political issues. John Adams consequently viewed the man without property as an emasculated, infantile creature. The same reasons that precluded women and children from enjoying the suffrage - a limited, domestic horizon and the lack of an independent will - applied to him: "Is it not equally true, that men in general, in every society, who are wholly destitute of property, are also too little acquainted with public affairs to form a right judgment, and too dependent on other men to have a will of their own?"<sup>7</sup>

The association of full citizenship with property ownership represented conventional wisdom and was grounded in reason as well as experience. Two classics eagerly quoted by English and American Whigs,

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*Revolutionary America* (New York and London: Norton, 1986 [1980]), esp. 269-288.

<sup>5</sup> John Adams, "Letter to James Sullivan," (Philadelphia, May 26, 1776), 184.

<sup>6</sup> This is how the Federalists interpreted the debtor legislation of the state legislatures.

<sup>7</sup> Adams, "Letter to James Sullivan," 184.

Montesquieu's *Spirit of the Law* and Blackstone's *Commentary* advised it<sup>8</sup> and it had been an established practice since the fifteenth century. The property qualifications enshrined in the colonial charters of government were all ultimately offshoots of the English 40 Shilling freehold qualification enacted in 1430.<sup>9</sup> Revolutionary radicalism challenged this principle, however, and the consequences were most visible in the Pennsylvania Constitution and its slightly modified clone in Vermont. While the Commonwealth's suffrage laws were innovative as practice, theoretical precedents were available from the English civil war - though it was generally critics of the Constitution who pejoratively referred to its creators as a "puritannick levelling Party."<sup>10</sup> The Putney debates had centered on the very question of the suffrage, with Rainsborough arguing for unrestricted manhood suffrage, while Ireton defended the traditional property clauses.<sup>11</sup> The Levellers ultimately adopted the principle of a householder suffrage excluding dependents such as servants, exactly the position taken by Thomas Paine in 1778, while Diggers like Winstanely preached a communistic abolition of private property, inspired by millennialist mysticism.<sup>12</sup> The seventeenth-century understanding of democracy, which was inseparable from notions of spiritual sainthood and the impending

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<sup>8</sup> Chilton Williamson, "American Suffrage and Sir William Blackstone," *Political Science Quarterly* 68 (1953), 552-557.

<sup>9</sup> Chilton Williamson, *American Suffrage*, 5. His chapter on property qualifications is still the point of departure for any interpretation. Kruman, *Between Authority and Liberty*, ch. 5. discusses the issue in reference to his argument for the mechanical polity, claiming that the identification of political participation with the institutionalized act of voting furthered a mechanistic conception of government.

<sup>10</sup> Thomas Hartley to Anthony Wayne (Albany, November 21, 1776), quoted in Rosswurm, *Arms, Country, and Class*, 108.

<sup>11</sup> *The Putney Debates* (1647) in *Divine Right and Democracy*, 285-317.

millennium was still evident in deeply religious Constitutionals such as Christopher Marshall, as well as in the "New Light Presbyterian" half of the ambivalent Benjamin Rush. But Paine, Cannon and the majority of the Pennsylvania radicals were arguing democracy in a secularized context. The other major difference between the British and the mid-Atlantic Commonwealth was that in the latter the radicals, while not extremists by seventeenth-century standards, were able to actually turn their platform into the fundamental law of their state.

What standard were the radicals departing from in the Constitution of 1776? William Penn's First Frame of Government had had a comparatively modest qualification: it gave the vote to every purchaser of 100 acres of land at one penny an acre with 10 acres of land cultivated, to former indentured servants with 20 acres of cultivated land within a 50 acre freehold, and to payers of scot and lot, a house tax for urban dwellers such as artisans. The 1696 frame introduced a two-year residency rule. It reduced the qualification for rural dwellers to fifty acres with ten cultivated but raised the urban qualification to 50 pounds in debt free property (which led to a protest by more than a hundred citizens).<sup>13</sup> The charter of 1701 essentially retained these qualifications, but the share of cultivated land was raised to twelve acres and regulations concerning citizenship by birth and naturalization were introduced. These excluded many Germans from the vote, who did not take the trouble to be naturalized. As social stratification set in in the developing colonies "its lawmakers took increasing pains to translate social position into

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<sup>12</sup> See *Divine Right and Democracy*, 51; [Paine] "A Serious Address to the People of Pennsylvania," *PP* (December 1, 1778); Gerard Winstanely, *A New-Years Gift for the*



political prescription," as J.R. Pole succinctly summarized this development.<sup>14</sup>

From this point of view, the Constitution of 1776 indeed represented a return to first principles, to an egalitarian republicanism based on the conviction that no independent man was inferior to any other. The Pennsylvania Constitution reveals a particularly liberal interpretation of personal independence. In reference to offices of profit, the Constitution noted that "every freeman to preserve his independence, (if without a sufficient estate) ought to have some profession, calling, trade or farm, whereby he may honestly subsist [...]."<sup>15</sup> The traditional notion of the independent citizen reverberates through this definition of freemen. But the benchmark of independence is no longer property in the form of an estate, but merely subsistence by any kind of (skilled) labor. Property, which represents the ability to accumulate, is replaced by labor, which merely implies sustenance, reflecting the reality of an average mechanic's or farmer's existence. The fact that laboring as a small producer or perhaps even merely as a wage earner was considered a sufficient basis for independence in political terms constituted an important move in the direction of universalizing civil rights. Certainly the independent citizen defined in these terms encompassed far more men than the independent citizen of either the ideal classical republic, the English republican monarchy, or even the comparatively egalitarian colonial governments. The

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*Parliament and Armie* (1650) in *Divine Right and Democracy*, 317-333.

<sup>13</sup> Pole, *Political Representation*, 88.

<sup>14</sup> *Ibid.*, 83; See *Frame of Government* (1682); *Frame of Government* (1696); *Charter of Privileges* (1701).

<sup>15</sup> Sec. 36.

importance attributed to the preservation of such means of independence is evident from the constitutional article which in its proposed wording explicitly protected tools of trade from being used as collateral for paying fines.<sup>16</sup>

The actual suffrage regulations conformed to this "middle sort" understanding of independence. While women and indentured servants were considered incapable of a political voice as a matter of course by virtue of their dependence, and African-Americans were considered an altogether separate and inferior community<sup>17</sup>, the suffrage was extended to cover "[e]very freeman of the full age of twenty-one Years, having resided in this state for the space of one whole Year next before the day of election for representatives, and paid public taxes during that time [...]." Additionally, the "sons of freeholders of the age of twenty-one years" were "intitled to vote although they have not paid taxes."<sup>18</sup> The minimized qualification, which could be fulfilled by the payment of any general tax performed independently of any property assessment, signified the transition from an early modern conception of the suffrage as the privilege of an estate of propertied men to a modern civil right. The requirement of tax payments might be viewed as constituting a minimized property requirement, which raises the question of whether a pre-liberal differentiation between polis and people on the basis of property was not retained after all. This is unlikely however, since electors

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<sup>16</sup> *The proposed Plan of Frame of Government*, Sec. 29.

<sup>17</sup> The Constitution did not explicitly bar taxpaying blacks from voting, but their inability to vote was apparently viewed as given. The test-acts of 1777 and 1779 specifically demanded the loyalty oath required to be taken by voters of "the male white inhabitants of the state." *PP* (September 30, 1779); under the Constitution of 1790 blacks were apparently understood to be enfranchised. See Charles H. Wesley, "Negro Suffrage in the Period of Constitution-Making, 1787-1865," *Journal of Negro History* 32 (1947), 143-168, 160f. For a colonial tradition of discriminating laws against slaves and free blacks see Paul Crawford, "A Footnote on courts for Trials of Negroes in Colonial Pennsylvania," *Journal of Black Studies* 5 (1974), 167-174.

for the 1776 convention already included all men assessed for taxes, which included even the non-tax-paying independent poor. The unspecified demand for a tax payment was covered by any form of public rates or duties including a poll tax and thus constituted a "complete abolition of all property or financial qualifications."<sup>19</sup> The regulation was so understood by its critics, who complained that "*all men* will be put on a level with respect to THIS GRAND RIGHT OF VOTING AT ELECTIONS [...]."<sup>20</sup> Additionally, the enfranchisement of the non-tax paying sons of freeholders stressed the concept of individual rights as opposed to the classical conception of a public representation of households by an enfranchised *pater familias*. Though the limits of these suffrage regulations are evident they are more or less identical with the electoral laws of the 1820s, the "era of the common man," so often depicted as the true beginning of equality and democracy in America. Williamson estimated that taxables comprised about ninety percent of adult males, which would have meant an expansion of the franchise anywhere between ten and forty percent outside Philadelphia.<sup>21</sup>

Historians who emphasize the continuity between colonial and Revolutionary America have always stressed the irrelevance of property qualifications. They point out that a fifty acre freehold was available to many

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<sup>18</sup> Sec. 6.

<sup>19</sup> J. Paul Selsam, *The Pennsylvania Constitution of 1776. A Study in Revolutionary Democracy*. 1936 rpt. (New York: Da Capo Press, 1971), 188; 189f. Williamson notes that taxpayer suffrage could unintentionally exclude voters, as in Vermont where taxes were not being collected. That such an exclusion was not intended is indicated by the fact that Pennsylvania enacted a special exemption when the county of Westmoreland was unable to submit its tax list for the apportionment of its representatives due to Indian attacks. See Williamson, *American Suffrage*, 98; *An Act to Appoint a Representation for the City of Philadelphia, and the Several Counties in this Common-Wealth [...]* (Philadelphia, 1779).

<sup>20</sup> "A Dialogue between Orator Puff and Peter Easy, on the proposed Plan or Frame of Government," *PEP* (Oct. 24, 1776).

<sup>21</sup> Williamson, *American Suffrage*, 111.

more people under American circumstances than in England, so that the exclusionary effect of this qualification was massively reduced.<sup>22</sup> Even individuals who did not qualify simply ignored the rules and voted anyway. This seems to have been the case with a good deal of Philadelphia mechanics, but it does not explain the urgency with which the suffrage question was discussed.<sup>23</sup> John Adams openly admitted that "Our people have never been very rigid in scrutinizing into the qualifications of voters, and I presume they will not now begin to be so." But he dreaded an alteration of property regulations because he saw them as a foundation supporting a hierarchical social order that would otherwise collapse into egalitarian anarchy. Adams *desired* a large electorate, but significantly he hoped to achieve it by making land available to the propertyless, not by lowering qualifications.<sup>24</sup> At stake in the debate was not, or not preeminently, the actual possibility of voting, but the definition of what constituted a citizen. The protest by mechanics against their formal exclusion indicate they were not content with practicing what they considered to be their self-evident right as a breach of law. Thomas Paine observed that the fifty pound qualification had "tempt[ed] men to forswear themselves," since "[e]very man with a chest of tools [...] or almost anything else he could call or even think his own, supposed himself within the pale of an oath, and made no hesitation of taking it." He continued: "It is disgraceful that freedom should be made the property of an oath on such *trifling* things, which, whether they are

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<sup>22</sup> The best-known study is Robert E. Brown, *Middle-Class Democracy and the Revolution in Massachusetts, 1691-1780* (Ithaca, 1955).

<sup>23</sup> Hutson, "An Investigation of the Inarticulate," 15.

<sup>24</sup> Adams, Letter to Sullivan, 184.

possessed or not, makes scarce any, or no difference, in the value of the man to the community."<sup>25</sup>

Property qualifications were experienced as a denigrating means of putting men in their place - a place they were increasingly unwilling to accept. The question of voting rights was essential not just in terms of power and participation but as a "defining element of citizenship." As Judith Shklar has pointed out, "the ballot has always been a certificate of full membership in society, and its value depends primarily on its capacity to confer a minimum of social dignity."<sup>26</sup>

Conventionally, the people's competence had been limited to a passive role of the guardian of liberty, who only acted when the elite's wisdom was in danger of succumbing to selfish ambition. A participatory or leading role beyond acclamation was precluded on the basis of popular ignorance and a lack of restraint, as the people, frequently overcome by their passions, were always potentially "the mob". Opponents of the expanded suffrage in Pennsylvania made frequent use of this traditional image. The newly admitted electors were viewed as the kind of men "always the most ready to engage in seditions, tumultuous, and factious proceedings." The new frame of government was christened "mobocracy" and "mob government."<sup>27</sup> Thomas Paine retorted that "[t]he cry of being elected by a mob is idle and frivolous: It is a nick name which all parties give to each

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<sup>25</sup> [Thomas Paine], "A Serious Address to the People of Pennsylvania, on the present situation of their affairs," *PP* (Dec. 5, 1778).

<sup>26</sup> Judith Shklar, *American Citizenship. The Quest for Inclusion* (Cambridge, Mass.: Harvard University Press, 1991), 17; 2.

<sup>27</sup> "A Dialogue between Orator Puff and Peter Easy" (October 24, 1776); Benjamin Rush, Letter to Charles Lee (Oct. 24.1779) and Letter to Anthony Wayne (May 19, 1777), Letters

other. It means no *particular* class of men, but *any class* or number of men acting irregularly and against the peace [...]." Paine dismisses the plebeian connotation of the pejorative term and reveals its rhetorical, defamatory function.<sup>28</sup>

The demand for a recognition of their dignity as citizens was part of the new confidence and consciousness that also made common men realize and articulate interests. The men going to the polls in 1776 were no longer the colonial subjects who by their vote had deferentially affirmed the leadership of their social superiors. Mechanics, farmers, and militiamen were aware of their distinct interests and demanded they be politically represented. The old elites were fully conscious of this and tried to make use of the property qualifications they had themselves neglected for years to control what they recognized as a threat to *their* distinct interests. As such, the question of the suffrage was an issue between competing interest groups endorsing political systems to their mutual advantage.<sup>29</sup> Opponents of the suffrage expansion were certainly anxious about the consequences of putting citizens worth fifty pounds "upon a level with the indolent or prodigal," reminding readers that the "most flourishing commonwealths that ever

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of Benjamin Rush, 2vols., ed. L.H. Butterfield (Princeton: Princeton University Press, 1951), I, 243; 148.

<sup>28</sup> "A Serious Address" *PP* (Dec. 5, 1778). In a clever ironic turn, Paine proceeds by stating his preference for working within the codified legal system instead of resorting to extralegal crowd action. But he then legitimizes it as a last resort of public redress against intolerable injustices and provides as an example the corrupt behavior of the "present speculators." When the people form a mob against such men they are acting in the public interest against enemies of the community.

<sup>29</sup> Rosswurm, *Arms, Country, and Class*, 92, notes conservative attempts to rigidly enforce property regulations in the May 1 by-election.

existed, *Athens* and *Rome*, were RUINED by allowing this right to people without property."<sup>30</sup>

But radicals found arguments beyond group rights or interests in support of an extended suffrage. Thomas Paine argued that a broad electorate stabilized a republic by preventing "corruption and party influence" in elections. A broad and diversified body of voters, including "men of all conditions, from rich to poor" was not only difficult to manipulate. In an anticipation of Madison's pluralism argument, Paine noted that "[v]ariety prevents combination" - voting blocs would be less effective among larger quantities of electors with a diversity of interests.<sup>31</sup>

Paine provided a further argument which is remarkably similar to the "political liberal" John Rawls' concept of the "veil of ignorance."<sup>32</sup> Rawls derives his model of a liberal society from a hypothetical situation in which the partners in a future social contract do not know what their status in the polity will be and thus, out of rational self interest, opt for the system which provides the best conditions for the least privileged.<sup>33</sup> Paine applied this logic to property qualifications, pointing out that Pennsylvania's dynamic society prevented its citizens from knowing their and their descendant's social status in the future. "The impossibility of knowing into whose hands a distinction of rights may fall, should make men afraid to establish them [...]. Who, fifty or sixty years ago, could have predicted who should be the rich

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<sup>30</sup> A Dialogue between Orator Puff and Peter Easy (Oct. 24, 1776).

<sup>31</sup> "A Serious Address," *PP* (Dec. 5, 1778).

<sup>32</sup> On Rawls' theory of political liberalism see David Johnston, *The Idea of a Liberal Theory. A Critique an Reconstruction* (Princeton, N.J.: Princeton University Press, 1994), 100-136.

<sup>33</sup> For a concise account of Rawls see *The A-Z Guide to Modern Social and Political Theorists*, ed. Noel Parker and Stuart Sim (London: Prentice Hall/Harvester Wheatsheaf, 1997), 306-309.

and the poor of the present day;[...]."<sup>34</sup> Wealth, radicals argued, was a volatile thing in America and at best a comparatively recent characteristic. As such, how could it serve as a means of proving the genotypical aristocratic superiority of gentlemen? "It was a custom among the *Jews*, on certain occasions, to acknowledge the origin of their families as an antidote to pride," a "Watchman" related in June 1776:

"Suppose the same acknowledgment was demanded from some of our uncommon people. I believe the answer should be, a poor tradesman, a day-labourer, or a vagrant [...]. Talk not, ye pretenders to rank and gentility, of your elevated stations. They are derived from those very people whom you treat with so much contempt."<sup>35</sup>

Property qualifications may have been subverted in the colonial era. But their existence symbolized the will to exclude members of society who now thought themselves entitled by natural law to have an equal voice in political affairs. It was essential to their dignity as citizens that commoner's voting rights be affirmed *expressis verbis* by broad suffrage regulations, for the suffrage was recognized to be the true badge of citizenship and the foundation of all liberty.<sup>36</sup> This entailed a redefinition of political competence that replaced the aspect of property with labor, and focused on qualities such as common sense, martial and productive virtue, and patriotism. These would become the key principles in the Constitutionalist model of suffrage and citizenship. In fact, the Pennsylvania radicals argued, men of little or

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<sup>34</sup> "A Serious Address" (Dec. 5, 1778).

<sup>35</sup> A Watchman, "To the Common People of Pennsylvania," AA vol. 4.6, 787.

<sup>36</sup> A broadside addressed to militiamen stated that "[w]e are contending for the Liberty which God has made our Birthright: All Men are entitled to it, and no Set of Men have a Right to any Thing higher." It exhorted them to "[t]rust no Man, but such who is determined to extend the principle of free Annual Election, by Ballot, to all possible Cases; for in the constant Exercise of this Principle alone consists the Soul of Freedom." *To the Several Battalions of Military Associators in the Province of Pennsylvania* (Philadelphia, June 26, 1776).



middling property were actually better qualified to assess the public good than the "better sort" that had dominated politics to date.

#### *2.4.2 Superiority: The Relocation of Competence and Virtue*

We have seen that the Constitutionalist party consisted of at least five distinct groups: western farmers, urban mechanics, lower class men organized in the militia, and two leadership groups, the well-to-do Scots-Irish Presbyterian leaders from the west and the ideological radicals in Philadelphia. What united these groups and a majority of the delegates at the convention was the thorough distrust of the old political system of Pennsylvania and the men who embodied it. Through the revolutionary context long-held grievances, vested interests, and a tradition of radical thought were fused into a political ideology asserting the common man's political competence and equality. At the same time the leadership abilities traditionally associated with men of wealth and power were severely censured. No one put it more bluntly than one of the Constitution's principal architects, James Cannon, in an address to the militia in the wake of the elections for the Pennsylvania constitutional convention:<sup>37</sup>

"A Government made for the common Good should be framed by Men who can have no Interest besides the common Interest of Mankind. It is the Happiness of America that there is no Rank above that of Freemen existing in it; and much of our future Welfare and Tranquillity will depend on its remaining so for-ever; for this Reason, great and over-grown rich Men will be improper to be trusted. [...]"

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<sup>37</sup> Cannon was a schoolteacher and mathematician who had come to Philadelphia from Edinburgh in 1765. He was a gifted speaker and a skillful publicist. See William Egle, "The Constitutional Convention of 1776. Biographical Sketches of its Members," *PMHB* 3 (1879), 198-199.

Gentlemen of the learned Professions are generally filled with the Quirks and Quibbles of the Schools;. . . we would think it prudent not to have too great a Proportion of such in the Convention--Honesty, common Sense, and a plain Understanding, when unbiased by sinister Motives, are fully equal to the Task."<sup>38</sup>

Cannon asserts the classical principle of republicanism that government is conceived to realize the public good and must therefore consist of men free from private interests. His remark that America is a country of freemen, and that this is the foundation of its happiness implies the conception of an egalitarian republic, in which the social homogeneity of rulers and ruled forms the basis of a common interest. Significantly, Cannon glories in the absence of a *higher* rank than freemen. The existence of a lower rank in the form of indentured servants or slaves does not compromise the republican community, whereas his emphasis on the necessity of preserving the equal status of citizens alludes to dangers emanating from men with aristocratic pretensions. These are to be found among the upper class, the "great and over-grown" rich men of the proprietary and merchant elite, whose wealth fires their ambitions for exclusive power. Besides wealth, education, the other traditional signifier of virtue is turned into a disqualifying characteristic concerning disinterested political service. Cannon bases his anti-intellectualism on the sophistic ambiguity of learned discourse, which is diametrically opposed to the simple, rational structure of the ideal political discourse, as Tom Paine had both argued and exemplified in *Common Sense*.<sup>39</sup> The prerequisite of political competence is just that - common

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<sup>38</sup> *To the Several Battalions*.

<sup>39</sup> Stephan Lucas argues that the democratization of the political sphere and growth of political consciousness influenced and benefited from a democratization of discourse, of

sense, paired with sincerity, qualities more evident in the 'man on the street' than in the higher echelons of society, where confusion and corruption dwelt. Thus the social *locus* of virtue descends to the middle and bottom of society. Cannon makes the common sense of common people the foundation of the republic, while its accustomed leaders actually appear to be its greatest handicap.

How serious radicals were about this inversion of competence is illustrated by the fact that while they censured the educated they expected illiterate men to be exercising their right to vote in the new republic. In his *Genuine Principles* "Demophilus" suggested a mode of balloting by differently colored balls, arguing with the advantage that "very little writing is needfull: and when the whole meeting is told that white is yea and black nay, every one is alike knowing in the exercise of his elective power, without having occasion to recur to any man for advice or assistance."<sup>40</sup>

The concept of commoner superiority became a basic ingredient in the Constitutionalist repertoire and was varied and refined throughout the fourteen-year debate over the Constitution. Wealth, education, refinement, any means that social elites had employed to set themselves off from the rest of society now became stigmata of an un- or anti-republican and thus a seditious spirit, of an inferiority of character which entailed the possibility of political sanction. "None but base souls ever made wealth the test of virtue," 'Reflector' observed in the *Freeman's Journal* and 'Observer' added that

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which Paine's clear, direct style was representative. Not the learned discourse of the science of politics was the aim, but a conversation of equals on the basis of common sense. See Lucas, *Portents of Rebellion. Rhetoric and Revolution in Pennsylvania, 1765-1776* (Philadelphia: Temple University Press), esp. 254-260.

<sup>40</sup> *Genuine Principles*, 351.

"[...] Wisdom is rarely the Companion of Property." Not only were large estates no prerequisite for the independence required of a citizen, too much property actually made men *more* dependent, as they became slaves of their greed: "many who are not worth so much, are of more independant spirits, and will not so soon be biased by the prospect of gain, as those in general who are much richer than themselves."<sup>41</sup> 'A Freeholder' stated that "Men [...] of overgrown wealth [...] are unfit for your service and a republican government [...] from the love of power, which is inseparable from wealth- from their station, which makes them ignorant of the sufferings, feelings, and distresses of those in the lower classes of life." On the other hand, "The charities of this day, and most public spirited designs" were "confined to the middling class of people."<sup>42</sup> Again, the traditional logic of reason and virtue was inverted. Where wealth had connoted the virtue of wisdom, i.e. the ability to discern the true interest of the community, it now separated men from the majority of society and its needs. And while commoners were seen as equipped with reason *and* compassion, it was the wealthy who were not only indifferent, but also incapable of controlling their passions, because an excess of property fired the desire for more wealth and for power. From the radicals' point of view education created arrogance, not wisdom; wealth signified not the freedom to devote oneself to public affairs, but dangerous ambition or decadent self-indulgence. The disinterested gentleman was reconstructed as a haughty aristocrat with Tory views, conspiring for power and uniting in his personality all the corrupting influences so often

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<sup>41</sup> "Letter from a gentleman," *PEP* (July 27, 1776).

enumerated in republican jeremiads: self-interest, factionalism, lust for power, and luxury-induced idleness and effeminacy. Contrary to the laborer and artisan, the "fine gentleman" was "not an industrious man; for his whole life is spent in idleness." His activity was limited to a "perpetual motion from one place of amusement to another" during which he was "never once able to discover the real purpose for which he was sent into the world."<sup>43</sup> But despite the fact that their overgrown wealth had corrupted their virtue, they claimed without irony the title of the "better sort." Radical writers played on the revulsion commoners felt against the condescending attitude and hypocritical paternalism of leaders accustomed to popular deference. To these men

"equal liberty is an *exclusive* privilege, belonging to a certain set of folks, who stile themselves *the better sort of people*, to hold and enjoy all offices, and places of trust, honor, or profit; this right being vested in *them* as gentlemen (that is to say, *wealthy citizens* and their *parasites*); the *common people*, such as farmers, tradesmen, and mechanicks, and *others of the lower kind*, having no business to meddle with affairs of state -unless it be *speciali gratia*."<sup>44</sup>

Suffrage rights were understood to be the key to power which the gentry would never voluntarily give up. "Men of fortune are the support of Government, and they will have the management of it," an "Eastern delegate" was quoted. "Gentlemen will have the controul, and they cannot have it unless there is a distinction made between the common people and them."<sup>45</sup>

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<sup>42</sup> Reflector, *FJ* (Philadelphia, Sept. 25, 1782); Observer, *PM* (Philadelphia, Apr. 1, 1785); A Freeholder, *To the Inhabitants of Pennsylvania* (Philadelphia, Jan. 1, 1782).

<sup>43</sup> "Description of a Fine Gentleman," *FJ* (Philadelphia, Sept. 21, 1785)

<sup>44</sup> Mirror, "Definitions of Equal Liberty," *FJ* (Oct 5, 1785).

<sup>45</sup> *PEP* (Nov. 5, 1776).

As an aristocratic faction, the Anticonstitutionalists would "not be governed by leather aprons." Even worse, they would resort to any means necessary to see the new order destroyed.<sup>46</sup> Thus "Brutus, Scipio, and Camillus" depicted anticonstitutionalist writers as sinister conspirators against liberty longing for the restoration of the old hierarchy at the price of committing treason. "Must gentlemen, who have ruled the society for a century past be tumbled down to the level of common mechanics in an instant," the Constitutionalist author has his nemesis complain. And Camillus, aware that reason is on the side of the Constitution, muses that "[o]ur fort lyes in undermining, ruining their currency, raising jealousies among the associators, and giving intelligence to Lord Howe."<sup>47</sup>

If an aristocratic faction constituted a danger to the republican commonwealth, it would seem necessary to find a way of curbing its harmful influence. We have seen that Pennsylvania's Founding Fathers eschewed the idea of an Agrarian law. While such a direct intrusion on property rights went to too far for a majority of the Constitutionalist, there were other political means to protect the commonwealth from the vice of corrupted classes. If the republican virtue of the common man was expressed in the expansion of the franchise to include all free males, was it feasible that the suffrage could likewise be contracted to exclude those now viewed as insufficiently virtuous? If citizenship was contingent upon a sufficient attachment to the community, and proof of such an attachment was virtuous

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<sup>46</sup> Consideration, Remarks on the Proceedings and resolutions of the Meeting in the State-House Yard, On Monday and Tuesday, October 21 and 22, 1776, AA 5.2, 1153.

<sup>47</sup> "Brutus, Scipio, and Camillus," *PP* (Philadelphia, Oct 15, 1776).

behavior, could citizenship, could civil rights be denied on account of a visible absence of virtue?

Richard Ryerson has argued that the Constitutionals adopted this line of argumentation from the colonial Quaker oligarchy. Having become a numerical minority in Pennsylvania in the course of the 18<sup>th</sup> century, they had claimed moral superiority to justify forcing their convictions on a Non-Quaker majority.<sup>48</sup> But contrary to the Quakers, the Constitutionals were committed to political equality and popular sovereignty. How could opposition be justifiably silenced in what was no longer a proprietary holy experiment, but a radical democracy? And what basis was there for a common definition of the public good in a multi-ethnic, multi-denominational and highly stratified society such as Pennsylvania?

#### *2.4.3 War, Virtue, and Citizenship*

The answer to these questions was war. As an existential struggle with a very uncertain outcome the war against Britain furnished the best possible reason for a solid closing of ranks: beating back a threatening external enemy. No less important than unity was every citizen's whole-hearted dedication to the cause. Here was the supreme test of virtue, as patriots expected their fellow Americans to pledge their "Lives", their "Fortunes" and their "Sacred Honour". Here also was a convincing argument for censuring the unvirtuous, those among the people who at best obstructed the cause through their indifference and at the worst were outright traitors.

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<sup>48</sup> Ryerson, "Republican Theory and Partisan Reality," 103-106.

In all of the states patriots were impatient with citizens unwilling to align themselves on the side of liberty. Just as they had seen in every British policy the signs of a giant conspiracy against American liberty they now suspected treachery and conspiracy behind internal disagreement and disaffection.<sup>49</sup> A Pennsylvania radical stated that "[i]n times of intestine feuds and domestic discord, from within - of public calamity and open warfare, from without; it is the duty of every whig to be *vigilant*, nay, it behoves him to be jealous of all around him."<sup>50</sup>

Loyalism and disaffection constituted a particularly serious problem in Pennsylvania. Thomas McKean stated that Pennsylvania was "not a nation at war with another nation, but a country in a state of *civil war* [...]."<sup>51</sup> Many among the merchant and proprietary elite had opposed independence. The majority of Quakers felt uncomfortable opposing British authority and retained a pacifistic stance, as did the German Peace Sects.<sup>52</sup> Under these circumstances it seemed all the more urgent that all non-patriots be removed from the political community. As in other states this was to be effected by a

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<sup>49</sup> See Jürgen Heideking, "The Image of an English Enemy During the American Revolution," *Enemy Images in American History*, ed. Ragnhild Fiebig-von Hase and Ursula Lemkuhl (Providence, Oxford: Berghahn Books, 1997), 91-107, esp. 102-104. Bernard Bailyn saw the conspiracy theories of radical Whiggism or country ideology as the primary catalyst pushing Americans toward revolution and independence in *The Ideological Origins of the American Revolution* (Cambridge, Mass.: The Belknap Press of Harvard University Press, 1967).

<sup>50</sup> A Constitutionist, "To the Printer of the Freeman's Journal," *FJ* (Philadelphia, Sept. 28, 1781).

<sup>51</sup> Quoted in Henry J. Young, "Treason and its Punishment in Revolutionary Pennsylvania," *PMHB* 90 (1966), 287-313, 287.

<sup>52</sup> See, e.g. *The Ancient Testimony and Principles of the People called Quakers*, (Philadelphia, 1776) and a harsh retort by Thomas Paine, "Epistle to the Quakers," reprinted in *The Complete Writings of Thomas Paine*, 2vols., ed. Philip S. Foner (New York, 1945), vol.2, 55-60.



series of test oaths by which government officials and electors affirmed their loyalty to the new American governments.<sup>53</sup>

Constitutionalists argued that "[f]rom the nature of civil government and the fundamental principles of self-preservation, every civil society must necessarily have the right of demanding of its members an assurance of their allegiance to it."<sup>54</sup> Taking the oath, in fact, implied the participation in a new social contract, for "at the dissolution of the late government every man in the country was an alien, and, having no freedom under that government which was abolished, was left at liberty either to continue an alien, or incorporate and become a member under the new government."<sup>55</sup> The pledge of allegiance, in other words, served a dual function. As a ritual of community attachment it affirmed the patriotic virtue of citizens. In terms of the contract theory of Locke's *Second Treatise* it functioned as the individual's signature on a new social contract. While the Constitution written by delegates of the people embodied the contract, the oath served as a final confirmation by potential citizens of their willingness to become members of the new society with all concomitant rights and duties.

However, the first Pennsylvania elector's oath, dating from September 26, 1776, demanded a particularly strict form of allegiance. It read:

"I...do swear, (*or affirm*) that I will be faithful and true to the Commonwealth of Pennsylvania: and that I will not, directly or indirectly, do any Act or Thing prejudicial to the

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<sup>53</sup> See Arnold, *Republican Revolution*, 100-119. Williamson quotes an estimate that has 56,000 persons taking the oath, with between 9,000 and 17,000 refusing (*American Suffrage*, 120).

<sup>54</sup> Z., "To the Freemen of the State of Pennsylvania," *PP* (Philadelphia, Oct. 3, 1778).

<sup>55</sup> *Ibid.*

Constitution or Government thereof, as established by the Convention."<sup>56</sup>

The wording is deliberate and very clear: the oath prohibits any opposition to or criticism of the Constitution "as established by the Convention." No differentiation is made between allegiance to the state and the fundamental republican principles on which it rests on the one hand and the Constitution as a frame of government representing one of many possible versions of those principles and thus subject to alterations, on the other. Based on contractual logic, the refusal to acknowledge the Constitution as it existed, for whatever reason, entailed the status, not just of second class citizenship, but of non-citizen, of an alien in own's own society, because it constituted a failure to underwrite the social contract by which society constituted itself. In the words of "A Constitutionist": "the *nonjuring enemies* of America, the *nonjuring foes* to this constitution, and those who are *nonjurors*, because dissatisfied with it, are not *of the people*, have not the privileges of citizenship, are *alien*, and not *of us*."<sup>57</sup> On the level of power politics this narrow definition of loyalty served the obvious purpose of protecting the radical frame of government from its opponents, whom the Constitutionals knew to be powerful and influential. On the level of political theory, it represented an understanding of the Constitution as first principle, as the essence, the sacred embodiment of the community's values. It connects with the classical view expressed in section 47 of the Constitution where the Council of Censors are defined as its guardians ensuring it was "preserved inviolate."

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<sup>56</sup> Quoted in Arnold, *Republican Revolution*, 106.

Complaints about a deprivation of rights from Anticonstitutionalists were unfounded and hypocritical in the light of prior exclusions from the suffrage:

"Is an oath that bars an inveterate enemy who would enter a garrison on purpose and throw open its gates to the besiegers, a tyrannick, cruel, and unreasonable thing? Did not the law, which excluded *Germans* resident in *Pennsylvania*, for many years, and every man below the value of fifty pounds in clear estate, bear as hard upon the earnest friends of our country, as could be? and yet this was never complained of, but wished to be continued by these wonderful sticklers for free election."<sup>58</sup>

This statement implies the use of suffrage restrictions as a strategy to weaken the political enemy. But by connecting the Constitutionalist practice of exclusion to the survival of the community in the context of the war and in the wake of "the violent sedition already stirred up amongst us" it was invested with legitimacy, as opposed to the older limitations motivated by factional interests. It was an aristocratic faction that opposed the Constitution, not a part of the community, the Constitutionals argued in the classical language of delegitimization. Demophilus identified among the critics of the Constitution "a very respectable number of gentlemen of the first character and fortune in the State." But "not any number of gentlemen," he continued, carried weight against "the authority of the whole community." The "stipulations" of these men, whose only principle was "*a single eye* to the success of their own *avaricious* and *AMBITIOUS* projects" implied a "separation of themselves from the body of the Common-Wealth." These

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<sup>57</sup> "A Constitutionist," *Freeman's Journal* (Philadelphia, Sept. 28, 1781).

<sup>58</sup> Consideration, AA 5.2, 1153.

men went as far as to threaten "that Lord Howe is expected to pay us a visit in Philadelphia."<sup>59</sup>

Besides serving as protection against politically active loyalists, the test oaths clearly served as a means of depriving the critics of the Constitution of their political influence, a point these critics did not cease to drive home. The oath was claimed to be identical in purpose to the one demanded by Oliver Cromwell, who like the Constitutionals was "a fierce enemy to tyranny, unless when he was to exercise it himself." A "Friend to Union" believed that the oath was "designed to prevent the least 'alteration, abolition, or infringement' being made upon any part of the Constitution," although "a hundred lessons" had shown that many Pennsylvanians disagreed with at least parts of it.<sup>60</sup> The Constitutionals were unimpressed by protests. They passed laws in 1777 and 1778 renewing the demand for an oath of allegiance. The supplement of 1779 not only excluded nonjurors from offices and elections, but laid double county taxes on them and threatened the permanent loss of all citizen's rights upon further refusal to swear the oath.<sup>61</sup> Within the Constitutionals' conception of citizenship and society this undemocratic policy became a necessary defense of democracy. As a document enfranchising the common man and representing democratic principles, they argued, the Constitution was opposed by a wealthy, power-hungry gentry that subscribed to conceptions of elite leadership; as the foundation of the political order that enabled the proper organization of resistance to the British it was opposed by Loyalist enemies of the state.

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<sup>59</sup> *PP* (Oct. 22, 1776).

<sup>60</sup> W., "To the Printer," *PP* (October 22, 1776); A Friend to Union, *PJ* (April 24, 1777).

Ultimately, the anti-constitutional machinations could be traced back to the men who had lost their grip on the province to the people with the enactment of the new frame of government. These men might be willing to serve as King George's Fifth Column, welcoming the British invasion of Philadelphia with open arms, if it helped them regain their position of political eminence. Thus, whoever refused to commit himself to the Constitution did so because he opposed the political principle of liberty and popular sovereignty which the revolution stood for. This opposition was grounded in selfish interests and Tory convictions which were dangerously close or identical to the politics of the British enemy. Unquestionably, it was the duty of good government to minimize the danger emanating from such a faction for the community of virtuous citizens. Wrote "Z.":

[...] our worthy Representatives have given this proof of their guardian care of our rights by drawing the line, *in perfect conformity to our constitution*, between the citizens of this state, and the *useless cyphers, or concealed enemies* of our freedom, who through our unwarrantable lenity were still permitted to live in the midst of us [...].<sup>62</sup>

The "oath of qualification", "Consideration" observed "must bar the gentry, whose souls are bent upon the prejudice, injury, and final overthrow of our free Constitution."<sup>63</sup> Demophilus declared that "[t]he oath or affirmation of allegiance is another mighty stumbling block in the way of our gentry, to

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<sup>61</sup> "A further Supplement to the to the Test Law, of this State," *PP* (September 30, 1779).

<sup>62</sup> Z., "To the Freeman."

<sup>63</sup> Consideration, *Remarks on the Proceedings and Resolutions of the Meeting in the State-House Yard, on Monday and Tuesday, October 21 and 22, 1776*, (Philadelphia, 1776). It was a common practice during the Revolution to discredit political opponents by associating them with the external enemy, see Heideking, 102.

whose ears the words Liberty, Independence, Common-Wealth, Free Constitution, have always been ungrateful sounds."<sup>64</sup>

Republicans desperately tried to dispel the association of Anticonstitutionalism with Toryism. A "Citizen of Philadelphia," who had emphasized the right to freedom of opinion stressed that he had been referring to "enemies of our *constitution*," not "enemies to the *state*."<sup>65</sup> In a lengthy response to the "Constitutionist," the writer criticized his usage of the term "Tory," to label political opponents, such as in the phrase "tories to the constitution." A dispute "between parties equally true to our constitution, about any articles in the constitution [...] has not nor can have any relation to toryism, and of course, all cry of toryism set up by one against another, in such case, must be all sheer abuse [...]."<sup>66</sup>

But in the eyes of the Constitutionalist the vigorous opposition to their government, clearly manifested by 1777 in a well-organized campaign for a new constitutional convention, was the clearest proof of the reckless, self-interested, and seditious nature of the anticonstitutional faction. Its activities were sowing dissension in the commonwealth at a time when it needed to stand united against an overwhelming British threat. The Whig Society, the core of the Constitutionalist organization, declared:

Our character for wisdom and every civil and political virtue;  
our strength and importance, depend intirely upon our

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<sup>64</sup> Demophilus, *Pennsylvania Packet*, (Philadelphia, Oct. 22, 1776).

<sup>65</sup> *FJ* Postscript (September 21, 1781).

<sup>66</sup> "A Letter to the Constitutionist. By A Citizen of Philadelphia," *FJ* Postscript (October 5, 1781). The Republican Society had also described the practice as a ploy and criticized the oath as an abrogation of civil liberties. See *PP* (March 25, 1779). "Addison" claimed the oath had never been aimed at Tories at all, but specifically at opponents of the Constitution. "Addison," *PJ* (May 14, 1777). "Brutus" inverted the Constitutionalist argument by sarcastically referring to the oath as tyrannic legislation by "My Lords the members of the Convention." Brutus, AA 5.2, 866.

unanimity and firmness in pursuit of that one grand and interesting object, our civil liberty, and general independancy. A noisy and ill natured wrangling, about the designs of the frames or the opposers of the constitution can answer no other purpose than to injure and disgrace us. [...] An enemy is at our gates, an enemy within our doors; without governments, laws, civil magistrates we can neither draw forth our military strength to oppose the one, nor exert our civil power to suppress the other.<sup>67</sup>

An earlier broadside had stated that "we cannot now deviate from it [the constitution], without risking the shaking of the Commonwealth to its foundation."<sup>68</sup> Joseph Reed, the moderate Constitutionalist who became President of the Executive Council in 1778, called for a "perfect Union [of] Sentiment&Action", adding that "[t]he Designs of a Tory, Proprietary, Quaker Party are too obvious and if not Crushed in the Bud will produce a plentiful Crop of Misery and Dissension."<sup>69</sup> Reeds accusation was typical in that it blurred the lines between loyalists, neutrals, the old elite, and the Anticonstitutionalists, an effective strategy, since there were sufficient connections between these groups to nourish a general suspicion.

Even after the war had ended radicals feared that the opposition would continue in an ideological alliance with Loyalists aiming at destroying republican liberty. In August 1783 William Adcock wrote in a circular letter to his Constitutionalist compatriots:

Amongst us *Britain* had her Friends, her Advocates, the Supporters of her measures from the Beginning of the Contest. [...] Some recent Examples tend to shew, that the Blow is still aimed at the Spirit and Principle which will not exchange a free Constitution for a system of aristocratick or monarchical Despotism. [...] The Enemies of Liberty and the

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<sup>67</sup> "To the Public," *Pennsylvania Evening Post* (Philadelphia, Mar. 18, 1777).

<sup>68</sup> Philirenaeus, *To the Free and Independent Electors* (Philadelphia, Nov. 5, 1776).

<sup>69</sup> Quoted in Rosswurm, *Arms*, 160.

Constitution would be powerfully, and not unaptly, supported by the Friends of Monarchy, and the enemies of America.<sup>70</sup>

The enemy image created in Constitutionalist radical thought was a perfect inversion of its construction of the ideal citizen. This ideal, at the opposite end of the spectrum of virtue, existed as well. It was the militiaman, a simple commoner willing to make the supreme sacrifice for the community. A contributor to the *Pennsylvania Packet* criticized Anti-Constitutionalist complaints about the inconsistency of relieving militia officers from swearing the oath of allegiance. These critics did not understand the nature of citizenship: the associators "of course, are all citizens without oath, fully invested with every privilege of a freeman, having expressed their zealous attachment in deeds; an evidence of much higher credit than any words, however solemn."<sup>71</sup>

If commoners were better citizens than gentlemen, then the militia was the cream of the crop. This "virtuous part of the community" embodied to the fullest the egalitarian republican conception of virtue.<sup>72</sup> It was not the bookish Aristotelian virtue of reflective wisdom, but the Machiavellian virtù of energetic action, of the citizen-soldier giving his life for the community.

The war provided the best possible context for juxtaposing these two extremes. Here was "a poor tenant [...] whose service in the militia, or flight from the city, or zeal for public service, has subjected him to a thousand losses," there "his accomadating [*sic!*] landlord, who rendered no such

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<sup>70</sup> William Adcock, *Circular Letter No. 2* (Philadelphia, August, 1783).

<sup>71</sup> A.B., *Pennsylvania Packet*, (Philadelphia, Oct. 10, 1778).

<sup>72</sup> De Wit, "To Phocion and Hampden," *Pennsylvania Packet* (Philadelphia, March 18, 1777).



service, shrunk from danger, remained with the enemy, and partook of all their ease and pleasure."<sup>73</sup>

Thus society was divided into two irreconcilable camps: the united, equal, and virtuous citizens on one side and an aristocratic, self-interested, potentially or actually treasonous faction on the other.

The Pennsylvania Constitutionals attempted to build a democracy on virtue. They were preempting a liberal model of society in positing the people as an undifferentiated group of equals from which all power must be derived. The classical model of a society of ranks and orders with a natural aristocracy of virtue, talent, and wealth leading the way was discarded as being a mere rationalization of oligarchic rule benefiting the few at the cost of the many. However, they retained the classical republican notion of the public good, and with it the notions of societal harmony in unity and of citizenship as a virtuous exertion on behalf of the commonwealth. Opposition and self-interest were evidence of faction and thus a threat to the republic's integrity. In order to protect the homogenous community from its internal enemies, from faction, and with a view to preserving their power base the radical democrats were willing to compromise their commitment to democratic and egalitarian principles. The context of the Revolutionary war reinforced their narrow definition of citizenship and permitted them to equate political opposition with treason, thus legitimizing and justifying the curtailment of the civil rights of a considerable part of the population.

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<sup>73</sup> A Freeholder, *To the Inhabitants of Pennsylvania*, (Philadelphia, Jan 1, 1782). The occupation of Philadelphia was characterized by severe shortages, British harshness, and a good deal of collaboration. Rosswurm notes that "the British occupation and how Pennsylvanians responded to it provided a critical framework for Philadelphia politics for the next five years" (149).

Needless to say that their opponents refused to accept these terms of debate.

The Constitutionalsists clung to the loyalty oath after 1783 and benefited from widespread opposition to reintegrating loyalists, who were returning to Pennsylvania and reclaiming property. Republican majorities in the Assembly worked hard against the test-acts, however. After a first attempt in 1784/85 they succeeded in passing a law that provided non-jurors with the ability to newly affirm their loyalty. The oath was relaxed in 1787 and totally abolished in 1789.

## 2.5 Voice of the Opposition: The Conservative Radicalism of Benjamin Rush

*"The Convention have [...] forced a government upon us big with anarchy and slavery" - Anonymous<sup>1</sup>*

The victory of the radicals in 1776 created a discursive situation untypical of the Revolution in general: the moderate republicans who controlled the governments of Massachusetts, Virginia, and the other states<sup>2</sup> had become the opposition in Pennsylvania. In order to regain power they had to develop an explicit critique of the Constitution and the idea(s) it embodied and formulate a succinct platform of their own that had to be laid before the people in order to sway public opinion. The result was a paradoxical language accusing the radicals of tyranny *and* anarchy. On the one hand moderate Whigs attacked radicals with the language used against England. Just as the Constitutionals railed against an aristocratic faction, the Republicans bemoaned the abuse of power by a clique of ambitious zealots and demagogues who were manipulating, deceiving, and enslaving the people. On the other hand they borrowed the language Loyalists were using to characterize the American Revolution, calls of mob rule and anarchy. The abuse *Rivington's Gazette* poured on Revolutionaries per se was employed verbatim by moderate Whigs to censure radical democrats. A Tory address to the Massachusetts Provincial Congress in 1775 complained that "lawless mobs" were persecuting citizens and that the people "give not the least attention to their several occupations, but attend at taverns, where they talk politics, get drunk, damn king, ministers, and taxes, and vow they will follow

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<sup>1</sup> "To the Freemen of Pennsylvania," AA vol. 2, 940.

any measures proposed by their demagogues, however repugnant to religion, reason, and common sense".<sup>3</sup> Benjamin Rush, a signer of the Declaration of Independence, wrote of Pennsylvania: "They call it a democracy-a mobocracy in my opinion would be more proper. All our laws breathe the spirit of town meetings and porter shops." People should spend "less time in attending Constitutional meetings at taverns and more time in improving their farms." Fearing reprisals as much as any Loyalist he added: "But I forget that I am not safe in committing my opinion of men and measures to paper."<sup>4</sup>

The Republicans, just as their radical opponents, made use of both equal rights talk and the Aristotelian principle of a hierarchical polis. They fought for the civil rights of the minorities excluded by the oaths and for the basic right of opposition, but they also claimed superior wisdom and thus political leadership for men of property. These positions informed much of the public discourse of the Republicans, as Douglas Arnold documented in his study. He observes the Republicans' "growing emphasis on the free individual as the fundamental unit of government," which included liberal positions on self-interest, free trade and competitive pluralism. At the same time they retained the language of virtue and corruption and "continued to display a traditional taste for elite leadership [...]."<sup>5</sup> Arnold's error lies in perceiving an asymmetry between a more liberal, modern Republican model

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<sup>2</sup> Radicals controlled Vermont and adapted the Pennsylvania Constitution for their own use, but it officially remained part of New York until its sovereignty was conceded in 1790.

<sup>3</sup> *Rivington's Gazette* (March 9, 1775) *Diary of the American Revolution. From Newspapers and Original Documents*, ed. Frank Moore (New York: Charles Scribner, 1865; rpt. The New York Times & Arno Press, 1969), 35; 43f.

and backward-looking virtue-obsessed Constitutionals, when these groups' ideologies were really symmetrical inversions of one another, each stressing aspects of liberal and classical political thought that the other was ignoring.

### 2.5.1 Benjamin Rush, Political Scientist

To avoid reiterating Arnold's valid insights on the Republican party, this chapter will approach the opposition to the Constitution by focusing on a single Anticonstitutionalist and analyzing in what way his position versus Pennsylvania radicalism reflected a general *Weltanschauung* illustrative of American Enlightenment thinking. Our specimen is Doctor Benjamin Rush, MD, a lesser known figure of the Revolution, though prominent in medical history and occasionally cited as a champion of abolition and women's education. Revolutionary historians generally know him as the man who re-initiated the friendship between Adams and Jefferson in 1811/12 and are thus indebted to him for the intellectually most important exchange of letters ever between two former presidents.<sup>6</sup> Possibly the most important and in many respects a representative critic of Pennsylvania radicalism, Rush was an eclectic thinker with wide intellectual interests. His social and ethnocultural profile was atypical of the Republican party - he was a Presbyterian who had risen from modest circumstances to solid

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<sup>4</sup> To Charles Lee (Philadelphia, October 24, 1779); to William Linn (Philadelphia, May 4, 1784) in *Letters of Benjamin Rush*, ed. L.H. Butterfield, 2vols. (Princeton: Princeton University Press, 1951) 243, 331.

<sup>5</sup> Arnold, *Republican Revolution*, viii-ix.

<sup>6</sup> To Jefferson (Philadelphia, January 2, 1811); *ibid.* (February 1, 1811), *Letters*, 1075; 1078.

respectability. Though his biographer David Hawke suggests that his introduction to better circles may have affected his politics, Rush never belonged to the better sort.<sup>7</sup> He noted, in fact, that "The part I took in favor of my country in the American Revolution had left prejudices in the minds of the most wealthy citizens of Philadelphia against me, for a great majority of them had been loyalists in principle or conduct."<sup>8</sup> While merchants, speculators or disenfranchised Quakers had a material or urgent political interest in supporting the Republican platform, Rush's politics, if we leave psychological motivation aside, were informed by fervent ideological convictions. It was his steadfast adherence to principles and a dislike for compromise that led him from one disappointing political and religious alliance to the next. However he should not be mistaken for a naive idealist, as he revealed an astute understanding of political processes and how to make use of them in achieving party objectives. Rush had been an important member of the radical group of Philadelphia ideologues who had worked to overturn the old government in order to bring the state into the pro-Independence camp. Yet he became one of the sharpest and most able critics of the Constitution and authored the most detailed and perceptive critiques of the Frame of Government and the Test-Acts. Far from resembling the Constitutionalist image of an Aristocrat he was somewhat comparable to David Rittenhouse - a professional man from the middling sort who stuck out because of the reputation he enjoyed in his vocation and the

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<sup>7</sup> David Freeman Hawke, *Benjamin Rush, Revolutionary Gadfly* (Indianapolis: Bobbs-Merrill, 1971), 197.

<sup>8</sup> *The Autobiography of Benjamin Rush: His "Travels Through Life" together with his Commonplace Book for 1789-1813*, ed. George W. Corner, Princeton: Princeton University Press, 1948, 88.

breadth of his interests. Most of all, Benjamin Rush embodied the ambivalence of the Enlightenment and of Revolutionary ideology and deserves, perhaps more than any other Revolutionary American, the epithet "conservative radical."

Not a member of the illustrious assembly of Revolutionary demigods, Benjamin Rush is a founding father in his own right, bearing this title both in respect to American chemistry and psychiatry.<sup>9</sup> His father having died in 1751, when he was only five, his mother Susanna Rush's business acumen as a grocer enabled him to attend the West Nottingham Academy in Maryland, a center of New Light Presbyterianism. He completed his general education at the College of New Jersey. After studying medicine at Philadelphia and Edinburgh and spending some time in London and Paris, he opened a practice in the Pennsylvania capital. He became Professor of Chemistry at the College of Philadelphia in 1769, publishing the first native chemistry syllabus, and later held a dual professorship in medicine at that institution. His *Medical Inquiries and Observations upon the Diseases of the Mind* is considered a classic of early psychiatry. He died in 1813 at age 67.

Rush was, in the words of one scholar, a focal personality of Enlightenment thought.<sup>10</sup> His wide-ranging interests and reception of ideas, multitude of activities and studies, his interaction with the intellectual elites of Europe and the early Republic make him a splendid specimen of late Eighteenth-Century thought exhibiting all its intricacies, interconnectedness

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<sup>9</sup> E.g. see Richard H. Shryock, "The Psychiatry of Benjamin Rush," *American Journal of Psychiatry* 101 (Jan 1945), 432.

<sup>10</sup> Wolf Kindermann, *Man Unknown to Himself: Kritische Reflexion der amerikanischen Aufklärung: Crèvecoeur, Benjamin Rush, Charles Brockden Brown* (Tübingen: Gunter Narr Verlag, 1993), 75ff.

and ambivalence. As a political thinker he can be properly understood only in the light of his general epistemology which was shaped by and in turn shaped his primary intellectual pursuit of medicine. The connection of physiology and politics is a notable aspect of Rush's thought. A second arresting characteristic is its oscillation between enthusiasm and despair – a powerful illustration of the Enlightenment as an "uncertain struggle of light against darkness."<sup>11</sup> Rush's drive for perfection was paired with a self-righteous impatience and frustration with imperfection. Rush was torn between the confidence of the Great Awakening and Newtonian rationalism and the Calvinist and classical republican knowledge of human depravity and corrupted virtue. He was a utopian reformer and a lamenting Jeremiah in unison, frequently antagonizing and overtaking his fellow men in a way that precluded his attempts at constructing and maintaining a public image of himself as a philanthropic republican citizen. Failing where his Philadelphia namesake Franklin succeeded so brilliantly, Rush ultimately abandoned the Enlightenment project as wasted on an intransigent humanity. Explicitly rejecting both the Revolution and reason as he grew older, he turned towards a fideistic millennialism that replaced the Kantian ideal of human self-determination with faith in divine providence - a return of sorts to the Calvinist religiosity of his youth.<sup>12</sup>

Rush achieved national prominence and notoriety as a doctor, but in Pennsylvania he played an equally important role in politics and political

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<sup>11</sup> Ferguson, *The American Enlightenment*, 25.

<sup>12</sup> Charles I. Switzer, "Benjamin Rush's Skeptical Fideism," *Journal of American Culture* 6 (1983), 84-90. For a study stressing the religious aspects of Rush's thought see Donald J. D'elia, "Benjamin Rush: Philosopher of the American Revolution," *Transactions of the*



discourse. A fierce proponent of independence since 1775 Rush encouraged Thomas Paine to write *Common Sense*.<sup>13</sup> He signed the Declaration of Independence, served briefly as a member of the Continental Congress, was heavily involved in the political debates of Revolutionary Pennsylvania until 1790 and functioned as a delegate to the Constitutional Convention in that year. But as a Revolutionary he is perhaps best known for a statement he made in 1786:

There is nothing more common than to confound the terms of the American Revolution with those of the late American War. The American War is over: but this is far from being the case with the American Revolution. On the contrary, nothing but the first act of the great drama is closed. It remains yet to establish and perfect our new forms of government; and to prepare the principles, morals, and manners of our citizens, for these forms of government, after they are established and brought to perfection.<sup>14</sup>

The paragraph contains the core of Rush's utopian political philosophy: the possibility of perfecting republican government and the realization that Americans in their present state were not yet prepared for it. The American Adam who was to live in a republican paradise had yet to be created. This insight placed Rush between Tom Paine, his protégé of 1775, and John Adams, who was to become one of his closest friends. Paine viewed the Revolution as an opportunity "to begin the world over again."<sup>15</sup> The common sense and reason of free men liberated from European oppressions, together with the economic opportunities America provided would turn the

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*American Philosophical Society* 64 (Philadelphia: The American Philosophical Society, 1974).

<sup>13</sup> "Travels through Life," 113f.; Letter to James Cheetham (Philadelphia, July 17, 1809) in *Letters*, 1007.

<sup>14</sup> "On the Defects of the Confederation," (1787) *The Selected Writings of Benjamin Rush*, 26-31, 26.

<sup>15</sup> *Common Sense*, 59.

republic into a democratic, prosperous, and powerful nation. Benjamin Rush was *d'accord* with Paine in regarding independence as a mere point of departure towards greater things. He envisioned a *novus ordo seclorum* which was no less than the secular aspect of the millennium. Rush's utopian enthusiasm, reflected in the multitude of reform schemes he was involved in, unquestionably justifies his designation as a radical. John Adams, a child of Puritanism in this respect, believed that even Americans, privileged as they were over the rest of the world, ultimately lacked sufficient republican virtue to ever achieve more than a precarious state of liberty, a liberty forever threatened by self-interest, materialism, and corruption.<sup>16</sup> Anthropological pessimism informed his conservative view of the Revolution as a defensive restoration of lawful rule and his emphasis on the need for heavy doses of governmental authority. Because Rush agreed with Adams that the majority of mankind was not virtuous enough to maintain a republic he shared his views on the need for ranks, order, and authority. But contrary to the stern New England man, he was convinced that scientific inquiry, particularly in his discipline of medicine, could reveal the physiological origins of goodness. If, as Rush believed, external influences affected the moral faculty of man according to fixed mechanical principles, the scientific task was to discover the educational and environmental "formula" that produced virtue. The key to republican perfection was thus to restrain the vices of the people by a sufficiently disciplinary government while fostering the conditions which

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<sup>16</sup> "But there is so much rascality, so much venality and corruption, so much avarice and ambition, such a rage for profit and commerce among all ranks and degrees of men even in America, that I sometimes doubt whether there is public virtue enough to support a republic." Adams to Merci Otis Warren (January 8, 1776), *The American Enlightenment*, 182.

would transform them into virtuous citizens. This required the leadership and expertise of a small elite qualified by its knowledge and professionalism and its natural predisposition towards virtue. Rush blended the missionary zeal of his New Light Presbyterianism with the mechanical rationality of Newtonian science, the skepticism of classical republicanism with the environmentalist confidence in the perfectibility of man. From these ingredients he created his vision of a radical transformation of society by the conservative means of elite leadership.

Though haunted by spells of skepticism concerning the possibility of human amelioration Rush never doubted his own rational image of the world which rested on three major principles that betrayed his indebtedness to the Enlightenment: a holistic epistemology, a materialistic cause and effect mechanicism, and a concept of equilibrium as the ideal relation of energies. Both his medical and political theory and practice rested on these intellectual foundations.

Being a holistic thinker, it made perfect sense to Rush to engage not only in medicine, health care, and politics, but also in matters of education, prison and penal reform, temperance and abolition. He saw an inseparable connection in all disciplines of knowledge, with his own profession of medicine at the center. "-have been accused of polygamy in my studies", he noted in his Commonplace Book: "But unlike a plurality of wives, my studies all agree, and are handmaids to each other". "[...T]ruth", he lectured his students, "is an unit, and the more we discover of it in one branch of knowledge, the more we shall discover in others. Physiology and medicine, above all other sciences, lead to just principles in theology, religion, morals,

and metaphysics"<sup>17</sup>. As the best-known and most influential physician and medical lecturer in America<sup>18</sup>, Rush, on these premises, had no reason to doubt his own qualification as a political scientist.

As the above quote illustrates, Rush saw matters of mind and morality as determined by matter and physiology. In one of his lectures he complained, after pointing out that chemistry and astronomy had been corrupted by alchemy and astrology, that "phrenology [the science of the mind, T.C.] has shared the same fate from its union with the trash known by the name of metaphysics."<sup>19</sup> The potential ability of natural science to explain the mechanics of human behavior suggested a revolutionary transformation of moral and religious issues. "[M]ay not a regimen, or a medicine be discovered which shall improve, or alter the diseased state of the moral faculty. [...] Perhaps hereafter it may be as much the business of a physician as it is now of a divine to reclaim mankind from vice," Rush speculated in 1774. The political consequences of this environmentalist theory of morality were obvious. It would be necessary to study and recreate exactly those external conditions which stimulated virtuous behavior in individuals. "There is an indissoluble union between moral, political, and physical happiness," Rush stated. Just as the long exposure to republican institutions had demonstrably invigorated the "animal life" of Connecticut

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<sup>17</sup> "Travels Through Life," 233; "Of Animal Life," *Benjamin Rush's Lectures on the Mind*, ed. Eric T. Carlson, Jeffrey L. Wollock, and Patricia S. Noel, *Memoirs of the American Philosophical Society* 41 (Philadelphia: American Philosophical Society, 1981), 81-194, 193.

<sup>18</sup> So considered in Manfred J. Waserman, "Benjamin Rush on Government and the Harmony and Derangement of the Mind," *Journal of the History of Ideas* 33 (1972), 639-642, 639 and Hawke, *Benjamin Rush*, 392.

<sup>19</sup> *Lectures on the Mind*, 406.

citizens, so selected stimuli could in turn improve or debase an individual's or a nation's republican and moral predispositions.<sup>20</sup>

The notion of stimuli finally brings us to Rush's concept of equilibrium. A paradigm of Enlightenment thought this principle served to explain the order of the universe, the ideal political constitution of societies, and, according to Rush, the microcosm of the human organism.<sup>21</sup> It was at the heart of Rush's unitary theory of disease, which viewed all illnesses as symptoms of the same underlying cause, a physiological imbalance in vascular tension. "Life", Rush lectured, "is the effect of certain stimuli acting upon the sensibility [...]". Healthy living meant "proportioning the number and force of stimuli to the age, climate, situation, habits, and temperament of the human body." The "cure of all diseases" depended upon reducing stimuli when they were in excess, and increasing them when they were insufficient.<sup>22</sup> From this theory Rush derived his unshakable trust in massive bleeding and purging as a means of reducing vascular tension, an approach his detractors described as "one of those great discoveries which are made from time to time for the depopulation of the earth."<sup>23</sup>

More than metaphoric language was involved when Rush applied this model to the body politic. Rush frequently diagnosed both a lack and an excess of "tension" in the American organism. His description of a waning of

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<sup>20</sup> *Lectures on Animal Life, Selected Writings*, 133-180, 168.

<sup>21</sup> For the intellectual influence of Isaac Newton's work see Carl Becker, *The Declaration of Independence. A Study in the History of Political Ideas* (New York: Vintage Books, 1958 [1922]), 40-53; For the creative misreading of Newtonian physics by political theorists as an example of equilibrium see I. Bernard Cohen, *Science and the Founding Fathers. Science in the Political Thought of Thomas Jefferson, Benjamin Franklin, John Adams & James Madison* (New York: Norton, 1995), 283-285.

<sup>22</sup> *Lectures on the Mind*, 136; 177.

the revolutionary spirit was that "a torpor seems [...] to have seized upon the citizens of America in general," which he believed had to be cured by massive stimulation: "We require adversity and appear to possess most of the republican spirit when most depressed." Rush bluntly stated that "If calamities are necessary to teach us wisdom and virtue, I wish God would rain down showers upon us," concluding that "[n]othing but a premature peace can ruin our country" because "our moral and political iniquities are not *half* purged away."<sup>24</sup>

While viewing the calamities of war as a healthy stimulus to American virtue, Rush was deeply worried about political developments in Pennsylvania which revealed an increasingly excessive agitation of the people. When the old proprietary assembly disbanded and the popularly elected provincial convention seized the reins of government and set out to create a new constitution for the Commonwealth, Rush was elated: "The spirit of liberty reigns triumphant in Pennsylvania," he wrote to Charles Lee. "The proprietary gentry have retired to their country seats and honest men have taken the seats they abused so much in the government of our state."<sup>25</sup> Rush himself had been a leading figure in the radical movement that drove out the anti-independents. But his enthusiasm gave way to consternation when he learned the details of the constitution his compatriots had produced. He thought the new frame of government "absurd in its principles

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<sup>23</sup> For Rush's theory of disease, see Richard H. Shryock, *Medicine and Society in America, 1660-1860*, New York: New York University Press, 1960, esp. 67-76; William Cobett, *The Rush Light* (New York, Feb. 28, 1800), 49, quoted in Shryock, 70.

<sup>24</sup> To Anthony Wayne (Philadelphia, Sep. 24, 1776), *Letters*, 114; to John Adams (Philadelphia, July 13, 1780) *ibid.*, 253; to John Adams (Philadelphia, January 22, 1778), *ibid.*, 191; to John Adams (Philadelphia, August 25, 1780), *ibid.*, 255; to John Adams (Philadelphia, January 22, 1778), *ibid.*, 191.

and incapable of execution without the most alarming influence on liberty." "The excess of the passion for liberty," Rush concluded with professional authority, had created in the people "a species of inanity, which I shall take the liberty of distinguishing by the name of *Anarchia*."

### 2.5.2 *Rush's Criticism of the Constitution and the Test-Acts*

Rush authored two of the longest and most detailed anticonstitutionalist treatises. Writing as "Ludlow" he published his *Observations on the Government of Pennsylvania* in four letters to the Pennsylvania Journal in May 1777. In 1784, during the first Republican attempt at repealing the test-acts, he produced a twenty-three-page pamphlet entitled *Considerations upon the Present Test-Law of Pennsylvania*, which was addressed to the legislature and the freemen of the state. These texts assembled all of the major anticonstitutionalist arguments and reflect Rush's core convictions on human nature and politics.<sup>26</sup>

The *Observations* began by exposing numerous technical deficiencies in the frame of government and detecting inconsistencies in the assembly's treatment of constitutional provisions. These facts entailed three problematic conclusions: that the Assembly had ignored the fundamental law, that the Constitution was impossible to apply in practice, and that the laws of the Assembly were unconstitutional and thus void. It was necessary for these reasons alone that the people establish "a more effectual, and more

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<sup>25</sup> To Charles Lee, 23.7.76, *Letters of Benjamin Rush*, L.H. Butterfield, ed., 2vols., Princeton: Princeton University Press, 1951, 103.

practicable system of government [...]," Rush complained and proceeded with the strategy of turning Constitutionalist rhetoric against the radicals by arguing that the Constitution protected Loyalists and infringed on popular sovereignty. First of all the inconsistencies of the current system provided legal loopholes so large "that the most gigantic Tory criminal might escape through them." Secondly, the provision for a Council of Censors prevented the immediate repair of constitutional deficiencies by fixing "all these imperfections upon the people for seven years, by precluding them from the exercise of their own power to remove them at any other time" before 1783.<sup>27</sup>

Rush perfected this tactic in his attack on the loyalty oath. He observed that the act abridged rights guaranteed by the Constitution and that the technicalities of administering the oath during war-time confusion had led to arbitrary exclusions. But more importantly the oaths had created a society whose primary characteristic was the inequality between citizens and nonjurors. Test laws were an "invention of tyrants" and their proponents had created a system of outright slavery, a point he relentlessly hammered away at in the opening third of the essay.<sup>28</sup> Nearly half of the inhabitants of the state were burdened with the duties of citizenship without enjoying the concomitant rights. Rush was accusing the radicals of practicing exactly the kind of injustice they claimed to have eradicated with their new frame of government. Rush the abolitionist emphasized the contrast between the emancipation act of 1786 and the logic of the test-law. According to the act,

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<sup>26</sup> *Observations*, see n. 24; *Considerations Upon the Present Test-Law of Pennsylvania Addressed to the Legislature and Freemen of the State* (Philadelphia, 1784).

<sup>27</sup> *Observations*, 57.

<sup>28</sup> There are seven explicit references on the first eight pages to nonjurors as slaves or victims of slavery.



free blacks were barred from voting but were consequently exempted from paying taxes. The non-juror, on the other hand, paid double county taxes to add financial injury to the insult of his disfranchisement. Thus, Rush concluded, the "free Negro is in a safer and more honorable situation in Pennsylvania, than a Quaker who has not submitted to the test-law," a peculiar irony since Quaker activity had been the driving force behind abolitionism in Pennsylvania.

Rush spent most of the essay illustrating in what way this "state of slavery" was politically unwise, unjustifiably discriminatory, and economically suicidal. Rush used the same Montesquieu quote radicals had cited in their argument for broadening the suffrage - that "men who enjoy more or who possess less liberty than the rest of a community, are always the enemies of the liberty of that community."<sup>29</sup> The discrimination of nonjurors would make of them what the radicals falsely claimed they already were: men who had no reason to feel attached to the community and who would be compelled, in their own interest, to work against it.

The loyalty policy was sowing unnecessary discord as the nonjurors were really loyal republican citizens. It was a known fact, Rush claimed, that Mennonites and Quakers had been neutrals, not Tories, and many nonjurors were in fact "valuable whigs, " among them "officers in the militia [...] who have never declined duty or danger in the service of their country." Constitutionalists were actually oppressing the kind of patriots they were praising as "the most virtuous part of the community." As tax payers all nonjurors had contributed to financing the pay soldiers and militia had

expected for their services. Many military men were in fact now opposed to the oaths, Rush added.

Nonjurors were productive members of the community, contributing two thirds of the tax revenues according to Rush. What would happen if they refused to pay taxes, which they had every right to do, if they were not politically represented? Pennsylvania would collapse under the debts amassed during the war. The economy would be drained if the many disfranchised merchants and millers withdrew from the local markets by refusing to accept paper money. The state would be seriously disadvantaged in the tough competition against Britain and the other American republics.

Besides creating a despotism from within, Rush predicted that the test laws, in combination with the liberal one-year residency requirement, would lead to an infiltration of the Republic with "European ideas of government" carried over by British farmers whose taxes had supported the Redcoats, and perhaps even those soldiers themselves. They would take over the government, while decent American republicans were kept from the ballot box. Far-fetched as this argument was it indicates the lengths to which Rush took the strategy of inversion in order to recast the Constitutionals as henchmen of tyranny and Toryism.

Thus Rush adeptly discredited the libertarian credentials of the opposition. The general remarks on the nature of men and politics and his focused attack on the unicameral assembly in the *Observations* reveal the connections between his political ideology and his general beliefs.

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<sup>29</sup> *Considerations*, 7

When Rush spoke of the science of government he did mean science. Conservatives were appalled by the radical suggestion that common sense sufficed to judge political affairs and that too much intellectual sophistication might actually be a hindrance.<sup>30</sup> Rush applied the principle of sophistication to the construction of governments and proceeded to lecture Paine on his misunderstood Enlightenment principles. "We are told, that the perfection of everything consists in its simplicity, - that all mixtures in government are impurities, and that a single legislature is perfect, because it is simple." This conception, Rush objected, confused "simplicity in principles" with "simplicity in the application of principles to practice." The principles of mechanics, he explained, were simple, but they were "tortured" into "many thousand forms" by the ingenuity of man. The basic elements were combined into the complex forms of matter and organisms. Likewise, the simple principles of government required a combination into complex compounds to effect liberty. Governments were "dangerous and tyrannical in proportion as they approach simplicity."<sup>31</sup>

"Ludlow" bemoaned the Constitution's departure from the "ancient habits and customs of the people of Pennsylvania". "Frequent or *unnecessary* innovations" threatened the "peace and safety" of the state by throwing the citizens off balance. In his *opus magnum* on mental illness he would be more explicit: "Revolutions in governments [...] with an inroad upon ancient and deep-seated principles and habits, frequently multiply instances

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<sup>30</sup> This idea is most clearly expressed in "A True Whig," *PJ* (April 9, 1777), a harsh criticism of Cannon, Paine, and Demophilus which opens with the words: "The science of politics is so comprehensive that it takes almost the whole circle of sciences. - A finished politician cannot have too extensive a knowledge of men and things."

<sup>31</sup> *Observations*, 54.

of insanity."<sup>32</sup> Rush was suspicious of habits himself, but he knew change had to be introduced gradually to avoid dangerous convulsions in individual minds, as well as the whole body politic.

Rush continued with a vaguely phrased paragraph sharply contrasting with his general focus on constitutional technicalities: "The Constitution is wholly repugnant to the principles of action in man, and has a direct tendency to check the progress of genius and virtue in human nature. It supposes perfect equality, and an equal distribution of property, wisdom and virtue, among the inhabitants of the state."<sup>33</sup>

Without providing any explanatory arguments Rush indicts the supposed absolute egalitarianism of the Constitution as *contra naturam* and as inhibiting progress. The underlying premises of the statement are those of conservative Whiggism. The actual distribution of virtue and wisdom was such that the majority of men had significant deficiencies in these respect, which could (optimistically) be seen as the result of a lack of property or (more commonly) as its cause. Consequently the "principles of action in man," i.e. the motivation and behavior of most individuals was based on self-interest and ignorance, on greed, envy, idleness, error and miscalculation. Good government had to take this into account. While all men were entitled to basic liberties and equal treatment in a court of law, their economic, moral, and intellectual inequalities had to be translated into institutional safeguards - such as property qualifications - that checked the insufficiently

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<sup>32</sup>; Rush, *Medical Inquiries and Observations upon Diseases of the Mind*, quoted in Waserman, 641.

<sup>33</sup> *Observations*, 55.

endowed and privileged their superiors. In such a system the inferior citizens could be guided onto a more virtuous path by their social betters.

### *2.5.3 Rush's Remedy and Retreat*

It is remarkable to what extent the Constitutionals and Rush agreed on what an ideal republic should be like. To both it was based on a common pursuit of the public good and required a politically intelligent citizenry both virtuous and homogenous in political spirit. Self interest and factional struggle were the bane of any commonwealth. There was one decisive difference: the Constitutionals optimistically assumed the prevalence of virtue and reason in a majority of men, qualities, which Rush believed had yet to be created by a gargantuan effort of universal education. The common man, as radicals had repeatedly pointed out, was virtuous by his adherence to the values of the small producer or honest laborer and naturally endowed with sufficient reason so as best to know what was good for him and his community. Rush denied this, but he *did* believe these characteristics to exist in human beings as potentialities. The noble task of republican order was to bring them out in the people. "It is with virtue as with fire," he wrote in a medical essay. "It exists in the mind, as fire does in certain bodies, in a latent, quiescent state. As collision renders the one sensible, so education renders the other visible."<sup>34</sup> Thus it was "absolutely necessary that knowledge of every kind, should be disseminated through every part of the

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<sup>34</sup> "An Enquiry into the Influence of Physical Causes upon the Moral Faculty" (1786), in Benjamin Rush, MD, *Two Essays on the Mind* (New York: Brunner/Mazel Publishers, 1972), 1-40, 12.

United States" in order to "conform the principles, morals, and manners of our citizens to our republican forms of government."<sup>35</sup>

As to the problem of disharmony and faction, Rush argued that "[o]ur schools of learning, by producing one general, and uniform system of education, will render the mass of the people more homogenous, and thereby fit them more easily for uniform and peaceable government."<sup>36</sup> Through the general system of education which Rush proposed, ranging from free public schools, through state colleges to a Federal University he considered it "possible to convert men into republican machines. This must be done if we expect them to perform their parts properly, in the great machine of the government of the state." Rush would have reproved being called an elitist. As a sincerely dedicated Whig he insisted that a true republic must only "revolve upon the wills of the people". But with a logic ineluctably reminiscent of *Brave New World* he demanded that "these must be fitted to each other by means of education before they can be made to produce regularity and unison in government."<sup>37</sup> Rush considered education to be the essential homogenizer: "Wherever learning is confined to *one* society, or to a *few* men," he warned, "the government of that country will always be an ARISTOCRACY, whether the prevailing party be composed of rich or poor. It is by diffusing learning that we shall destroy aristocratic juntas of all parties, and establish a true commonwealth."<sup>38</sup>

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<sup>35</sup> *Defects of the Confederation*, 29.

<sup>36</sup> *On the Mode of Education Proper in a Republic, Selected Writings*, 87-96, 88.

<sup>37</sup> *Ibid.*, 92.

<sup>38</sup> Note by Rush on the margin of his letter "To the Citizens of Pennsylvania of German Birth and Extraction: Proposal of a German College," *Letters*, 368.

Whereas the Constitutionals believed that an inclusive deliberative democracy of common men would be able to arrive at a common definition of the public interest, once aristocratic factions were brought under control, Rush saw a need for whipping the people into republican shape. The demanding republican form of government neither suited the natural genius of the American people, nor was it, as Harrington had argued, the automatic result of a broad distribution of property. It was an abstract intellectual construct on a moral and intellectual plateau to the height of which its citizens had to be raised in a universalized process of educational conditioning.

Homogeneity did not imply equality, however. Rush was enamored with the idea of breeding an aristocracy of virtue and talent which Whigs like Jefferson always called for but had found difficult to create<sup>39</sup>. The hatchery was to be a Federal University, an elite institute turning out super-qualified politicians, diplomats, and experts. Revealing the professional's prejudice in favor of professional training Rush seriously suggested that "the honors and offices of the United States should, after a while, be confined to persons who had imbibed federal and republican ideas in this university."<sup>40</sup>. What Rush evidently had in mind, was an organic community, in which each individual, through education, had been developed to the utmost of his or her ability and virtue and would thus recognize and accept their position in the great republican machine, whether as a cogwheel or an engineer. Unwilling to accept a form of government that accounted for the weaknesses of the

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<sup>39</sup> Wood, *Creation*, 509-512; Peterson, *Thomas Jefferson and the New Nation*, 955.

<sup>40</sup> *Defects of the Confederation*, 29.

human character in the long term, Rush pursued the utopian project of shaping human nature so as to be perfectly compatible with the purest and best system of government as he envisioned it. The prospects for human perfection by virtue of human achievements must have seemed more than promising to Rush, for it was possible in the age of Enlightenment to proceed on the basis of scientific knowledge derived from the immutable laws of nature itself.

But until the magic bullet of education had thoroughly republicanized Americans, it was the task of a "vigorous and efficient government" to "prevent their degenerating into savages or devouring each other like beasts of prey."<sup>41</sup> To the Constitutionals it seemed logical that an equal homogenous citizenry should express the *volonté générale* through a single legislature. To Rush this was a dangerous experiment in popular power paving the way for anarchy and licentiousness. "In our opposition to monarchy", he admonished his fellow citizens in 1788, "we forgot that the temple of tyranny has two doors. We bolted one of them by proper restraints: but we left the other open, by neglecting to guard against the effects of our own ignorance and licentiousness." He wrote David Ramsay that "History is as full of the vices of the people as it is of the crimes of the kings."<sup>42</sup> Just as in his previous arguments, Rush was equating a government based on popular licentiousness with tyranny. In the *Observations* he extensively quoted John Adams' *Thoughts on Government* regarding the tyrannical nature of a single assembly and he also adopted his political mentor's

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<sup>41</sup> Letter to David Ramsay, March or April 1788, *Letters*, 453.

<sup>42</sup> *Defects of the Confederation*, 26; Letter to David Ramsay (see note 38).



populist argument in favor of a senate: it was not only necessary to protect property from the potential usurpations of the rabble - an argument that was unlikely to go down well with electors of modest means - but to isolate the wealthy in a separate chamber where they could not employ their influence to manipulate the multitude. Even this version carried the condescending implication that commoners and their representatives could easily be turned into instruments of the elite.<sup>43</sup> But Rush's primary worry, as is evident from his private correspondence, was the unrestrained power of the people represented by the single assembly. The "rascally constitution" was "too much upon the democratical order for liberty is as apt to degenerate into licentiousness as power is to become arbitrary."<sup>44</sup>

To Rush, a balanced constitution equaled the human mind, as he explained in a lecture on the *Diseases of the Passions*: "The Will is the King; the Understanding, the House of Lords; the Passions, the House of Commons [...]." Like government, the "Mind can only act equibly and right when the harmony of its Powers is perfect." Rush's distance to the democratic Spirit of '76 was evident from his observation that "The House of Commons is the most turbulent and most liable to disturbance and corruption"- a judgment applicable, of course, to any American popular assembly.<sup>45</sup> It was the passions, the necessary, but dangerous passions which the Enlightenment sought to restrain by reason and education in man. Rush insisted that the passions of the body politic, embodied by the people, must be equally restrained.

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<sup>43</sup> *Observations*, 62-69. For a detailed discussion of bicameralism see the following chapter.

Rush's frustration with what he perceived as a failure to achieve a lasting balance in state and national politics, and the condescension his utopian plans tended to meet with among his contemporaries ultimately led him to reject Enlightenment ideas and embrace a "fideistic skepticism." As opposed to older Rush scholarship I would agree with Wolf Kindermann that Rush did not abruptly break with the Enlightenment in the early nineteenth century. The Calvinist skeptic/wary classical republican was present throughout Rush's life, as the see-saw moods in his letters indicate. As early as 1780 he wrote of accepting "the folly and madness of mankind [...] with composure" adding that "addresses to mankind upon the subjects of political happiness were as absurd and improper" as St. Anthony's sermon to the fishes.<sup>46</sup> The self-determination of humankind on the path towards enlightenment bore the terrible risk of failure and as the Puritans had viewed every comet or epidemic as a sign of impending doom, so any unsettling political or military event to Rush pointed to a fundamental flaw in the human character that spelled the possible end of the grand republican experiment. The repeated alienation from many former political, professional, and religious allies probably helped to tip the scales in the pessimistic direction.

Briefly inspired by Jefferson's triumph of 1800 Rush soon fell into gloomy jeremiads on an America bereft of virtue and religiosity, sinking into a morass of greed and materialism. "A city in flames kindled by the hand of war is not so melancholy a sight as a whole nation absorbed in the love of money," Rush sighed. As Revolutionary heroes were dying in debtor's prison

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<sup>44</sup> To Anthony Wayne (Philadelphia, June 18, 1777) *Letters*, 150; *Ibid.* (September 24, 1776) *ibid.*, 114.

due to disastrous land speculation schemes, the expert on diseases of the mind declared America insane and the exertions of the revolutionary generation wasted. "[S]ometimes I wish I could erase my name from the Declaration of Independence," he wrote John Adams in 1808.<sup>47</sup> Rush's faith in reason, other people's at least, crumbled also. He recounted a dream in which he was told that it was "Reason in the form of a Goddess that produced all the crimes and calamities of the French Revolution." The hopes of the Enlightenment had been disappointed because "men are *rational only*, not reasonable creatures."<sup>48</sup> Attempts at directing the course of the world amounted to little. Rush suggested in his autobiography that those involved in the Revolution had been "blind actors in the business" guided by the hand of divine providence.

By the turn of the century the vision of a republican utopia had turned into the nightmare of majority rule by the ignorant that prevented, instead of promoting, the progress of humanity. "Do and say what we will, we shall I fear always be *outvoted* by the fools and knaves and madmen of our country," he concluded in 1809.<sup>49</sup> Rush's unwillingness to settle for a politics of pragmatism, his stubborn ideological insistence, brought into bold relief the contradictions of a conservative Whiggism which endorsed popular sovereignty but feared anarchy, which favored liberty, but craved for order.

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<sup>45</sup> Quoted in Waserman, 640.

<sup>46</sup> To James McHenry (Jan 19, 1780), *Letters*, 246.

<sup>47</sup> Rush to Adams (August 8, 1812); Rush to Adams (1808). Love of money as an excessive stimulation is described in the Lectures on Animal life, where Rush mentions the case in which "the acquisition of twelve thousand dollars in a few minutes by a lucky sale brought on madness which terminated in death in a few days" (*Letters on the Mind*, 169). A letter to Adams of February 20, 1809 describes a dream in which a town meeting Rush attends turns out to be an assembly of madmen straight off the ship of fools (*Letters*, 995).

<sup>48</sup> To John Adams (Philadelphia, Sep 16, 1808), *Letters*, 978.

<sup>49</sup> To John Adams (Philadelphia, March 2, 1809), *Letters*, 997.

Rush found solace in a return to faith, hoping for a Christian millennium where by divine grace the contradictions that republicanism had not been able to overcome would finally be resolved:

"I have abstracted my attention from the operations of human governments, and directed it wholly to that kingdom in which there shall be absolute monarchy with perfect freedom, un[con]trouled power, with universal justice, perpetual safety without fleets and armies, unparalleled splendor supported without taxes or a national debt, and general equality of rights without disrespect for superiors. This kingdom I believe will be administered in person by our Savior upon our globe."<sup>50</sup>

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<sup>50</sup> To Granville Sharp (Philadelphia, April 2, 1799) in "The Correspondence of Benjamin Rush and Granville Sharpe, 1773-1809," ed. John A. Woods, *Journal of American Studies* 1 (1967), 1-38, 32.

## 2.6 Unicameralism, Senates, and the Problem of Balanced Government

*"Your Legislative Council will be your representatives, the breath of your nostrils." - One of the Majority*

*"But let it be remembered that we can expect no good, but tyranny and confusion from this council." - One of the people<sup>1</sup>*

### 2.6.1 The Challenge of Unicameralism

The example of Benjamin Rush illustrates the interrelations Revolutionary thought constructed between individuals, government and society. The structure of government affected the condition and behavior of individuals, but the constitution of individuals as well as their societal organization also prescribed the structure of government. The measure of trust invested into the principal human ability to control passion through reason and the categorization of society's classes according to this yardstick determined the advocacy of a particular form of government. Rush's understanding of nature, society, and man all pointed to the necessity of a balance in government.

John Adams' urgent response to Tom Paine's endorsement of single legislatures in *Common Sense* and Rush's focus on the issue in his censure of the Pennsylvania frame of government are indications of the importance attributed to notions of legislative structure in this respect. While there were broad areas of consent within republican discourse in regard to the supremacy of the legislature over the executive power, discussions over the need, purpose, and composition of senates revealed deep divisions between

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<sup>1</sup> *A Candid Examination of the Address of the Minority of the Council of Censors to the People of Pennsylvania: Together With Remarks upon the Danger and Inconveniences of*

egalitarian and hierarchical republicanism and between organic and mechanical conceptions of government. Some Americans thought that any man was entitled to any position in government if his fellow citizens wished to elect him. Others retained the idea that there was a distinguishable set of individuals in society whose abilities exclusively qualified them for the leading positions in a community. Colonial elites did not hesitate to equate themselves with this natural aristocracy. Though virtue and talent were no longer considered to be hereditary these qualities were nonetheless socially defined. Education, property, manners and a myriad of lesser characteristics differentiated the socio-intellectual elite from commoners. It was essential to the maintenance of liberty, which was equated with balanced government, that the wise and experienced men of society were established as a political second order in form of a senate or council. When radicals suggested that social and political eminence did not coincide conservative Whigs responded with gloomy predictions of chaos and anarchy, by which they primarily meant a redistribution of property. Joyce Appleby observed that

the issue of bicameralism had nothing to do with the tepid practicality of one house checking the other in the internal workings of the lawmaking process. What was at stake was the legitimatizing of different social groups within society, the giving to the privileged few that 'more than equal power' power of vetoing the decisions of the many."<sup>2</sup>

However, there *were* arguments unconcerned with the social component of legislative structures from writers who had rejected the idea of government representing social orders. Proponents of unicameralism argued with

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*the Principal Defects of the Constitution of Pennsylvania. By One of the Majority* (Philadelphia, 1784); *One of the people, PEP* (November 23, 1776).

egalitarian bicameralists over which mechanism was more rational, politically effective, and safe. On the other hand, socially conservative Whigs were trying to reconcile the notion of a popular bicameralism with their ideas of a senate representing the virtues of wisdom and experience. Gordon Wood viewed the "mechanical" conception of senates that evolved in the Federal convention of 1787 as a key indicator of the replacement of classical republicanism by a modern democratic republicanism.<sup>3</sup> Pennsylvania radicals had adopted this position as early as 1776. Even before the Convention of 1776 "aristocratic" bicameralism was competing with an institutional notion of bicameralism, as well as with the concept of a single legislature.

The consensus of Whig political theory, inherited from the classical understanding of mixed government, was that the sole successful method of preserving the rights and freedom of individuals was to create an equipoise between the orders of society. Only the combination of their distinct virtues could prevent a corruption of the political system. "All political writers ascribe integrity to the plebeians; wisdom to Senators, men better educated in the general and particular history of mankind," a Pennsylvanian confirmed towards the end of the Constitutional Convention of 1776.<sup>4</sup> This insight had been reiterated often enough in colonial times. "Liberty depends upon an exact Ballance, a nice Counterpoise of all the Powers of the state", John Adams explained to the citizens of his hometown Braintree, Mass., in 1772. The conflict with England had been the result of the Crown's attempt to

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<sup>2</sup> Joyce Appleby, "America as a Model for the Radical French Reformers of 1789," *WMQ* 28 (1971), 267-286, 285.

destroy the balance of government. If it succeeded with its encroachments "the Government we are under, instead of being a mixture of Monarchy, Aristocracy and Democracy, will be a mixture only of Monarchy and Aristocracy." "It is the popular power, the democraticall Branch of our constitution that is invaded," Adams concluded. But this was not the only source of danger to a mixed form of government. "When the Popular Power becomes grasping, and eager after Augmentation, or of Amplification, beyond its proper Weight, or Line, it becomes as dangerous as any other".<sup>5</sup> The future author of the Massachusetts Constitution did not require the personal experience of popular committees in 1775 or the uninhibited rule of popular state assemblies in the 1780s to be convinced of these principles. The wisdom of generations taught that the precious balance of government was threatened from every direction. Thus the powers granted to the assemblies of the people in the new constitutions were only justified by the institution of equally powerful chambers representing the second order of society.

By 1776 it was clear that the opinion expressed by Adams was not shared by all Americans either in New England, the mid-Atlantic region, or the South. Several Massachusetts towns rejected the proposed constitution of 1778 because of the bicameral legislature it provided for. The town of Ashfield asserted that "as the Old Laws that we have Ben Ruled by under the British Constitution have Proved Inefectual to Secuer us from the more than Savage Crualty of tiranical Opreseans [...] we think our Selves Bound in

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<sup>3</sup> Wood, *Creation*, 553ff.

<sup>4</sup> *PJ* (September 25, 1776), quoted in Wood, *Creation*, 235.



Duty to God and our Country to Oppose the Least Appearance of them Old Tiranical Laws taking Place again". Therefore they not only demanded the abolition of the governorship but also "Voted that it is our opinion that the Assembly of this State consist of one Collective body the Members of which body shall Annually be Elected." The town of New Salem rejected the constitution of 1778 "Because there is two Branches Proposed to make the Legislative authority When we conceive that one Branch will answer all the Purposes of Good Government much Better than two."<sup>6</sup> Alexander Hamilton, of all people, criticized the concept of mixed government in 1777, pointing out that a senate "from the very name and from the mere circumstances of its being a separate member of the legislature, will be liable to degenerate into a body purely aristocratical."<sup>7</sup>

John Adams was greatly exaggerating when he recalled that "every one of my friends, and all those who were the most zealous for assuming Government, had at that time no Idea of any other Government but a Contemptible Legislature in one assembly, with Committees for Executive Magistrates and Judges," but unicameralism clearly had its supporters and precedents. New England town meetings were nothing more than local unicameral legislatures and they had clearly withstood the test of time. The provincial congresses had been unicameral bodies, and so was Congress.<sup>8</sup> But the general trend in America was clearly towards bicameralism and of

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<sup>5</sup> John Adams, "Notes for an Oration at Braintree" (1772), *Diary and Autobiography of John Adams*, ed. L.H. Butterfield, vol. II (Cambridge: The Belknap Press, 1961), 60.

<sup>6</sup> Both documents are reprinted in *The Spirit of '76. The Story of the American Revolution as Told by Participants*, ed. Henry Steele Commager and Richard B. Morris (New York: Harper & Row, 1975), 384-386.

<sup>7</sup> To Gouverneur Morris (Head Quarters, Morris Town, May 19, 1777), *American Enlightenment*, 564.

the earliest constitutions only Pennsylvania actually instituted a single legislature. Georgia followed suit in 1777, as did the independents of Vermont who essentially copied the Pennsylvania frame, but significantly both mitigated the lack of an upper house by providing that laws had to be laid before executive bodies for perusal and amendment, where in Pennsylvania the laws were submitted to the people (the practice Staughton Lynd called "bicameralism from below").<sup>9</sup> Besides slightly diluting unicameral principles Georgia and Vermont were territories on the margins of revolutionary America, the latter not even being recognized by Congress as a state. Pennsylvania, on the other hand, as a political and economic heavyweight and home of the Continental Congress stood at the center of attention. As a result its radical Constitution, and particularly the unicameral legislature became a hotly debated issue among Pennsylvanians as well as other American and foreign observers. John Adams was as quick at condemning its principles as "wretched" as French political theorists were in celebrating it as the only truly liberal Constitution (created as they assumed, by their favorite American and slayer of tyrants, Benjamin Franklin, who had been President of the Constitutional Convention).<sup>10</sup>

Unicameralism was clearly the greatest bone of contention for the local opposition. Nothing so clearly illustrated the deviance of the frame of

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<sup>8</sup> Wood, *Creation*, 203. See Adams, *Republikanische Verfassung*, 267f.

<sup>9</sup> Wood, *Creation*, 226, n. 41.

<sup>10</sup> "We live in age of political experiments. Among many that will fail some, I hope, will succeed. But *Pennsylvania* will be divided and weakened, and rendered much less vigorous in the cause by the wretched ideas of government which prevail in the minds of many people in it." To Mrs. Adams (Philadelphia, October 4, 1776), AA 5.2, 865; Appleby, "America as a Model," 279. The ideas of the Pennsylvania Constitution were adopted by radical minorities in other states according to Robert F. Williams, "The Influences of Pennsylvania's 1776 Constitution on American Constitutionalism During the Founding Decade," *PMHB* 112 (1988), 25-48.

government from those of the other states and from the conventional wisdom of mixed government as the absence of a second legislative body. But contrary to standard interpretations, egalitarian Pennsylvanians were by no means automatically unicameralists. Though radicals supported and defended the frame of government between 1776 and 1789 several of them had proposed a balanced government prior to the Convention, while key Constitutionlists of the 1780s, especially William Findley, had apparently come to favor bicameralism and supported it in the Constitutional Convention of 1789/90. The Convention also revealed a split among the Republicans between those who wished to construct the senate as an "aristocratic" embodiment of wisdom and property and a group of "democrats" led by James Wilson that favored a senate serving as no more than an institutional check and not a reflection of the ranks and orders of society. Moderate Constitutionlists and Republicans ended up forming a coalition in the Convention that gave the new Constitution a more conventional structure while preserving important elements of the radical Constitutionlist heritage.

### *2.6.2 Before the Constitution: Aristocratic Senates, Institutional Bicameralism, and the Single Assembly*

The opening shot in the debate was fired by Thomas Paine in *Common Sense*. Paine not only argued for a separation of America from Britain, but warned Americans about adopting the motherland's miserable system of government for their new republics. Trusting "the simple voice of nature and reason" Paine remained unimpressed by the "long standing prejudices" of

the Whig science of government. He drew his "idea from a principle of nature which no art can overturn, viz., That the more simple any thing is, the less liable it is to be disordered". The prime example proving his thesis in the negative was the English constitution itself, being "so exceedingly complex, that the nation may suffer for years together without being able to discover in which part the fault lies." In a way, proving the inefficiency of mixed government to the Americans seemed like carrying coals to Newcastle. Had they not, after all, been the primary victims of the utter failure of the "rotten constitution" to protect liberty and freedom? Paine realized that it was difficult to overcome attachments to custom and "long standing prejudices" in favor of traditional government, but a candid examination of the "component parts of the English constitution" revealed nothing but "the base remains of two ancient tyrannies, compounded with some new republican materials." It was those "republican materials in the persons of the commons on whose virtue depends the freedom of England."

The idea that monarchy, aristocracy, and democracy were powers "reciprocally *checking* each other" was either "farcical" or a "flat contradiction." This logic implied that the King required checking by the people, which presupposed they were wiser in which case it made no sense to provide him with the means of checking the people in return. Paine concluded that in the end "the greater weight will always carry up the less" and "at last have its way." Thus the Crown had destroyed the liberties of the people.

Paine at this point is rejecting the idea of divided sovereignty, arguing that one institution is always ultimately the "first moving power." His rejection

of balanced government can be understood in classical republican terms as a realization of inevitable corruption, the process of one order undermining the power of the other. Classical thought revolved around the notion of slowing down this process by virtue of the citizens' virtuous exertion. But to Paine the whole system is an absurdity to begin with, because no balance of power is necessary. Contrary to classical precepts he believes the people by themselves to be sufficiently virtuous and reasonable to exercise government and not to require any checking by a tyrannical aristocracy or monarchy. If there could only be one undivided power of government it necessarily had to be a grand assembly of the people's representatives. In *Common Sense* Paine was not very specific about the kind of government he envisioned, but he proposed that the "assemblies be annual, with a President only" and that a supreme Continental Congress be unicameral also, merely headed by a President chosen in turn from the delegates of each republic.<sup>11</sup>

Paine's thrashing of the English constitution was a gauntlet thrust in any Whig's face. John Adams gladly accepted the challenge. In response to *Common Sense* he wrote his *Thoughts on Government*, which Wood considers "the most influential pamphlet in the early constitution-making period".<sup>12</sup> Though it obviously did not impress the framers of the Pennsylvania Constitution its publication in Philadelphia provided enemies of the new frame of government with valuable ammunition.<sup>13</sup>

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<sup>11</sup> *Common Sense*, 15-18, *passim*; 39.

<sup>12</sup> Wood, *Creation*, 203.

<sup>13</sup> The essay was published in Philadelphia by Dunlap in early May, according to a reference in the *Gazette* of May 15, 1776. Rush's *Observations* quoted *Thoughts on Government* extensively on the issue of the single legislature.

Adams thought that "a people cannot be long free, nor ever happy, whose government is in one assembly," criticizing the concentration of governmental authority in the legislature as well as its unicameral structure. A single assembly was "liable to all the vices, follies and frailties of an individual; subject to fits of humor, starts of passion, flights of enthusiasm, partialities, or prejudice, and consequently productive of hasty results and absurd judgments." It would eventually augment its powers, vote itself perpetual and act as a despot. Adams suggested that "all these errors ought to be corrected and defects supplied by some controlling power." Adams' essay reflected 'old-fashioned' attitudes in that it did not think of Constitutions in terms of fundamental laws that served as restrictions on the legislative. Nor would his distrust of the people allow him to view them as a sufficient check on their representatives. A second legislative chamber equipped with a negative was essential. Not only did it serve to check abuses by the popular assembly, but it was the key structure within the tripartite system of balanced government, for

"if the legislative power is wholly in one assembly, and the executive in another, or in a single person, these two powers will oppose and encroach upon each other, until the contest shall end in war, and the whole power, legislative and executive, be usurped by the strongest. [...] To avoid these dangers, let a distinct assembly be constituted, as a mediator between the two extreme branches of the legislature, that which represents the people, and that which is vested with the executive power."<sup>14</sup>

Adams notably de-emphasized the aristocratic aspect of what he called a "council," though his design of the Massachusetts Constitution shows he

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<sup>14</sup> Adams, *Thoughts on Government*, 404f.

envisioned a body constituted of men of greater property.<sup>15</sup> In his essay he stressed the functional instead of the hierarchical aspect of tripartite government, perhaps out of a strategic awareness that possible associations with the British Constitution were inopportune in the current political climate. However, the mode of election he proposed represents a version of the 'filtration principle' which hierarchically oriented Republicans and later the Federalists supported.<sup>16</sup> Adams suggested that the "representative assembly" elect between twenty and thirty councilors "from among themselves or their constituents [...]." The popularly elected assembly simultaneously functioned as an electoral college in respect to the upper house. Explaining the philosophy behind filtration, Thomas Jefferson wrote that he had "ever observed that a choice by the people themselves is not generally distinguished for it's wisdom. This first secretion from them is usually crude and heterogeneous. But give to those so chosen by the people a second choice themselves, and they generally will chuse wise men."<sup>17</sup> According to this logic, even if Adams did not say so explicitly in *Thoughts on Government*, the council was a body of superior minds, an "aristocratic senate" of superior wisdom and virtue.

The governmental structures Adams advanced in careful as well as classically inspired language were rather bluntly suggested on the basis of a more Humean skepticism by the Virginian Carter Braxton. His address to the

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<sup>15</sup> While the Massachusetts Constitution contained a general sixty-pound property qualification for electors, candidates for the Senate had to own either a three hundred-pound freehold or six hundred-pound personal estate; *Constitution of Massachusetts* (1780), ch. 1, Sec. 2, Art II; Art.V in *Federal and State Constitutions*, 961; 963.

<sup>16</sup> For the relevance of filtration and mirror models in the Federal debate see "A Republic, if You Can Keep it.," 145-150.

<sup>17</sup> To Edmund Pendleton (August 26, 1776), *Portable Jefferson*, 355-357, 355.

Virginia convention was also published in Philadelphia and probably known to the members of the Pennsylvania Convention.<sup>18</sup> Adams had proceeded from the assumption that since the goal of government was happiness, and happiness consisted in virtue, a republic, which was based on the principle of virtue, was the noblest and most desirable form of government. He explicitly appealed to the "reasonings" of "Sidney, Harrington, Locke, Milton, Nedham, Neville, Burnet, and Hoadly." Braxton accused Adams of naively confusing private with public virtue. Private virtue consisted in self-interested self-discipline motivated by the desire to accumulate property while public virtue involved the submission of personal objectives to the general good, a disposition which "never characterised the mass of the people in any state." To Braxton a virtuous republic could only subsist as a Spartan community of frugal equality gagged by sumptuary and Agrarian laws, a vision irreconcilable with the American and particularly the Virginian reality of a highly competitive economy resulting in inequality of property and ostentatious but entirely legitimate displays of wealth. A virtuous republic, as historical precedents illustrated, was "a mere creature of warmth and imagination." As a far more compatible system, to which Americans were also well accustomed, Braxton proposed a copy of the British government, with the corrective only of replacing the principle of heredity with that of election. Besides a governor for life he consequently suggested a "Council of State," a group of twenty-four men elected by the assembly from among

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<sup>18</sup> Selsam, 175.



the citizenry who were to "hold their places for life."<sup>19</sup> Braxton's senate is not only constituted on but also described in more or less the same terms as Adams' - as an intermediary between governor and assembly, as well as a resource of wisdom and experience, which, as Braxton noted, would be enhanced by the permanence of appointment. The only difference - but a fundamental one - was that Adams insisted on annual elections and suggested a system of rotation. These dynamic elements seemed to him to sufficiently distance his republican mixed government from the English system which had so evidently failed. Braxton felt no need to defend his praise of the British Constitution, because he felt its failure had not been institutional, having resulted from maladministration only.<sup>20</sup> His proposal, based on the dire realism of universal self-interest and focused on order and stability, was certainly more an anticipation of 1789 than representative of the Spirit of '76. But its blatant conservatism confirmed radical anxieties over the aristocratic potential of any kind of second legislative body and the motives of any Whig who made similar suggestions.

As to the principle of senate election by the assembly *Common Sense* had already problematized this procedure in the context of Congressional election. Paine "put it as a question to those, who make a study of mankind, whether representation and election is not too great a power for one and the same body of men to possess?" Indeed a senate created by the assembly seemed to be irreconcilable with the essential independence of the two

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<sup>19</sup> [Carter Braxton] *A Native of This Colony, An Address to the Convention of the Colony and Ancient Dominion of Virginia on the Subject of Government in General, and Recommending a Particular Form to Their Attention* (Virginia, 1776) in *American Political Writing during the Founding Era*, vol. 1, 328-339, 336.

<sup>20</sup> *A Native of This Colony*, 331.

bodies. On the other hand, a hereditary upper house was not acceptable even to an ultraconservative such as Braxton. The alternative that remained was an election by the people, but apparently this option appealed neither to Adams, Braxton, or Jefferson, for that matter. The latter once again provides us with an explanation for this hesitation in his comment on the Virginia Constitution. It is worth quoting in full, because it addresses one of the fundamental problems involved in the conception of a republican bicameral system:

"The Senate is, by its constitution, too homogenous with the house of delegates. Being chosen by the same electors, at the same time, and out of the same subjects, the choice falls of course on men of the same description. The purpose of establishing different houses of legislation is to introduce the influence of different interests or different principles. Thus in Great Britain it is said their constitution relies on the house of commons for honesty, and the lords for wisdom. [...] But with us, wealth and wisdom have equal chance for admission into both houses. We do not derive therefore 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."<sup>21</sup>

Without embodying the specific aristocratic virtue of wisdom, a senate would be of no use, perhaps even more harmful than a single assembly according to the classical understanding of mixed government. Thus Adams, Braxton, and Jefferson resorted to the idea of filtration. But as the Pennsylvania debate over government shows, there was an alternative tradition that reconciled a radical conception of popular sovereignty with bicameralism.

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<sup>21</sup> Paine, *Common Sense*, 51; Jefferson, *Notes on the State of Virginia*, 164.

Pennsylvania historiography has always identified unicameralism with the Constitutionalist party.<sup>22</sup> It is true that no opponent of the Constitution ever argued in favor of a single legislature while Thomas Paine supported the principle and George Bryan, perhaps the leading radical thinker besides Paine and Cannon, vehemently defended the practice in the Commonwealth until the very end, as did other Constitutionalist partisans. But unicameralism was not an essential constituent of the radical argument for popular sovereignty. Several early writings from 1776 stressed popular power and a broad franchise while favoring a dual legislature.

The author of *Serious Questions*, as described in chapter 2.1, had suggested a constitutional convention as the primary means of protecting the people from potential abuses by their representatives.<sup>23</sup> He additionally suggested a triennial Committee of Inquiry similar to the Council of Censors and that

"the legislative be so constituted as never to be able to form an interest of its own separate from the interest of the community at large; if its branches are independent of and balance each other, and all dependent on the people and if it has the power of calling the executive and judicial branches to account for mal-administration, it might do."<sup>24</sup>

This model stresses popular sovereignty through legislative power contrary to Adams, who insisted on a strong and independent judiciary and an

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<sup>22</sup> Rosswurm states that "Most radicals in Philadelphia, with the significant exception of Demophilus, favored unicameralism." (*Arms, Country, and Class*, 104). All we really know, however, is that a majority of the Convention supported the idea against massive resistance by conservative members and public criticism. It is impossible to say whether average citizens who accepted the single assembly did so from their ideological convictions or because the state had never known anything different.

<sup>23</sup> See ch. 2.2.

<sup>24</sup> *Serious Questions*.

executive equipped with a negative.<sup>25</sup> Yet it accepts the additional precaution of two legislative houses balancing each other, provided they are independent of each other, dependent on, i.e. elected by, the people, and equal inasmuch as electors and candidates for any office are part of an undifferentiated adult male citizenry (a fundamental demand of the author). What Jefferson criticized as a fundamental weakness here becomes a precondition for accepting bicameralism. Unfortunately the author provided no explanatory comments, but since he envisioned a homogenous society of political equals with no political privileges for property, he could only have viewed a second house as a check in purely institutional terms - a position similar to, but perhaps even more liberal than that of Madison in respect to the Federal Constitution.<sup>26</sup>

Demophilus' *Genuine Principles* provides a more detailed argument in favor of bicameralism. The author's support of a dual legislature is remarkable for the reason that most of his constitutional suggestions reappeared in the actual frame of government, such as the public deliberation of laws, popular election of local government officers, the Council of Censors and many others. On the other hand he called for a single executive to complete the conventional tripartite structure of government. Demophilus criticized the unicameral legislature in the new frame of government, but he defended the Constitution and its simple

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<sup>25</sup> *Thoughts on Government*, 405.

<sup>26</sup> We need to remember *Serious Question's* classical requirement for citizenship. Only "virtuous men" were to be eligible for the vote.

structure against critics a month later, conspicuously avoiding the issue of bicameralism.<sup>27</sup>

This "not-quite" identification with the Constitution raises an interesting problem in terms of historiographical categorization. Stephen Rosswurm notes that Demophilus, who heavily relies on Obadiah Hulme's *An Historical Essay on the English Constitution*, consciously avoided quoting those parts of the essay which "crackled with egalitarianism," parts the "Philadelphia radicals noticed." Rosswurm, in other words, does not count Demophilus among the Philadelphia radicals, a judgment unquestionably also based on his endorsement of bicameralism. George Bryan's biographer cites Demophilus' criticism of unicameralism as a prime example of the opposition to the Constitution, an understandable, but mistaken association that illustrates the importance - in the wake of Pennsylvania's bipolar party struggles - of paying attention to more complex intellectual relationships with the radical frame of government.<sup>28</sup> Demophilus was trying to realize radical principles within conventional institutions. His beliefs concerning equality, popular sovereignty and competence are not untypical of moderate Constitutionals and his visible distance from mainstream Whiggism and his ultimate support of the Pennsylvania Constitution merit the label "radical."

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<sup>27</sup> Demophilus, *PP* (September 25, 1776); *ibid.* (October 22, 1776). Here he refers to the "simplicity" of the Constitution and rejects allegations of its unprecedented structure and danger by referring to the Anglo-Saxon precedent and to the constitutional limitations on the assembly. Significantly, Demophilus, following Hulme, located the origin of the legislative Council that ultimately became the House of Lords in the pre-Norman period of the Anglo-Saxon's consolidation into a united kingdom. Bicameralism, in other words, was an Anglo-Saxon invention, not the product of the Norman yoke, which merely introduced the corruptions of feudalism. While his reference to the "ancient" Saxon constitution can be read as referring to unicameralism, bicameralism is not indicted.

<sup>28</sup> Rosswurm, *Arms, Country, and Class*, 86; 104; Foster, *In Pursuit of Equal Liberty*, 80.

Extensively citing Hulme's essay *Genuine Principles* invested its suggestions for good government with the authority of the glorious Anglo-Saxon past. The Germanic Saxons arriving in England divided the land into tithings, the freemen of which who paid scot and lot elected a legislative authority and courts of law. As the tithings combined into ever larger units for military purposes, a kingship evolved. Alfred the Great, who united the seven kingdoms, incorporated his grand council of provincial deputies as a "branch of the legislative authority," thus laying the foundation for the House of Lords and establishing a bicameral system. Pre-Norman history thus knew both unicameralism and bicameralism. The latter was not a product of the infamous Norman yoke, which merely corrupted it by introducing aristocratic principles. It was therefore an untainted, legitimate option in the contemporary attempt at reconstructing liberty and popular sovereignty.

Pondering the "*powers of the several parts of the LEGISLATURE*" in modern government Demophilus observed that "on this question I find the greatest difference of opinion among the really wise and learned, of any pertaining to our system." He continued:

"Some are strenuous for only one legislative body namely, the house of representatives: but a council will be found necessary for the following reasons. An Act, ever so well intended, and in appearance ever so well framed to promote the public good, will notwithstanding, throw the society into confusion, if it can be made appear that it is founded on principles which will not bear examination.

The persons selected to compose a council, are of course always supposed to have a superior degree of acquaintance with the history laws, and manners of mankind; and by that means they will be more likely to foresee the mischievous consequences, that might follow a proceeding, which at first view did not appear to have any thing dangerous in it, to

many honest men, who may however, be very worthy of a seat in the in the house of representatives."<sup>29</sup>

Demophilus maintains the idea that a council must be distinguished by its superior knowledge in matters relevant to the proper construction of laws. It serves as a commission of experts that will correct the decisions of commoners whose sovereignty and virtue are not questioned, merely their experience as legislators. Significantly, the author never refers to the concept of balanced government. The council is not viewed in terms of a check on the tyrannical designs of the people's representatives. In reference to the councils' revision of laws Demophilus imputes only honest intentions to the assembly. Where he deals with the dangers of legislative usurpation his means of control are a dependence on the people and the constitution as fundamental law.<sup>30</sup> In this respect the council described in *Genuine Principles* considerably differs from that of Adams and many Pennsylvanian critics of the Constitution who emphasized that only a strong and socially distinct senate could prevent a tyranny of the house of representatives. Interestingly, "Demophilus" does not mention a veto right (it is merely suggested that the governor should *not* have a negative, but merely a simple vote in the council), which would be necessary to enforce the council's revisions. The shape of the institutional interaction between the two legislative branches thus remains unclear.

Demophilus emphasized that the council should be under the control of the people and expected them to keep a watchful eye on it. Faced with annual election its members would "endeavor to maintain their seats by the

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<sup>29</sup> *Genuine Principles*, 361f.

rectitude of their conduct. To suppose they can *inveterate* themselves, is to suppose that mankind will forget the mischiefs which have overspread the world from the days of Sylla to the present bloody period, from the same tyrannic source."<sup>31</sup> This rather harsh statement suggests that Demophilus agreed with the radical insight about educated men deserving more distrust in political office than inexperienced commoners.

Of course it could be argued that the author of the *Genuine Principles* was merely a better judge of the political climate in Pennsylvania than conservative Whigs and clothed his traditional model of government in a language befitting his pseudonym. But apart from his recurrent reference to popular involvement in political processes, too many other of his proposals squarely place him in the camp of the advocates of an egalitarian participatory democracy: his provisions for local autonomy (which included the popular election of local officers, a township system similar to the practice in New England, and accessible courts), his acceptance of the suffrage for illiterate men (illiteracy suggesting the lower sort), a popularly elected council of censors, and a constitution written by delegates of the people, submitted to them for their perusal, and amended where deemed necessary by a second popular convention.<sup>32</sup> Several of these propositions exceed the radicalism of the actual Constitution. The practice of associating bicameralism with conservative politics needs to be revised. *Genuine Principles* is an example of how a conservative structure could be integrated

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<sup>30</sup> See ch. 2.2.

<sup>31</sup> *Genuine Principles*, 362.

<sup>32</sup> *Ibid.*, 352, 350, 352, 351, 360f, 341, 361; Demophilus' suggestion for a mode of election taking account of illiteracy is quoted in ch. 2.4.2.



into a radical model of politics with carefully chosen arguments and words - a classical illustration of the principle that *le ton fait la musique*.

Perhaps rhetorical strategy was involved in Thomas Young's appeal to the electors for the assembly by-election of May 1776, one of the rare pieces playing upon the fact that Pennsylvania's old government, which conservatives such as William Smith so ardently defended, had been unicameral. Having been attacked as a stranger (Young had come to Philadelphia from Boston in 1775) whose attacks upon the established frame of government constituted a form of treason, Young retorted that it had ever been a dysfunctional system, because its failure to distribute power led to external weakness and internal oppression: "Where is the wise balance of power, so often celebrated in the old English constitution, where the three active forces formed a political equilibrium where each was *checked* and neither destroyed?" Since the Pennsylvania Council was merely the creature of the proprietor and his governor there was "no intermediate body between the Governor and the people."<sup>33</sup>

Young was one of the "incendiaries of the lower order," a zealous egalitarian with a burning hatred of hierarchy and the better sort, but he used political sources eclectically and did not mind quoting a conservative out of context to make his point.<sup>34</sup> Whether he actually desired a replacement of the old system with some form of popular bicameralism cannot be assessed

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<sup>33</sup> An Elector, "To the Free and Independent Electors of the City of Philadelphia," *PG* (May 15, 1776). The article is attributed to Young by David Hawke, "Dr. Thomas Young - 'eternal Fisher in Troubled Waters': Notes for a Biography," *New York Historical Society Quarterly* 44 (1970), 6-29.

<sup>34</sup> Pauline Maier, "Reason and Revolution: The Radicalism of Dr. Thomas Young," *AQ* 28, 229-249, 230; 244. In the present peace he refers to Adams' *Thoughts on Government*, the

from his appeal to the electors. But significantly, it was Young who suggested to his friends in Vermont that they should modify Pennsylvania's strict unicameral system when adopting the Constitution. Public bills, in order that they "may be more maturely considered" were to be laid not just before the people, but also "before the Governor and Council, for their perusal and proposals of amendment [...]".<sup>35</sup> Young, whose radical credentials are immaculate, illustrates that dedicated egalitarians could see a necessity for moderate institutional checks (a gubernatorial *veto* would have been considered undemocratic) on the people's assemblies, if the possibility of an aristocratic influence was precluded by the generally democratic structure of government.

Young did not comment on whether an executive check of bills merely constituted a second opinion or a judgment by men who could be expected to have greater experience, but the former seems more likely. Demophilus, on the other hand, had failed to address the question of how a council chosen by the same electorate that selected the assembly would end up consisting of men more experienced in legal affairs. This issue, among others, was raised in the most advanced argument on behalf of unicameralism, *Four Letters On Interesting Subjects*. Whether it was written by Paine or not, the fourth letter can be seen as a response to Adams' *Thoughts on Government*.

The author conceded that absolute power destroyed liberty "and it matters not whether it be an absolute royal power or an absolute legislative

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contents of which he most likely disagreed with, as an endorsement of republicanism against his rhetorical sparring partner "Civis".

power, as the consequences will be the same to the people." But contrary to Adams he viewed a fixed constitution as the only reliable check on representatives of the people, while rejecting a dual legislative<sup>36</sup>:

"The forms of government are numerous, and perhaps the simplest is the best. The notion of checking by having different houses, has but little weight in it, when inquired into, and in all cases it tends to embarrass and prolong business; besides, what kind of checking is it that one house is to receive from another? or which is the house that is most to be trusted to?"<sup>37</sup>

The argument pertly presupposes the thoroughly popular government of a society of equals in which an "aristocratic" component did not and could not exist. Therefore the concept of different virtues (integrity and wisdom) checking each other became mute. But was there, as radical bicameralists believed, a benefit from a purely institutional mode of checks? *Four Letter* denied this:

"The chief convenience arising from two houses is, that the second may sometimes amend small imperfections which would otherwise pass; yet, there is nearly as much chance of their making alterations for the worse as the better; and the supposition that a single house may become arbitrary, can with more reason be said of two, because their strength is greater."<sup>38</sup>

The author granted that "some kind of convenience might now and then arise from having two houses," but the gain stood in no proportion to the risk. A second house simply could not deliver a superior judgment on political issues, merely dissenting opinions, which would not be constructive, but

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<sup>35</sup> Wood, *Creation*, 226; *Constitution of Vermont* (1777), sec. xiv, *Federal and State Constitutions*, 1862.

<sup>36</sup> See ch. 2.2.2.

<sup>37</sup> *Four Letters*, 385.

<sup>38</sup> *Ibid.*, 386.

rather "produce petulances and ill-will, which a more simple of government would have prevented."<sup>39</sup> For the very reason that different political interests existed, institutional bicameralism was not only inefficient, but highly dangerous:

"The more houses the more parties; and perhaps the ill consequence to this country would be that the landed interest would get into one house, and the commercial interest into the other; and by that means a perpetual and dangerous opposition would be kept up, and no business be got through: Whereas, were there a large, equal and annual representation in one house *only*, the different parties, by thus being banded together, would hear each others arguments, which advantage they cannot have if they sit in different houses. To say there ought to be two houses, because there are two sorts of interests, is the very reason why there ought to be but one, and *that one* to consist of every sort."<sup>40</sup>

The remarkable aspect of this interpretation is its awareness that American republics would not be classical single interest societies, even if they were politically constructed as democracies in which all men were *politically* equal. Anticipating Madison's explanation of the Constitution, the author stressed that the homogenous political order of citizens was vertically divided into competing interests, rather than horizontally into hierarchical layers. Providing a legislative structure which would enable the institutionalization of such antagonistic interests, *Four Letters* argued, would paralyze the political system by carrying the conflicts of society and the market place into the sphere reserved for their arbitration. A negotiation of interests had to occur within a general assembly comprising all elements of society which provided the adequate environment for exchange and consensus-building. "A division

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<sup>39</sup> Ibid., 385.

<sup>40</sup> Ibid.

in one house will not retard business, but serves rather to illustrate," the author observed, while "a difference between two houses may produce serious consequences." He proceeded to illustrate these negatives effects by citing examples from English history of useful laws prevented by bicameral bickering.<sup>41</sup>

A short time after the publication of *Four Letters*, a contribution from New York appeared in the *Pennsylvania Packet* which called for unicameralism as a radical and necessary break with the tainted tradition of mixed government.<sup>42</sup> "We must come as near a new form of government as we can without destroying private property," the author asserted, implying a definition of government that encompassed the fundamental social order. "I speak chiefly with regard to legislature. We should by all means avoid *several* branches of the legislature." The author confirmed the opinion stated in *Four Letters*, that mixed government lead to nothing but "jars and contentions." History gave ample proof of this. The Roman republic had approached perfection but for the "continual contest between the Senate and Plebeians." This could have been prevented by a "true democracy, without a senate, or body different from the Plebeians." Unfortunately, the blind admiration for antiquity had led Europeans to adopt the idea of senates for their republics, when they were really their Achilles' heel, "a source of trouble, [...] a step toward arbitrary government." The waste of money and time caused by a dual legislature was undesirable, but the major danger lay elsewhere. Contrary to *Four Letters* the New Yorker did not view the

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<sup>41</sup> Ibid., 386.

<sup>42</sup> "The Interest of America," *PP* (July 1, 1776).

establishment of competing interests as the main problem. In a more traditional vein he expected a senate to produce an aristocracy. A plural legislature would "degenerate into that form of government [...] which has been so oppressive in our nation. It might open a door for ill disposed aspiring men to destroy the state." Like Carter Braxton this writer questioned the consistency of virtue in men and demanded a form of government that would remain stable under all circumstances - "Virtuous, or vicious, agreeing or contending, moving regularly, or convulsed by the intrigues of aspiring men." But contrary to Braxton he thought a "well regulated Democracy" most equitable, since the greatest danger did not lurk in the passions of the multitude, but the ambitions of the few. As yet there was no "hereditary nobility" in America, but "if we admit different branches of the legislature there is danger that there may be in time." Here the argument revolved around the old question of who was to be least trusted, the many or the few. The contrast with *Four Letters* illustrates that arguments for unicameralism could be drawn from traditional as well as more innovative conceptions of government and society.

Three positions are evident among supporters of bicameralism. The institutional bicameralism advocated by "Demophilus", *Serious Questions*, or Young represented a radical position, while most conservative Whigs followed the classicist arguments of Adams. A third approach which would acquire great weight in Pennsylvania was first put forward by a writer signing as "Harrington" as the Constitutional Convention was already sitting.<sup>43</sup>

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<sup>43</sup> "Harrington," *PEP* (July 20, 1776). The positions adopted here and in another article two years later suggest Benjamin Rush. His position on bicameralism in the *Observations* was

Attempting to blend the ideas of senatorial wisdom and popular election his argument resembled that of *Genuine Principles*, but it is clear from the use of conservative code words that he was an Anticonstitutionalist wary of egalitarian principles.

Harrington begins by emphasizing the necessity of "wisdom" to give "dignity and efficacy to government." This characteristic is best obtained by instituting at least "two legislative bodies," history amply proving their advantages and the "mischiefs of a single one." Athens was - and, one can infer, any unicameral system will always be - a "mob government till Solon instituted the Senate and Aeropagus." These institutions were not, as the New Yorker believed, the instruments *of*, but rather the only effective weapons *against* "artful and designing men." Venice furnished the example of how unicameral systems degenerated into despotisms.

Harrington then picked up on *Four Letter's* argument that bicameral strife in England had prevented the passing of valuable laws and that plural assemblies would enter into destructive competition as they represented competing interests. This indeed applied to the Lords and Commons of England from the "different origin and tenure of their powers." It had also been the case under the old government of Pennsylvania, where proprietor and people had "opposite interests" and the former derived advantages from "robbing and enslaving" the latter. But, and here "Harrington" played his trump card, the "legislative Councils, or Senates, of America, and the

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the same. In 1778 Harrington warned of both arbitrary power and licentiousness, invoked virtue and religion while censuring gambling, horse-racing, and cock-fighting, proposed a broad liberal and military education for citizens and indirectly, but unambiguously criticized the excessive reverence of Americans for Washington. See "Rules for preserving Liberty in

Assemblies, being both the annual offspring of the people, will always have the *same* interest, namely the GOOD of the people."

"Harrington's" traditional conception of social conflict led him to misunderstand the argument of *Four Letters*. He conceptualized competing interests in terms of an interest of the people - i.e. the general interest of society - arraigned against a separate, factional interest. Unicameralists such as the New Yorker argued that senates were repositories or breeding grounds of aristocratic interests separate from and dangerous to the public interest. As a good republican "Harrington" had to prove that *his* senate did *not* represent such a factional interest, that it was merely a second voice speaking on behalf of the public good. Conceptually the New York unicameralist and the Philadelphia bicameralist shared the traditional discursive universe of classical politics. But *Four Letters* was not concerned either with the interests of selfish aristocrats or of "the people", but with those of people - people living in a highly differentiated, economically advanced society that entailed a diversity of economic and political interests which were equally legitimate.

But since the standard argument against senates remained their aristocratic potential, the strategy employed by "Harrington" was effective and would become the major weapon of Republicans in their defense against the incessant Constitutionalist claim that calls for an upper house reflected the Pennsylvania elite's desire to (re-)establish an oligarchy of the wealthy.

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a Republic," *PP* (November 24, 1778). This combination of opinions perfectly corresponds with Rush's convictions, notably the publicly stated dislike of the General.



However, "Harrington", just as his predecessors, did not address the question of where the wisdom of popularly and annually elected senators was to be derived from. There *were* mechanisms compatible with popular election that introduced a difference between the two houses and they were applied in those states that opted for the election of senators by the people instead of the assembly. Maryland, for example, installed an electoral college for its senators as a means of filtration. But the most popular mechanisms were special property requirements for electors and/or candidates which equated greater wealth with greater competence, longer terms to create continuity and a measure of independence from electors, and smaller numbers which would increase the homogeneity and and strengthen the group identity of councils.<sup>44</sup> It is revealing that "Harrington" made no mention of property requirements, welcomed annual election, as well as the principle of rotation and emphasized that the "safety of the republic" consisted not in a few exalted minds, but the "*number* [i.e. quantity, T.C. ] of its wise Senators[...]"<sup>45</sup> The egalitarian atmosphere in Pennsylvania required, perhaps even encouraged conservative Whigs to accept a senate that would serve as a qualified check on the assembly without differing in the slightest from the assembly in the mode of its composition. Jefferson would have been puzzled.

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<sup>44</sup> In three states - Massachusetts, South Carolina, and New Hampshire - senators were elected by the assembly. The other seven states with upper houses chose the method of popular election. elected their senators by this method in 1776. Five states kept senators in office for between two and five years, four however elected them annually. In Virginia, e.g., the council of twenty-four was selected by the same constituents as was the assembly, (which was the case in three other states), remained in office for four years, and rotated a quarter of its members yearly. New York and Delaware also reelected a percentage of their senators annually (a fourth and a third respectively). See Adams, *Republikanische Verfassung*, 256-258.

<sup>45</sup> The latter stated in "Rules for Preserving Liberty."

The experience of unicameralism under the conditions of a highly partisan competition between the Constitutionalist and Republican parties would dampen the ideals of some enthusiasts, though others felt confirmed in their belief that danger emanated from aspiring aristocrats. But positions ultimately converged in the concept of an institutional bicameralism that discarded the traditional model of society represented by John Adams and was willing to live with the dangers *Four Letters* had warned of with some foresight.

### *2.6.3 The Unicameral Constitution: Defense and Dissent*

On August 2 the Constitutional Convention decided in favor of a unicameral legislature against the vehement resistance of its more conservative members.<sup>46</sup> The six radicals the draft committee had been stuffed with on July 25, Cannon and Matlack among them, had made what must have been a strenuous effort to gain a majority for the proposal, for they felt uncertain about the firmness of support for the measure. While numerous changes were made after the submission of the Constitutional draft to the public on September 5 the radical majority refused to reconsider the issue of unicameralism, rejecting a motion for amendment by George Ross and George Clymer (who became leading Anticonstitutionalists) and ignoring a move for a roll-call vote on the matter.<sup>47</sup>

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<sup>46</sup> Delegate Thomas Smith wrote James Wilson: "I left behind me directions in my Will to have [inscribed] on my Tomb Stone that I voted against having the Legislature to consist of a single [House]." Quoted in Rosswurm, *Arms, Country, and Class*, 103f.

<sup>47</sup> See John Shaeffer, "Public Consideration," 419f.

A vigorous debate over the single legislature began even before the Convention ratified the Constitution on September 28 and continued through the period of the Anticonstitutionalist drive for a new convention up to occupation of Philadelphia by the British. It flared up again in 1779 and during annual elections and was revived while the Council of Censors was deliberating in 1783/1784, as well as during the ratification period of the Federal Constitution. The debate only came to a close after the state Convention of 1789/90 had completed the new Constitution.

The combatants generally moved within the discursive frame set by the important pre-convention essays and articles, but the spirit of party as well as the egalitarian climate narrowed discursive options. Radicals such as "Demophilus" apparently felt they had to rally behind the Constitution, unicameral or not, so that arguments for bicameralism from the "left" ceased until the late 1780s. Anticonstitutionalists obviously hesitated to phrase public appeals for bicameralism in the classical language of hierarchical orders and leadership by deference. They preferred the argument that unicameralism was a dangerous innovation which constituted or would lead to legislative tyranny. They also dismissed popular checks as misguided and ineffective and stressed that the elective legislative council they proposed as a proper means of control was in no way aristocratical. Defenders of the Constitution in turn attacked the idea of a senate as the truly dangerous innovation. They insisted that a society of freemen neither required nor could furnish a council of wise men. Checking the assembly by virtue of a bicameralism from below was not only a sufficient safety measure, but far

preferable to a senate which by its very character as an "upper house" would become a stronghold of dangerously ambitious men.

Despite the unicameral history of government in Pennsylvania opponents of the Constitution spoke of "strange innovations" and an "unnecessary" deviance from both "that to which the people have been accustomed," and the practice in the other states.<sup>48</sup> But the change from the old frame of government would actually have been greater if a double legislature had been instituted.<sup>49</sup> By itself, indeed, a single legislature might not have raised such an outcry. But in combination with what critics perceived as the total dependency of the other branches of government on the assembly and the liberal suffrage regulations and in view of the men who were promoting this radical program, unicameralism appeared as the centerpiece of a democratic coup d'état. Though conservative Whigs often described the consequences in terms of a tyranny by demagogues manipulating ignorant commoners, their deepest fear was of a social revolution, anarchy by the licentious mob that would climax in the redistribution of (their!) property. Thus Benjamin Rush believed the new Constitution allowed for "an Assembly to exist who do not possess a single foot of property in the State" which would be able to "draw from the State the whole of its wealth in a few years."<sup>50</sup> We must remember that it was normal

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<sup>48</sup> "At a meeting of a large and respectable number of the citizens of Philadelphia [...]" *PEP* (October 22, 1776); See also "An Associator," *PJ* (May 14, 1777); [Republican Society] "To the Citizens of Pennsylvania."

<sup>49</sup> This continuity between the old and new frame of government was emphasized by historians such as Robert E. Brown who argued against the radicalism of the (Pennsylvania) Revolution. See Rosswurm, *Arms, Country and Class*, 309, n.119. Benjamin Rush, however, argued that the governor's negative under the old frame made him a "distinct branch of the legislature," and the system was thus bicameral for practical purposes. *Observations*, 65.

<sup>50</sup> *Observations*, 60; 61; also see Rosswurm, *Arms, Country, and Class*, 103.

for a conservative Revolutionary such as John Adams to argue that an assembly should "be in miniature an exact portrait of the people at large. It should think, feel, reason and act like them," because it represented the principle of democracy.<sup>51</sup> But this mirror of the multitude was only admissible under the condition of its restraint by a powerful "monarchical" executive and, even more importantly, a senate which, even if popularly legitimated, had to embody the aristocratic principles of wisdom and experience. Government, as one Pennsylvanian put it, had to be "adapted to the passions and habits of people of all ranks and classes." Deprived of these safety mechanisms, as Anticonstitutionalists feared was the case in Pennsylvania, a popular assembly would indeed lead society onto the path of "anarchy and licentiousness."<sup>52</sup>

Constitutionalists inverted the argument. Pennsylvania was a country with "but one order of freemen in it," who required a uniform government only. Just like in other states the Convention had merely extracted the royal components from the old government and abolished the executive veto, not meddling with the legislative structure. But the Anticonstitutionalists' "*favourite innovation*" of a legislative council would introduce a principle of inequality into government by furnishing "[s]omething like a House of Lords" for the "*better sort*." This body would use its power to systematically deprive the Assembly of its powers while increasing its own by threatening vetoes on important legislation. Senators would "take away the people's liberties inch by inch" until "you will see them with star and garter and your posterity and

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<sup>51</sup> *Thoughts on Government*, 403.

mine shall [...] speak to them with heads uncovered [...] and we shall be as happy as they are in England."<sup>53</sup>

Both sides could argue with the innate depravity of men. "A people who could be free and happy with one Legislature, might be equally free and happy without any Government. Both situations suppose equal degrees of virtue in a people," "Scipio" declared. "If men were as wise and virtuous as angels, a single legislative Assembly would be the best form of government," another writer concurred. But as "this was not the case, the inhabitants of free states" had always found it necessary "to secure and perpetuate their liberty by compound legislatures."<sup>54</sup> A Constitutionalist argued similarly that "if your Council could be proved to be perfect men, men that were infallible, there would be some sense in it; but as they are not, and lie under greater temptations than the Assembly, I cannot see but that it is rather a dangerous movement."<sup>55</sup>

Both unicameralists and bicameralists viewed their opponents' systems as dangers to liberty because they served as stepping stones for self-interested factions. But unicameralists conceded that assemblies required some form of checking. Apart from the security provided by an unalterable Constitution they argued for the people as the best guardians of their own liberties and pointed to the numerous popular checks in the frame of government. Apart from rotation and annual elections there was the right

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<sup>52</sup> K., "Remarks on the Constitution of Pennsylvania," *PP* (September 24, 1776); "To the Citizens of Pennsylvania," *PP* (March 25, 1779).

<sup>53</sup> *Genuine Principles*, 349; "Brutus, Scipio, and Camilius;" One of the People, *PEP* (November 23, 1776); "An evening's discourse between Andrew and Benjamin, two countrymen," *PEP* (November 5, 1776).

<sup>54</sup> Scipio, "To the Freemen of Pennsylvania," (October 8, 1776), *AA* 5.2, 940; "Remarks on the Constitution of Pennsylvania."

of instruction, the public nature of debates and votes, and the submission of laws to the people "by which the whole state becomes its council, and every freeman in it is a counsellor, and the negative lies in the whole body politic, and not in a few grandees." A popular check was consonant with the principle of majority rule, while a senate was systemically aristocratic, as one Constitutionalist exemplified: a bill approved by sixty assemblymen could be blocked if seven out of twelve senators vetoed it, thus giving less than ten percent of all legislators control over the entire legislative process and thus "the whole state."<sup>56</sup>

Early statements by Anticonstitutionalists ignored the idea of the Constitution as fundamental law, as shown by their call for the first elected assembly to amend the Constitution. Though they soon modified their position in acceptance of the Constitutionalist conception they evidently did not consider constitutional restraints a sufficient check. Their argument was that there was no institution which could force the Assembly to comply with the Constitution in the seven-year period before the Council of Censors assembled for its review of government.<sup>57</sup> They ridiculed the notion of popular checks for the same reason: the people had no instrument with which to enforce their rejection of a bill or policy, "for if the Assembly choose to disregard them, to whom shall we apply for relief? To the Assembly?" The Convention itself had proven by its refusal to react to popular demands for changes in the Constitution that a single body of men acted arbitrarily

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<sup>55</sup> "An evening's discourse."

<sup>56</sup> C., *PEP* (September 26, 1776); "The Considerate Freeman No. 3," *PP* (November 26, 1776); "An evening's discourse."

<sup>57</sup> K., "Remarks on the Constitution of Pennsylvania," *PP* (October 15, 1776); "At a Meeting [...]" *PEP* (October 22, 1776).

without checks by a firmly established counterforce. Another critic pointed out that only the citizens of Philadelphia would seriously have a chance to study bills submitted for public perusal, thereby giving a minority of the population "a negative on the proceedings of the whole state." Farmers and tradesmen would have to desert their farms and shops and travel hundreds of miles to observe debates and discuss bills, leading the logic of representative government *ad absurdum*.<sup>58</sup> Finally, the traditional distrust of popular competence surfaced in the argument that popular checks presupposed "all men to possess *equal* understanding, knowledge and leisure." An address of Anticonstitutionalists concluded with the tautological argument that popular support for the radical Constitution was proof of the Constitution's misplaced trust in the people's judgment, since this support exemplified how quickly they were "undo[ing] themselves by a hasty and ill-judged exercise of their own power."<sup>59</sup>

#### 2.6.4 A People's Senate and the Power of Property

Harebrained schemes of popular control would be unnecessary, Anticonstitutionalists preached, if unicameralists only recognized the salutary nature of a popularly elected senate. Again and again they drove home the point that their model of bicameralism did not infringe on the sovereignty of the people:

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<sup>58</sup> "To the Citizens of Pennsylvania.," K., "Remarks on the Constitution of Pennsylvania;" Andrew Marvell, "To the People of Pennsylvania," *PP* (November 26, 1776). See Rush, *Observations*, 63f.

<sup>59</sup> *Ibid.*; "At a Meeting of a Number of Citizens [...] November the 2d" (Philadelphia, 1776).



"You have been told, that we aim to establish a power in the state which has been branded with the *justly* odious and unpopular name of a house of Lords. We deny this charge [...] We disclaim all legislative power that is not derived from the YEARLY choice of the people, and it is because we esteem the sacred POWER of the PEOPLE to be above all OTHER power, that we have appealed to them from the tribunal of the Convention."<sup>60</sup>

This assurance was followed by a justification of bicameralism: "By our preference of a mixed and tempered legislature to that established by the Convention, we declare, that we wish for a government that shall not suffer the poor and rich alternately to be the prey of each other."

This statement, not elaborated by further explanation, alluded to a conception of society which the authors of the address evidently expected readers to be aware of (and share.) They were not referring to commoners and aristocrats or to the liberty-minded multitude and an elite of wise men but to economic categories, to rich and poor.

Wealth played an important part in classical conceptions of government, because it served as palpable evidence of virtue. The *Essex Result* of 1778 claimed that "[W]e are to look further than to the bulk of the people, for the greatest wisdom, firmness, consistency, and perseverance. These qualities will most probably be found amongst men of education of fortune."<sup>61</sup> The triad of aristocracy, wisdom and wealth complemented that of democracy, political honesty, and modest property. But the modern notion of society consisting of irrepressible competing interests cut into the classical conception of property. In the seventeenth and eighteenth-century political theory of the Anglo-Atlantic world it was coming to be understood as an

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<sup>60</sup> Ibid.

interest in its own right, *as well* as a signifier of disinterested virtue. It was no longer merely perceived as the stable foundation of citizens' independence or the means to a leisurely life devoted to the public good. It was no longer, in the Lockean sense, a man's "Life, Liberty and Estate", inseparable from his other individual rights.<sup>62</sup> In a world dominated by interests, Americans perceived it as an independent power following its own laws, making particular demands, requiring protection, and from which protection was required. In political theory the relevance attributed to property in the classical tradition merged with the understanding of property as a legitimate interest so as to provide it with an exalted importance. When Madison spoke of competing interests in the Federalist No. X he was primarily referring to the competition between those who had and those who did not own property.<sup>63</sup> The Essex county delegates justified their plan for electing senators based on the proportion of taxes paid, by declaring the right of the propertied interest to have a voice in the legislative process. "We have here a senate which more peculiarly represents the property of the state; and no act will pass both branches of the legislative body, without having the consent of those members who hold a major part of the property of the state."<sup>64</sup> J.R. Pole observed that "nearly all the state constitutions differentiated in some way between the interests of the people, as represented in the lower house, and those of property, or the owners of

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<sup>61</sup> [Theophilus Parsons], *The Essex Result in American Political Writing*, 480-522, 490.

<sup>62</sup> Locke, *Second Treatise*, 323; see Wood, *Creation*, 219.

<sup>63</sup> "The diversity in the faculties of men, from which the rights of property originate, is not less an insuperable obstacle to a uniformity of interests." From the "different degrees and kinds of property [...] ensues a division of society into different interests and parties." "Federalist X," in James Madison, Alexander Hamilton, and John Jay. *The Federalist Papers*, ed. Isaac Kramnick (London: Penguin Books, 1987), 122-128, 124.

property, as represented in the upper house". It was "a distinction that soon emerged as the accredited explanation of the elements of American government."<sup>65</sup>

But although Whig thought clearly developed in the direction of emphasizing the threat to property by mob governments, property was also viewed as a danger to liberty which required balancing the two forces in analogy to the Aristotelian balance between aristocracy and democracy. In the discursive context of Revolutionary Pennsylvania, statements of the sort made in the Massachusetts *Essex Result* would have amounted to political suicide. For years the political movements that had culminated in the drive for independence had worked with egalitarian, anti-deferential arguments and played on the social antagonisms of colonial society to mobilize citizens and the Constitutionals continued riding on the crest of this wave. Their principal leader George Bryan succinctly phrased the radical position: Regardless of property, "[a]ll men" were "equally eligible to office. It belongs to those who choose to distinguish, in their choice, virtue and wisdom [...]. As to riches" they were "equally the inheritance of wise men and fools" and "property" was not "a title of government."<sup>66</sup> As opposed to the concept of narrowing the popular choice of representatives by imposing property

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<sup>64</sup> *The Essex Result*, 512

<sup>65</sup> J.R. Pole, *Foundations of American Independence, 1763-1815* (Indianapolis: The Bobbs-Merrill Company, 1972), 87; 82. In Maryland the freemen qualified to vote for representatives elected special senatorial electors who had to be worth 500 pounds in freehold or estate, more than sixteen times the amount of their electors. Becoming a senator required a 1000 pound freehold or estate. South Carolina switched from election by the representatives from among themselves to popular election in 1778. The voting requirement equaled that for the house, but candidates had to be residents with a 2000 pound settled freehold and estate, or non-residents worth 7000. Massachusetts adopted the same system, requiring a 300 pound freehold or 600 pound estate for candidates. See Adams, *Republikanische Verfassung*, 199-207.

<sup>66</sup> Whitlock [George Bryan], *PEP* (May 27, 1777); See ch. 2.4.2.

requirements, which would be particularly high for senators (as well as their electors), Constitutionists voiced their unrestricted confidence in the people to select adequate legislators from among themselves.

Anticonstitutionalists generally did not leave themselves open to attack by arguing in favor of the *rights* of property. Instead they emphasized the inevitable contest between "rich and poor." The October meeting was making the point that a unicameral system would be abused by whatever party came into power. Free from any checks the party of wealth would oppress the poor when in power, while the poor, when they had their chance, would tax the wealthy to death. The solution was to install these interests in separate legislative chambers and make them control each other.<sup>67</sup> Ironically, the acknowledgment of competing interests in society had brought Anticonstitutionalists to the opposite conclusion drawn by *Four Letters*. Where the "liberal" unicameralist had argued that competing interests *among* the people had to be arbitrated in a single legislature, they concluded that the *irreconcilable* conflict between people and property required a bicameral fixation so as not to lead to civil-war-like conditions.

Benjamin Rush presented this argument in its fully developed form in 1777, but it turned out to be a tortured attempt at reconciling democracy and the modern conception of clashing interests with his classically-minded insistence on the specific virtue of a legislative council. Rush started from the premises that "where there is wealth there is power" and that "the rich have always been an overmatch for the poor." Even among equal freemen,

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<sup>67</sup> This conclusion was drawn by John Adams and informed his interpretation of the Federal Constitution, clashing with the egalitarian interpretation Federalists had "disingenuously" adopted to legitimize the new system. See Wood, *Creation*, 562-564; 574-587.

inequality of wealth naturally evolved out of the difference in talents and this would be so, and in an aggravated fashion, "while commerce exists in this country." As Adams had written, wealth and poverty easily combined into a system of clientism, by which the monied power would win an assembly majority, whence it would silence its constituents with "bribes or punishments" and soon reign as an aristocracy over its slaves. Rush insisted that "men of middling property and poor men can never be safe in a mixed representation with the men of over-grown property," because the latter would dominate or obstruct their inferiors. The men of "middling fortune" (Rush had lost sight of the poor in the argument) had to be exclusively represented in the assembly so their "*whole* strength is collected against the influence of wealth." According to this logic, a unicameral system, far from embodying democracy, was "suited to the passions and interests of rich men."<sup>68</sup>

A legislative council resolved this problem by giving the assembly to the people and the senate to property. But unicameralists had argued that a senate provided the ideal environment for wealthy and ambitious men to undermine the people's liberties. How could Rush "suffer twenty or thirty men in a Legislative Council to control seventy or eighty in an Assembly?" Now Rush's answer was that a senate would consist "of men of the most knowledge and experience in the State," with a greater obligation to "wisdom and integrity" because "fewer men will be answerable for unjust or improper proceedings at the bar of the public."<sup>69</sup> Rush evidently believed or wanted

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<sup>68</sup> *Observations*, 60; 61; 62; 63.

<sup>69</sup> *Ibid.*, 64.

his readers to, that men who were wealthy and power hungry, but well-educated and experienced would act like wolves as members of the assembly and like sheep in a council, simply because they would be exposed to greater public scrutiny in the second case. This scrutiny would be possible in the first place because the council would be elective. And here Rush defended the character of the Council by its popular mandate. "Who would believe, that the same fountain of pure water should send forth, at the same time, wholesome and deadly streams? Are not the Council and Assembly both formed alike by the *annual* breath of the people?" Finally, if the Council did aspire "after the honors of hereditary titles and power, would they not be *effectually* checked by the Assembly ?"<sup>70</sup>

Rush expected the people to make intelligent choices in elections while holding that the wealthy could manipulate them at will. He failed to explain why the people, if they could freely choose, would elect wealthy men to the council in the first place and why, if they were manipulated by monied men, the wealthy would not have themselves elected to both houses of the legislature. He further assumed that men whose power was based on their economic influence would be restrained by political arrangements. Finally, he trusted that these men, who suffered from an unquenchable "lust for dominion which is always connected with opulence" would use their senatorial power to correct the errors of the assembly instead of using their veto right as leverage to assert interests of their own.<sup>71</sup> Rush could not explain why powermongers of this caliber should not bribe and coerce

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<sup>70</sup> Ibid., 62.

<sup>71</sup> Ibid., 63.

electors and assemblies as effectively if they were councilors among themselves instead of members of the lower house. His argument suffered from the intention of appealing to the democratic and egalitarian convictions of Pennsylvanians while clinging to the notion of a council distinguished by "knowledge and experience."

Thomas Jefferson's response to John Adams could have just as well been addressed to Rush:

"You think it best to put the pseudo-aristoi into a separate chamber of legislation, where they may be hindered from doing mischief by their coordinate branches, and where, also, they may be a protection to wealth against the agrarian and plundering enterprises of the majority of the people. I think that to give them power, in order to prevent them from doing mischief, is arming them for it, and increasing instead of remedying the evil."<sup>72</sup>

Rush's concession to radical social criticism, the conviction that the wealthy were not a pure aristocracy of virtue and talent<sup>73</sup>, but merely "pseudo-aristoi" tainted by selfish interests was intended to strengthen his argument for bicameralism, but simultaneously made it vulnerable to attacks by Constitutionalists whose model of government promised to entirely eliminate the influence of wealth. Rush's model only made sense when viewed in the light of the underlying premise he omitted from his *Observations*, but which he expressed in his letters since 1776 and in public discourse by the 1780s: that under current conditions in America, but particular in Pennsylvania, the

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<sup>72</sup> To John Adams (October 28, 1813), *Portable Jefferson*, 533-539, 535.

<sup>73</sup> The reason for the inequality of property, Rush stated, was the greater "industry and capacity" of some men, but "above all, commerce." Virtuous behavior alone, one could speculatively infer from this formulation, did not entail wealth. The vagaries of a highly commercialized society were a factor in material success unmitigated by personal qualities.

real danger to liberty emanated *not* from the ambitions of the wealthy, but from the power wielded by licentious commoners and their leaders.



## 2.7 Transitions and Conclusions: The Constitution of 1790

"Wilson was truly great; but, enthusiastically democratic." - Alexander Graydon

"I told him the extent of changes I was willing to make." - William Findley<sup>1</sup>

### 2.7.1 Franklin's Last Stand and Conservative Moderation

Benjamin Franklin had been the only illustrious member of the Constitutional Convention of 1776. He had duly been elected as its President and the Constitutionals did their best to make a share of his reputation fall upon their frame of government. John Adams complained that the French *américanistes* "admired Mr. Franklin's Constitution and reprobated mine."<sup>2</sup> Actually, Franklin had not been involved in the constitution-making process; during most of the Convention he was absent due to other commitments. In 1787, already an octogenarian, he held the closing speech at another Constitutional Convention in Philadelphia. The Federal frame of government it produced in many ways represented the opposite of what the Pennsylvania document stood for. Franklin viewed it as an acceptable compromise between numerous competing interests though he could not refrain from declaring at the conclusion of the deliberations that "I do not entirely approve of this Constitution."<sup>3</sup>

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<sup>1</sup> *Memoirs of His Own Time*, 354; To William Plumer, Washington, February 27, 1812.

<sup>2</sup> Benjamin Rush quipped that "We have been informed that a single legislature was supported in the Convention by Dr. Franklin, and assented to by Mr. Rittenhouse; gentlemen distinguished for their uncommon abilities, and deservedly dear for their virtues to every lover of human nature. The only answer, after what has been said, that I shall give to this argument, is, that Divine Providence seems to have permitted them to *err* upon this subject, in order to console the world for the very great superiority they both possess over the rest of mankind in every thing else, except the science of government." (*Observations*, 67); to Samuel Perley (June 18, 1809), quoted in Appleby, "America as a Model," 276.

<sup>3</sup> "Speech in the Convention," in *The American Enlightenment*, 143-145, 143.

Franklin's political testament of sorts consists in the notes he jotted down in November 1789, four months before his death, in response to an article on the proper structure of governments addressed to the Pennsylvania Constitutional Convention which was presently to replace the Constitution of 1776. The article in question represented a conservative view of government brimming with accumulated disgust at the democratic political practices celebrated in 1776 and most evident in the Pennsylvania Constitution. It called for a single executive with a negative and long terms of office to put government "beyond the reach of every annual gust of folly and faction." The lower and upper house of the legislature were to represent the population and the property of the state, respectively. This would be achieved by different electoral requirements: the accustomed tax-payer franchise and a four year residency could be applied to voters for the popular assembly, but senate elections would be restricted to "freemen possessing in lands and houses one thousand pounds."<sup>4</sup>

Franklin's indignant rejection of the proposal identified him as a consistent supporter of constitutional radicalism, Pennsylvania style. He defended the plural executive as a better system for the magistrate to remain in contact with the disposition of the citizens and other branches of government and attacked longer than annual terms as a step in the direction of elective monarchy and, ultimately, hereditary succession. Franklin refused to accept the alleged efficiency of a bicameral legislature. Summarizing the Constitutionalist arguments of thirteen years he pointed to the negative

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<sup>4</sup> "Hints for the Members of the Convention," *Federal Gazette* (November 3, 1789), quoted in "Queries and Remarks," in *The American Enlightenment*, 145-149.

experience with the colonial government and its proprietary "second branch" which had consistently obstructed policies that were in the province's interest, to the failure of the English balanced constitution, and to the problems that had occurred in neighboring states through conflicts between the two houses. The "snake, with two heads, and one body" would create a directionless, paralyzed government.<sup>5</sup> Property requirements were even worse, because they undermined the fundamental republican principles of equal rights and majority rule. Franklin, himself an illustrious citizen, a successful and wealthy printer turned gentleman, and a dedicated servant to public works was

"sorry to see the signs [...] of a disposition among some of our people to commence [...] of a disposition among some of our people to commence an aristocracy, by giving the rich a predominancy in government, a choice peculiar to themselves in one half the legislature to be proudly called the UPPER house, and the other branch, chosen by the majority of the people, degraded by the denomination of the LOWER."<sup>6</sup>

The proposal for a bicameral legislature based on property institutionalized inequality and minority rule. The wealthy, Franklin asserted, were a small minority when compared to the large body of freemen:

"I should doubt whether they are as one to fifty. If this minority is to chuse a body expressly to controul that which is to be chosen by the great majority of the freemen, what have this great majority done to forfeit so great a portion of their right in elections? Why is the power of controul, contrary to the spirit of all democracies, to be vested in a minority, instead of a majority? Then it is intended, or is it not, that the rich should have a vote in the choice of members for the lower house, while those of inferior property are deprived of the right of voting for members of the upper house? And why should the upper house, chosen by a

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<sup>5</sup> "Queries and Remarks," 146f.

<sup>6</sup> *Ibid.*, 149.

minority, have equal power with the lower chosen by a majority? Is it supposed that wisdom is the necessary concomitant of riches, and that one man worth a thousand pounds must have as much wisdom as twenty who have each only 999; and why is property to be represented at all?"<sup>7</sup>

Property, Franklin pointed out, could never confer political privileges, because it could only be accumulated and preserved by the "joint strength of the society." It was, in effect, "a creature of society" and "subject to the calls of that society [...] even to its last farthing." Its contributions to society were merely the "return of an obligation previously received or the payment of a just debt," but never an entitlement to "distinctions of honour and power." In a republic "the important ends of civil society, and the personal securities of life and liberty [...] remain the same in every member of the society; and the poorest continues to have an equal claim to them with the most opulent".<sup>8</sup>

Clear and succinctly as always, Franklin had outlined in his marginal notes the key principles of the radical creed and their interdependency: the immediate dependence of government on the people, a simple government based on the superiority of a popular assembly, absolute political equality for enfranchised citizens, and the primacy of the public interest over private property.

Many conservative Whigs were convinced, in the wake of the Constitutionalist decline and the triumph of the Federal Constitution, that such radical ideas were history and would have pitied Franklin as a relic of

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<sup>7</sup> Ibid., 148.

<sup>8</sup> Ibid., 148f.

the past.<sup>9</sup> But some Republicans had come to accept the widespread adherence to these political ideas, irrespective of the opposition party's fortunes, and had incorporated them into their political ideology. The popular bicameralism of the new Pennsylvania Constitution owed a good deal to the egalitarian convictions held by the Constitutionalists.

As early as 1784 - the battle between the parties was raging in the Council of Censors - a Republican member of that body adopted a strategy of promoting bicameralism and a strong executive which anticipated the logic of Federalist arguments in favor of the Federal Constitution and the results of the Pennsylvania Convention of 1790. In one respect his proposal for a new constitution appeared conservative, as he recommended the abolition of all the popular checks the Constitutionalists prided themselves on. Bills were not to be printed for public consideration, minority opinions not recorded, rotation abolished. The role of citizens was reduced to that of electors who would be excluded from the regular proceedings of government. On the other hand all branches of government would be equally elected by the body of the enfranchised people with no regard for distinctions of any kind. The author had made the full transition from a concept of government and its branches as representing orders or interests to a view in which government constituted an independent mechanism founded on the authority of an undivided people and secured by an internal system of checks and balances. Within this system a senate equal in composition to the assembly would serve as a purely mechanical check upon the annually elected

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<sup>9</sup> Franklin actually cast himself as a conservative when he concluded his remarks with a paraphrase of Jeremiah: "Stand in the old ways, view the ancient paths, consider them well, and be not among those that are given to change." *Ibid.*, 149.

executive as well as the assembly. The second branch was "to be chosen by you from amongst yourselves, without distinctions either in the electors or elected." Nothing in the frame of government threatened "to lift them above their fellows."<sup>10</sup> It was inconceivable that such a body would degenerate into an aristocracy, as Constitutionalist propaganda wanted to make Pennsylvanians believe:

"The proposition is simply this, that from amongst yourselves you shall chuse a certain number of men, who shall have the power to prepare bills to be enacted into laws-that the bills they propose shall be considered in another house, where the motives of that body will not be known, and where the same prejudices may not exist; and, *vice versa*, that the bills prepared in the other body shall be considered in this; to the sole end that no law may be imposed upon you without mature deliberation. Does this make them a different class of men from the rest of the citizens? Is it proposed that they should have executive privileges? No. How then can they be a House of Lords? There is indeed a House of Lords in England, who have a share in the legislature, but they are not the representatives of the people. Your Legislative Council will be your representatives, the breath of your nostrils. There is not the most distant resemblance betwixt them; but, knowing that you have a very just aversion to the British government, they have thought this word would be a proper instrument to prejudice and mislead you with."<sup>11</sup>

With all references to senatorial virtue or the rights of property eliminated, the tripartite government of governor, council, and assembly, annually chosen by a common electorate had blended Constitutionalist ideas of popular sovereignty (and egalitarian bicameralism) with Republican notions of checks and balances in government, thus arriving at a thoroughly mechanical understanding of a divided government representing an

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<sup>10</sup> *A Candid Examination of the Address of the Minority of the Council of Censors to the People of Pennsylvania: Together With Remarks upon the Danger and Inconveniences of the Principal Defects of the Constitution of Pensylvania. By One of the Majority* (Philadelphia, 1784), 8.

undifferentiated people. This model of a democratic republicanism would form the basis of the consensus that a majority of Republican and Constitutionalist delegates at the Convention of 1789/90 negotiated against the "traditionalists" in their respective parties.

### *2.7.2 The Constitution of 1790 as a Moment of Consensus*

As the Convention assembled on November 24 it was clear to everybody that a fundamental revision of the Constitution was at hand. The Constitutionalist party had been in decline since 1786 and was coming apart at the seams. The western element in the party, under the leadership of the skilled William Findley, was still powerful, but had alienated itself from the Philadelphia radicals, who, after the political retreat of the lower sort and the defection of many mechanics, had essentially deteriorated into a vocal but paralyzed faction. Findley, a Scots-Irish Presbyterian who had come to Pennsylvania in 1763 at age 20 had risen from local politics to become the leading Constitutionalist in the Council of Censors and subsequently in the Assembly. He was a typical backcountry supporter of paper money and debtor legislation and an ideological democrat, "ever tremblingly alive to the *soveranity* of the people," as Alexander Graydon sneered. He led the Constitutionalist attack against the Bank of North America, a struggle reminiscent in tone of the Jacksonian Bank Wars, was a strong Antifederalist, and by far the most important Constitutionalist member of the Convention. But Findley had no ideological attachment to the Constitution of

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<sup>11</sup> Ibid., 9.

1776. He claimed in 1812 that he had "never approved of its principles" having merely supported it as a matter of expedience during the war.<sup>12</sup> Gordon Wood has argued that Findley achieved a momentous ideological breakthrough in the bank debate by rejecting the concept of disinterested politics and thus the republican ideal of virtue with all its consequences for political theory. Acknowledging, though with considerable sarcasm, that the proponents of the bank had every right to pursue their interests, he demanded they candidly do so without hiding behind a facade of public-mindedness and that they accept as equally valid an interested opposition to the bank.<sup>13</sup>

At the Convention Findley and other western delegates who had been staunch Antifederalists evidently did not consider discarding the old Constitution as a betrayal of democratic principles. Findley later described how he had approached James Wilson and suggested a strategy for reconciling proponents of a new with friends of the old government to arrive at a balanced system with a stronger executive, a bicameral legislature, and an independent judiciary. The old Constitution should be spoken of with reverence and Findley would argue that although it was

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<sup>12</sup> Alexander Graydon, *Memoirs of his own Time with Reminiscences of the Men and Events of the Revolution*, ed. John Stockton Littell (Philadelphia: Lindsay & Blakiston, 1846; reprint New York: Arno Press, 1969), 356; to William Plumer (Washington, February 27, 1812), *PMHB* 5 (1881), 440-450, 445; in this autobiographical sketch Findley styles himself as a moderate, as well as a reluctant politician looking forward to his retirement. The latter judgment suggests him to be a rather unreliable narrator in this instance. Findley authored the antifederalist pamphlet *Address from an Officer in the Late Continental Army* in which he enumerated a typical set of arguments and severely abused his subsequent Republican ally in the Convention, James Wilson.

<sup>13</sup> Wood, *Radicalism of the American Revolution*, 256-258; Findley was clearly ambivalent about his own insight however and did reclaim public-minded disinterestedness for his position. See *Debates and Proceedings of the General Assembly of Pennsylvania on the Memorial Praying a Repeal or Suspension of the Law Annulling the Charter of the Bank*, ed. Mathew Carey (Philadelphia, 1786), 73.



"good in theory," it had created too much division and too little confidence to continue without "essential alterations."<sup>14</sup>

Whether it was a result of Findley's diplomacy or not, an overwhelming majority of the delegates voted in favor of the changes the Anticonstitutionalists had pressed for since 1776. On the question of a bicameral legislature the votes in the Grand Committee and Convention were 60-4 and 56-5, with only Robert Whitehill, an old-time Constitutionalist and member of the first Convention, and a few other westerners dissenting. The motion for a single executive passed 64-0, that for a gubernatorial qualified negative 64-3 and 60-4 respectively, once again isolating Whitehill and a couple of hard-line Constitutionlists. An independent Supreme Court with commissions during good behavior and independent salaries was endorsed by a 56-8 vote.<sup>15</sup>

The unicameral, assembly-focused government of 1776 was undone, but it was not clear what exactly its balanced replacement was going to look like. As an analysis of the various proposals and votes reveals, Republicans were split into a group with classically inspired notions of balanced government and one which emphasized a purely institutional, mechanical balance. The former, which included Thomas McKean – a moderate who had joined the Constitutionlists in the late Seventies -, George Clymer, and William Lewis in a leadership role, clung to an elitist understanding of government that implied distinct socio-political orders and gradations of

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<sup>14</sup> To William Plumer, 446.

<sup>15</sup> *Minutes of the Grand Committee of the Whole Convention of the Commonwealth of Pennsylvania which Commenced at Philadelphia [...] for the Purpose of Reviewing, and, if They See Occasion, Altering and Amending, the Constitution of This State* (Philadelphia, 1790), 5; 7; *Minutes of the Convention [...]*, (Philadelphia, 1789), 33-36.

virtue. The latter, under the prominent leadership of James Wilson, the most important Founding Father besides Madison and a figure highly respected in Federalist circles, espoused a democratic republicanism which posited an equal citizenry distributing its sovereign power among institutions of government restrained by a system of mutual checks.<sup>16</sup> As was to be expected the major issue turned out to be the character of the bicameral legislature. The committee preparing the first draft of the Constitution had adopted the Maryland model which installed an electoral college between the voters and the senate by which the latter would be "purged of the impurities of an immediate election by the people." The upper house would then be "more wise, more respectable, and more composed of men of wealth, than if chosen by the multitude."<sup>17</sup> James Wilson opposed the idea and instead suggested a senate chosen in the same manner as the assembly (with the exception of larger electoral districts, since the number of senators would only be between a fourth and a third of that of assemblymen). The exchange between the two Republican positions was a *déjà vu* of past political debates between Constitutionalists and Republicans, uni- and bicameralists. Ironically, the elitist Republicans adopted *Four Letters'* argument (which he had used against bicameralism) that there was no sense in two equally chosen chambers trying to check each other - they needed to embody distinct principles (liberty/the people - wisdom/property) to effect a balance. Wilson defended what had originally been a

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<sup>16</sup> For the political theory of Wilson and the Constitution of 1790 see Geoffrey Seed, *James Wilson* (Millwood, N.Y.: KTO Press, 1978), 122-40; For his comparatively radical doctrine of representation, which included women, albeit passively, see Jan Lewis, "'Of Every Age Sex & Condition': The Representation of Women in the Constitution," *Journal of the Early Republic* 15 (1995), 359-387.

Constitutionalist position: that popular sovereignty meant the direct dependence of all legislative and executive parts of government on the whole body of electors. He cited the old government as a precedent and could point to new insights in the "science of government" which had been promulgated by Federalists such as himself who had recommended their Constitution as a system fully derived from popular authority. Popular elections, Wilson argued, strengthened the bonds between the people and their representatives, encouraged political interest and confidence, they established government on its only solid foundation. He was confident that the longer terms for senators and their sitting in separate chambers would create a sufficient institutional difference between and distinct identity of the two legislative bodies which would enable effective mutual checking.<sup>18</sup>

Graydon reported that a "considerable degree of heat was engendered" in this debate, because the participants understood they were involved in a fundamental "contest between the principles of aristocracy and democracy, and that great advantages would be gained to either that might prevail." In the eyes of the delegates, James Wilson underwent a bizarre transformation. In the debate over the Federal Constitution his present ally William Findley had associated him with "*high aristocracy*" and the "patrician interest," ridiculed him for his "high carriage" and his yearning for courtly "pomp and pageantry," and accused him of "despising what he calls the

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<sup>17</sup> Graydon, *Memoirs*, 344.

<sup>18</sup> *Ibid.*, 344-345; James Wilson, "Speech on Choosing Members of the Senate by Electors," in *Works of James Wilson*, ed. Robert Green McCloskey, 2 vols. (Cambridge, Mass.: The Belknap Press, 1967), vol. 2, 781-793. Significantly, Wilson was among the minority of Federalists who favored the unmediated popular election of the President. See Ellis Katz, "The American Electoral College," [online] URL: <http://usinfo.state.gov/usa/infousa/politics/eleccol/katz.htm> [June 10, 2001].

inferior order of the people." Now he was displaying democratic leanings and his Republican supporters and himself were viewed as "apostates" and "deserters" by angry conservative Whigs who were prevented from equipping the new government with the features they believed were required to insulate a republic against licentiousness and disorder.<sup>19</sup>

Their second key proposal concerned the apportionment of senate seats. Instead of an equal representation based on taxable inhabitants they suggested a combination with the tax quota which would have given an advantage to districts with a higher concentration of property. This was defeated in the Committee of the Whole by a 19-38 vote, which gives a rough indication of the strength of the hard-line Republicans. Finally, Samuel Ogden, a staunch conservative, and Thomas McKean launched proposals for electoral property requirements. But the former withdrew his suggestion for a one-hundred pound freehold franchise barrier combined with a three-year residency requirement, and McKean's proposal to add to the existing formulation the option of a three-pound freehold income or a fifty-pound estate went nowhere also.<sup>20</sup>

Isolated attempts by Constitutionalists to introduce a greater measure of "popularity" into the government were equally unsuccessful, as the Findley-wing more or less firmly closed ranks with the moderate Republicans. An attempt at weakening the executive veto by lowering the number of legislators required to overturn the negative from three-fifths to a simple majority was soundly defeated 12-50. Instead, an even higher two-

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<sup>19</sup> Graydon, *Memoirs*, 345; Findley, *Address from an Officer*; Graydon, *Memoirs*, 347. See Arnold, *Republican Revolution*, 308.

thirds requirement was passed 38-25. Albert Gallatin's motion to expand the suffrage to all natives or ten-year residents age twenty-one or higher failed, as did Wilson's proposal to return to the one-year residency rule of the old Constitution. Surprisingly, this 14-48 defeat was owed to the Constitutionalist rejection of the motion. A return to the annual election of Justices of the Peace from the three-year proposal of the first draft was defeated 27-34 and ultimately, election was entirely replaced by gubernatorial appointment.<sup>21</sup>

In February 1790 the new Constitution was submitted to the people for examination. It was adopted by the Convention on September 2. Just like their predecessors in 1776 the delegates did not feel the necessity to let the people genuinely decide by a plebiscite or a ratifying convention whether they wanted the new frame of government. The Seventy-Sixers could have relied on some excuses - there was no tradition of popular ratification and the state was involved in a war with hundreds or thousands of citizens in the field. In 1790 there were examples of popular ratification in Massachusetts and the Federal Constitution and there was peace. But perhaps the very fact that no powerful minority, much less a majority, voiced any objections to the Constitution or made demands for ratification made the process appear unnecessary.

The Pennsylvania Constitution had been brought into line with the other American frames of government.<sup>22</sup> But the institution of a balanced government had not resulted in a copy of the Massachusetts Constitution with its numerous gradations of political rights dependent on property

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<sup>20</sup> *Minutes of the Grand Committee*, 23-24; 11; 80-81.

<sup>21</sup> *Ibid.*, 41-42; 50; 49; 72.

<sup>22</sup> For an overview of proposed and actual changes see Appendix 1.

ownership. The comparatively egalitarian tax-payer suffrage of 1776 remained intact, with only the residency requirement increased to two years. On the other hand the suffrage was theoretically broadened, since free blacks, who had not been eligible to vote under the old frame were now subsumed under the racially neutral term "freeman."<sup>23</sup> The principle of treating members of the political community as equals was also preserved in as far as requirements for and modes of election for any of the branches of government were not differentiated. The distance between electoral and candidacy requirements had increased, but only age and length of residence, not property, were applied as categories. Compared to the property requirements in other states opportunities for a political career were still open to a broad segment of the male population - a 25 year-old man who had immigrated in 1786 and was currently paying taxes could have run for senator in 1790.

Having been shaped by the political discourse in Pennsylvania with its egalitarian and democratic bent, the model of government proposed by the Wilson-Republicans proved to be compatible with the radical bicameralism which had been submerged in the years of party strife, but was evidently re-emerging among the Findley-Constitutionalists. Relying on their support, Wilson's democratic Republicans carried the day. In terms of constitutional discourse virtuous democrats and liberal aristocrats had met as liberal democrats. The hierarchical, elitist conceptions contained in the classical

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<sup>23</sup> The formulation "white freemen" was struck out on a motion by Gallatin. While the letter of the law was not sufficient to really guarantee African-Americans their right to vote, there is evidence of blacks voting under the new Constitution. See Charles H. Wesley, "Negro Suffrage in the Period of Constitution-Making, 1787-1865," *Journal of Negro History* 32 (1947), 143-168, 160f.

notion of estate-based mixed government had given way to the egalitarian conception of popular sovereignty the Pennsylvania radicals had nurtured. The concept of gradations of virtue which radicals and conservatives had applied in different ways to their constructions of government had disappeared from the design of political institutions, models of representation and principles of election. Institutional checks and balances might contain a weak echo of mixed government, but they had been instituted *against* the theory of the representation of estates or classes of property in government.

Did this development signify the relegation of virtue from the political into the private sphere? According to the logic of the new system it no longer made sense to emphasize the superior political virtue of one class over another, since the people were viewed as a homogenous mass whose partition into interests was unrelated to virtue. Yet, virtue as a disposition towards political engagement, knowledge, and watchfulness could still be and was in fact viewed by many as the essential foundation of a democratic republic. Significantly, the provision in the first draft of the Constitution which would have made voting a legal obligation, was dropped.<sup>24</sup> It suggests that some of the framers thought of participation as essential, while assuming that people lacked the political energy even to merely cast a vote without some 'encouragement'. Evidently, the individual right to choose whether one wished to vote was considered superior by a majority. The reference to the "wisdom and virtue" of representatives, which the old Constitution had adopted from Penn's frame of government, had disappeared. On the other

hand, the Constitution obliged the legislature to provide "for the establishment of schools throughout the State, in such manner that the poor be taught gratis." A republic, as Rush had preached, required educated citizens. The Constitution also retained some of its predecessor's regulations for political transparency: an open house and the weekly publication of the proceedings and votes. These regulations imply a view of politics as, at least potentially, a public affair, not just on election day.<sup>25</sup>

Alexander Graydon, a Republican who had voted with Wilson, was speaking as a disillusioned Federalist when he recalled the Convention of 1790, but his opinion on virtue had probably only been re-enforced by the intermittent years:

"And the more we contemplate the construction of a popular form of government, the more we shall be convinced that no checks are competent to master corruption, or supply the want of integrity; and that, after all the jargon about anti-republican tendencies, no tendency can be republican, unless it is virtuous. [...] Could we have made the people wise, moderate, disinterested, we should have laboured to some purpose; but, where they are under no dominion but that of their selfish passions, hurrying them on to a goal, regardless of consequences, of what use are all the constitutions that have been made by the friends to liberty in America and France?"<sup>26</sup>

Government might no longer have embodied an organic community. But the political machine it had become still required virtue as a lubricant in the eyes of many of its engineers.

The Convention represented a moment of constitutional consensus which would serve as the platform for the major political realignments and

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<sup>24</sup> *Minutes of the Grand Committee*, 42.

<sup>25</sup> *Constitution of 1790* Art. VII Sec. 1; 2 in Poore, 1553; Art. I, Sec. 14; 15, *ibid.*, 1549f.

<sup>26</sup> Graydon, "*Memoirs*," 349f.



new conflicts of the 1790s. Predictably, the Republican majority constituted of Quakers, Pietist sects, Anglicans, merchants, mechanics - an ethno-cultural and commercial interest-alliance, soon split into rivaling factions. Personal rivalries as well as the national conflict between Hamiltonians and Madisonians rocked the party while the anger of old Constitutionalist constituents against Federal tax policy vented itself in the Whiskey rebellion of 1794.<sup>27</sup> Thomas McKean's victory in the gubernatorial election of 1799 signified the triumph of Jeffersonian democratic-republicanism which united the old Constitutionalist coalition of small farmers and urban artisans with former Republicans who opposed "High Federalism."<sup>28</sup> The discursive negotiation of politics was changing, yet always connecting with the past. Though the Pennsylvania Constitution of 1776 was short-lived, as many others of the Revolutionary period, the handwriting of its framers remained visible in the democratic republicanism of the Early Republic and during the Jacksonian Era, when, in 1838, Pennsylvanians created their third republican constitution.<sup>29</sup>

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<sup>27</sup> That the unadulterated radicalism of the Constitutionalist party remained fully intact in the western counties even as the organization declined was already evidenced by the strength of plebeian Antifederalism on the frontier. Saul Cornell, "Aristocracy Assailed: The Ideology of Backcountry Anti-Federalism," *JAH* 76 (1990), 1148-1172, describes this group in exactly the terms I have applied to the radical Constitutionlists.

<sup>28</sup> See Arnold, *Republican Revolution*, 320-325.

<sup>29</sup> South Carolina had replaced its first Constitution by 1778, New Hampshire by 1784, Vermont by 1786, Georgia by 1789, Delaware by 1792. The only 18<sup>th</sup> century state constitution still in force today is that of Massachusetts. See Poore, *passim*.

### **3. CONCLUSION**

This study has attempted to portray the negotiation of the key issues of republican political theory by a discourse community organized around the criticism and defense of the Pennsylvania Constitution of 1776. Social conflicts shaped by the historical development of Pennsylvania's political, sectional, ethnic, and economic structures as well as by the experiences of resistance, revolution, and war manifested themselves politically as struggles for power and over the structures of power within a new republican mode of governance. The individuals and groups participating in this discourse moved within a conceptual universe that encompassed a plurality of explanations and ideals of society, government, and human behavior which were assembled into constructions imparting meaning to events and legitimizing reactions and demands in response to those events.

The two parties which formed the axis of the Pennsylvania discourse community drew on concepts which historians have recognized as elements of classical republican and liberal intellectual traditions: an Aristotelian politics remodulated by Renaissance and Enlightenment thought and arguments which from the perspective of the present can be associated with an emerging theory of liberal modernity. The key variable which determined the divergent compositions of classical and liberal notions was the allocation of reason and virtue, i.e. political competence. Liberal and classical conceptions were linked by their distrust of power and this was the common foundation of all Revolutionary thought. But radical thought invested greater trust and thus power in the body of the people and their direct representatives, while conservatism defined itself by models of removing

power from the people at large to a safe distance by assigning a significant share of it to an economically defined elite of the virtuous and wise.

Radicals articulated their demands for a leveling of power structures in terms of liberal conceptions of popular sovereignty and an equality of rights. They democratized political competence by defining it as a function of common sense, as well as by redefining public virtue: as an effect of the private virtues of the work ethic and the martial *virtù* of the militiaman it was embodied in the lives of manual laborers of the middle and lower sort. The Constitutionists advanced concepts of constitutions as fundamental law created by the people and a system of popular checks as means of guarding against the usurpation of power by representatives. Social conservatives, on the other hand, used Lockean concepts to stress individual rights of property and the protection of political minorities while resorting to a classical model of social hierarchy that involved a limitation of popular competence and an association of property with elite rule.

Just as these ideologies manifested themselves in divergent constitutional designs, so the constitutional consensus of 1790 indicated a development among parts of both parties towards a model of politics which combined radical notions of popular sovereignty and political equality with a more conservative approach to institutional balance and control. The disappearance of social orders from the structure of government resulted in a diminished necessity of arguing in terms of the political virtue of estates, since the undivided equality of competence of a politically undifferentiated people formed the foundation of the new democratic republicanism. However, the possession of virtue in terms of a willingness to act out the

positive liberty of political participation remained as a possible implicit - and was frequently expressed as an explicit - assumption.

What has this study told us about the relationship between classical republican and liberal thought? In view of the permeative quality of Revolutionary discourse we should perhaps more precisely refer to competing models of proto-liberalism infused with Aristotelian components or a neo-classical adaptation of traditional political theory adapted to the conditions of a socially and economically highly dynamic and differentiated society. 'Competing combinations of classical and liberal ideas' will probably remain the more popular formulation. The divergent structure of the Constitutionalist and the Republican fusions of classical republican and liberal ideas was based on the divergent interests and perceptions of socially distinct groups. But interest should not be understood in the restricted liberalist sense of a rationally calculated strategy to optimize the process of power and property acquisition. While such motivations are usually an essential component of political struggles, the psychological desire for an adequate political and social identity should not be underestimated. A significant number of common men no longer accepted their position in a deferential society and crafted a political ideology from available fragments which endowed them with the dignity of competent, equal citizens. Constitutionalist ideology did not represent a single interest group. On the contrary: it united different economic, ethnic and religious segments of society, who merely had in common that they belonged to the middle and lower strata of society, by providing them with a shared identity as "the people," not in the sense of the lowest estate, or as a body of

acclamation, but as the active, authoritative sovereign. There is a certain irony in the fact that this model of political democracy and status equality, restricted as it generally was to white males, would come to serve as the primary justification of economic *inequality* and proved a successful bulwark against nineteenth- and twentieth-century Marxism, socialism, and even moderate social democracy. Significantly, the American response to the crisis of possessive individualism in recent decades was not in the majority a turn to the left as Europeans would understand it, but a revival of communitarianism, i.e. modified Aristotelian ideas of moral obligation and self-realization within, instead of in competition with, the community. At the time of the American Revolution, virtue could still be employed as a powerful conceptual instrument in shaping the structures of government. While it is correct to speak of a persistence of public virtue in American discourse its contemporary role seems to be more that of a subtext of liberalism, a tool of criticism which provides a corrective to liberal excess, but never a genuine alternative. Wood is correct to the extent that the American Revolution was part of a process of transformation of political ideology, but the classical-liberal shift was never as radical or as complete as his model suggested. Appleby was correct to insist on the existence of liberal, or proto-liberal ideas in the 17<sup>th</sup> and 18<sup>th</sup> centuries. We have seen however that they did not exist in a parallel universe of discourse or as civic humanism's antagonist in the struggle between traditionalism and modernism, but as part of various hybrids that would only bring forth a dominant, though never exclusive, liberal paradigm in later decades.

The Pennsylvanians of 1776 relied heavily on a classical notion of virtue in a single-interest society. This deeply ingrained conception expressed itself in a discourse of faction in which both parties were accusing each other of being enemies of the community, both were claiming truth and the public good for themselves. Yet they practiced a remarkably advanced form of party politics that included coalition-building and even a measure of mutual tolerance. Despite many irregularities and the virtue-propelled programs of excluding either the "mob" or the "Aristocracy" from power, power did change hands between the parties several times without a breakdown of government or an outbreak of civil war. In an eighteenth-century context this was a remarkable achievement and many a nation in the world could be envious of it today. Despite the prevalence of conspirational thought patterns, which were fueled by genuine anxieties and antagonisms, Pennsylvanians, within certain limits (including racial boundaries) recognized the procedural and discursive quality of political thought, in which every proposed system was not just an affirmation of undeniable facts, but constituted a negation of competing propositions with equal claims and was thus part of a polyphonous conversation. Plurality was valid - not yet as an end in itself, only as the means of one day arriving at the one Truth - but nonetheless valid. Somewhere between political theory and political rethoric the Whig Society proclaimed on March 18, 1777: "Nothing is more common among mankind than to pursue the same object by different means. The fault, if it is one, is founded in nature, and the only remedy is a serious and candid inquiry into the reason and relation of things, and a dispassionate resolution to be determined by that result."

## Appendix 1 - The Constitution of Pennsylvania (1776)<sup>1</sup>

WHEREAS all government ought to be instituted and supported for the security and protection of the community as such, and to enable the individuals who compose it to enjoy their natural rights, and the other blessings which the Author of existence has bestowed upon man; and whenever these great ends of government are not obtained, the people have a right, by common consent to change it, and take such measures as to them may appear necessary to promote their safety and happiness. AND WHEREAS the inhabitants of this commonwealth have in consideration of protection only, heretofore acknowledged allegiance to the king of Great Britain; and the said king has not only withdrawn that protection, but commenced, and still continues to carry on, with unabated vengeance, a most cruel and unjust war against them, employing therein, not only the troops of Great Britain, but foreign mercenaries, savages and slaves, for the avowed purpose of reducing them to a total and abject submission to the despotic domination of the British parliament, with many other acts of tyranny, (more fully set forth in the declaration of Congress) whereby all allegiance and fealty to the said king and his successors, are dissolved and at an end, and all power and authority derived from him ceased in these colonies. AND WHEREAS it is absolutely necessary for the welfare and safety of the inhabitants of said colonies, that they be henceforth free and independent States, and that just, permanent, and proper forms of government exist in every part of them, derived from and founded on the authority of the people only, agreeable to the directions of the honourable American Congress. We, the representatives of the freemen of Pennsylvania, in general convention met, for the express purpose of framing such a government, confessing the goodness of the great Governor of the universe (who alone knows to what degree of earthly happiness mankind may attain, by perfecting the arts of government) in permitting the people of this State, by common consent, and without violence, deliberately to form for themselves such just rules as they shall think best, for governing their future society, and being fully convinced, that it is our indispensable duty to establish such original principles of government, as will best promote the general happiness of the people of this State, and their posterity, and provide for future improvements, without partiality for, or prejudice against any particular class, sect, or denomination of men whatever, do, by virtue of the authority vested in use by our constituents, ordain, declare, and establish, the following Declaration of Rights and Frame of Government, to be the CONSTITUTION of this commonwealth, and to remain in force therein for ever, unaltered, except in such articles as shall hereafter on experience be found to require improvement, and which shall by the same authority of the people, fairly delegated as this frame of government directs, be amended or improved for the more effectual obtaining and securing the great end and design of all government, herein before mentioned.

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<sup>1</sup> *The Federal and State Constitutions, Colonial Charters, and Other Organic Laws of the States, Territories, and Colonies Now or Heretofore Forming the United States of America*, ed. Francis

A DECLARATION OF THE RIGHTS OF THE INHABITANTS OF THE COMMONWEALTH  
OR STATE OF PENNSYLVANIA

I. That all men are born equally free and independent, and have certain natural, inherent and inalienable rights, amongst which are, the enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining happiness and safety.

II. That all men have a natural and unalienable right to worship Almighty God according to the dictates of their own consciences and understanding: And that no man ought or of right can be compelled to attend any religious worship, or erect or support any place of worship, or maintain any ministry, contrary to, or against, his own free will and consent: Nor can any man, who acknowledges the being of a God, be justly deprived or abridged of any civil right as a citizen, on account of his religious sentiments or peculiar mode of religious worship: And that no authority can or ought to be vested in, or assumed by any power whatever, that shall in any case interfere with, or in any manner controul, the right of conscience in the free exercise of religious worship.

III. That the people of this State have the sole, exclusive and inherent right of governing and regulating the internal police of the same.

IV. That all power being originally inherent in, and consequently derived from, the people; therefore all officers of government, whether legislative or executive, are their trustees and servants, and at all times accountable to them.

V. That government is, or ought to be, instituted for the common benefit, protection and security of the people, nation or community; and not for the particular emolument or advantage of any single man, family, or sort of men, who are a part only of that community, And that the community hath an indubitable, unalienable and indefeasible right to reform, alter, or abolish government in such manner as shall be by that community judged most conducive to the public weal.

VI. That those who are employed in the legislative and executive business of the State, may be restrained from oppression, the people have a right, at such periods as they may think proper, to reduce their public officers to a private station, and supply the vacancies by certain and regular elections.



VII. That all elections ought to be free; and that all free men having a sufficient evident common interest with, and attachment to the community, have a right to elect officers, or to be elected into office.

VIII. That every member of society hath a right to be protected in the enjoyment of life, liberty and property, and therefore is bound to contribute his proportion towards the expence of that protection, and yield his personal service when necessary, or an equivalent thereto: But no part of a man's property can be justly taken from him, or applied to public uses, without his own consent, or that of his legal representatives: Nor can any man who is conscientiously scrupulous of bearing arms, be justly compelled thereto, if he will pay such equivalent, nor are the people bound by any laws, but such as they have in like manner assented to, for their common good.

IX. That in all prosecutions for criminal offences, a man hath a right to be heard by himself and his council, to demand the cause and nature of his accusation, to be confronted with the witnesses, to call for evidence in his favour, and a speedy public trial, by an impartial jury of the country, without the unanimous consent of which jury he cannot be found guilty; nor can he be compelled to give evidence against himself; nor can any man be justly deprived of his liberty except by the laws of the land, or the judgment of his peers.

X. That the people have a right to hold themselves, their houses, papers, and possessions free from search and seizure, and therefore warrants without oaths or affirmations first made, affording a sufficient foundation for them, and whereby any officer or messenger may be commanded or required to search suspected places, or to seize any person or persons, his or their property, not particularly described, are contrary to that right, and ought not to be granted.

XI. That in controversies respecting property, and in suits between man and man, the parties have a right to trial by jury, which ought to be held sacred.

XII. That the people have a right to freedom of speech, and of writing, and publishing their sentiments; therefore the freedom of the press ought not to be restrained.

XIII. That the people have a right to bear arms for the defence of themselves and the state; and as standing armies in the time of peace are dangerous to liberty, they ought not to be kept up; And that the military should be kept under strict subordination to, and governed by, the civil power.

XIV. That a frequent recurrence to fundamental principles, and a firm adherence to justice, moderation, temperance, industry, and frugality are absolutely necessary to preserve the blessings of liberty, and keep a government free: The people ought therefore to pay

particular attention to these points in the choice of officers and representatives, and have a right to exact a due and constant regard to them, from their legislatures and magistrates, in the making and executing such laws as are necessary for the good government of the state.

XV. That all men have a natural inherent right to emigrate from one state to another that will receive them, or to form a new state in vacant countries, or in such countries as they can purchase, whenever they think that thereby they may promote their own happiness.

XVI. That the people have a right to assemble together, to consult for their common good, to instruct their representatives, and to apply to the legislature for redress of grievances, by address, petition, or remonstrance.

#### PLAN OR FRAME OF GOVERNMENT FOR THE COMMONWEALTH OR STATE OF PENNSYLVANIA

SECTION 1. The commonwealth or state of Pennsylvania shall be governed hereafter by an assembly of the representatives of the freemen of the same, and a president and council, in manner and form following-

SECT. 2. The supreme legislative power shall be vested in a house of representatives of the freemen of the commonwealth or state of Pennsylvania.

SECT. 3. The supreme executive power shall be vested in a president and council.

SECT. 4. Courts of justice shall be established in the city of Philadelphia, and in every county of this state.

SECT. 5. The freemen of this commonwealth and their sons shall be trained and armed for its defence under such regulations, restrictions, and exceptions as the general assembly shall by law direct, preserving always to the people the right of choosing their colonels and all commissioned officers under that rank, in such manner and as often as by the said laws shall be directed.

SECT. 6. Every freeman of the full age of twenty-one Years, having resided in this state for the space of one whole Year next before the day of election for representatives, and paid public taxes during that time, shall enjoy the right of an elector: Provided always, that sons of freeholders of the age of twenty-one years shall be intitled to vote although they have not paid taxes.

SECT. 7. The house of representatives of the freemen of this commonwealth shall consist of persons most noted for wisdom and virtue, to be chosen by the freemen of every city and

county of this commonwealth respectively. And no person shall be elected unless he has resided in the city or county for which he shall be chosen two years immediately before the said election; nor shall any member, while he continues such, hold any other office, except in the militia.

SECT. 8. No person shall be capable of being elected a member to serve in the house of representatives of the freemen of this commonwealth more than four years in seven.

SECT. 9. The members of the house of representatives shall be chosen annually by ballot, by the freemen of the commonwealth, on the second Tuesday in October forever, (except this present year,) and shall meet on the fourth Monday of the same month, and shall be stiled, The general assembly of the representatives of the freemen of Pennsylvania, and shall have power to choose their speaker, the treasurer of the state, and their other officers; sit on their own adjournments; prepare bills and enact them into laws; judge of the elections and qualifications of their own members; they may expel a member, but not a second time for the same cause; they may administer oaths or affirmations on examination of witnesses; redress grievances; impeach state criminals; grant charters of incorporation; constitute towns, boroughs, cities, and counties; and shall have all other powers necessary for the legislature of a free state or commonwealth: But they shall have no power to add to, alter, abolish, or infringe any part of this constitution.

SECT. 10. A quorum of the house of representatives shall consist of two-thirds of the whole number of members elected; and having met and chosen their speaker, shall each of them before they proceed to business take and subscribe, as well the oath or affirmation of fidelity and allegiance hereinafter directed, as the following oath or affirmation, viz.:

I do swear (or affirm) that as a member of this assembly, I will not propose or assent to any bill, vote, or resolution, which shall appear to be injurious to the people; nor do or consent to any act or thing whatever, that shall have a tendency to lessen or abridge their rights and privileges, as declared in the constitution of this state; but will in all things conduct myself as a faithful honest representative and guardian of the people, according to the best of only judgment and abilities.

And each member, before he takes his seat, shall make and subscribe the following declaration, viz.:

I do believe in one God, the creator and governor of the universe, the rewarder of the good and the punisher of the wicked. And I do acknowledge the Scriptures of the Old and New Testament to be given by Divine inspiration.

And no further or other religious test shall ever hereafter be required of any civil officer or magistrate in this State.

SECT. 11. Delegates to represent this state in congress shall be chosen by ballot by the future general assembly at their first meeting, and annually forever afterwards, as long as

such representation shall be necessary. Any delegate may be superseded at any time, by the general assembly appointing another in his stead. No man shall sit in congress longer than two years successively, nor be capable of reelection for three Years afterwards: and no person who holds any office in the gift of the congress shall hereafter be elected to represent this commonwealth in congress.

SECT. 12. If any city or cities, county or counties shall neglect or refuse to elect and send representatives to the general assembly, two-thirds of the members from the cities or counties that do elect and send representatives, provided they be a majority of the cities and counties of the whole state, when met, shall have all the powers of the general assembly, as fully and amply as if the whole were present.

SECT. 13. The doors of the house in which the representatives of the freemen of this state shall sit in general assembly, shall be and remain open for the admission of all persons who behave decently, except only when the welfare of this state may require the doors to be shut.

SECT. 14. The votes and proceedings of the general assembly shall be printed weekly during their sitting, with the yeas and nays, on any question, vote or resolution, where any two members require it except when the vote is taken by ballot; and when the yeas and nays are so taken every member shall have a right to insert the reasons of his vote upon the minutes, if he desires it.

SECT. 15. To the end that laws before they are enacted may be more maturely considered, and the inconvenience of hasty determinations as much as possible prevented, all- bills of public nature shall be printed for the consideration of the people, before they are read in general assembly the last time for debate and amendment; and, except on occasions of sudden necessity, shall not be passed into laws until the next session of assembly; and for the more perfect satisfaction of the public, the reasons and motives for making such laws shall be fully and clearly expressed in the preambles.

SECT. 16. The stile of the laws of this commonwealth shall be, " Be it enacted, and it is hereby enacted by the representatives of the freemen of the commonwealth of Pennsylvania in general assembly met, and by the authority of the same." And the general assembly shall affix their seal to every bill, as soon as it is enacted into a law, which seal shall be kept by the assembly, and shall be called, The seal of the laws of Pennsylvania, and shall not be used for any other purpose.

SECT. 17. The city of Philadelphia and each county of this commonwealth respectively, shall on the first Tuesday of November in this present year, and on the second Tuesday of October annually for the two next succeeding years, viz. the year one thousand seven

hundred and seventy-seven, and the year one thousand seven hundred and seventy-eight, choose six persons to represent them in general assembly. But as representation in proportion to the number of taxable inhabitants is the only principle which can at all times secure liberty, and make the voice of a majority of the people the law of the land; therefore the general assembly shall cause complete lists of the taxable inhabitants in the city and each county in the commonwealth respectively, to be taken and returned to them, on or before the last meeting of the assembly elected in the year one thousand seven hundred and seventy-eight, who shall appoint a representation to each, in proportion to the number of taxables in such returns; which representation shall continue for the next seven years afterwards at the end of which, a new return of the taxable inhabitants shall be made, and a representation agreeable thereto appointed by the said assembly, and so on septennially forever. The wages of the representatives in general assembly, and all other state charges shall be paid out of the state treasury.

SECT. 18. In order that the freemen of this commonwealth may enjoy the benefit of election as equally as may be until the representation shall commence as directed in the foregoing section, each county at its own choice may be divided into districts, hold elections therein, and elect their representatives in the county, and their other elective officers, as shall be hereafter regulated by the general assembly of this state. And no inhabitant of this state shall have more than one annual vote at the general election for representatives in assembly.

SECT. 19. For the present the supreme executive council of this state shall consist of twelve persons chosen in the following manner: The freemen of the city of Philadelphia, and of the counties of Philadelphia, Chester, and Bucks, respectively, shall choose by ballot one person for the city, and one for each county aforesaid to serve for three years and no longer, at the time and place for electing representatives in general assembly. The freemen of the counties of Lancaster, York, Cumberland, and Berks, shall, in like manner elect one person for each county respectively, to serve as counsellors for two years and no longer. And the counties of Northampton, Bedford, Northumberland and Westmoreland, respectively, shall, in like manner, elect one person for each county, to serve as counsellors for one year, and no longer. And at the expiration of the time for which each counsellor was chosen to serve, the freemen of the city of Philadelphia, and of the several counties in this state, respectively, shall elect one person to serve as counsellor for three years and no longer; and so on every third year forever. By this mode of election and continual rotation, more men will be trained to public business, there will in every subsequent year be found in the council a number of persons acquainted with the proceedings of the foregoing Years, whereby the business will be more consistently conducted, and moreover the danger of establishing an inconvenient aristocracy will be effectually prevented. All vacancies in the council that may happen by death, resignation, or otherwise, shall be filled at the next general election for representatives in general assembly, unless a particular election for that

purpose shall be sooner appointed by the president and council. No member of the general assembly or delegate in congress, shall be chosen a member of the council. The president and vice-president shall be chosen annually by the joint ballot of the general assembly and council, of the members of the council. Any person having served as a counsellor for three successive years, shall be incapable of holding that office for four years afterwards. Every member of the council shall be a justice of the peace for the whole commonwealth, by virtue of his office.

In case new additional counties shall hereafter be erected in this state, such county or counties shall elect a counsellor, and such county or counties shall be annexed to the next neighbouring counties, and shall take rotation with such counties.

The council shall meet annually, at the same time and place with the general assembly.

The treasurer of the state, trustees of the loan office, naval officers, collectors of customs or excise, judge of the admiralty, attornies general, sheriffs, and prothonotaries, shall not be capable of a seat in the general assembly, executive council, or continental congress.

SECT. 20. The president, and in his absence the vice-president, with the council, five of whom shall be a quorum, shall have power to appoint and commissionate judges, naval officers, judge of the admiralty, attorney general and all other officers, civil and military, except such as are chosen by the general assembly or the people, agreeable to this frame of government, and the laws that may be made hereafter; and shall supply every vacancy in any office, occasioned by death, resignation, removal or disqualification, until the office can be filled in the time and manner directed by law or this constitution. They are to correspond with other states, and transact business with the officers of government, civil and military; and to prepare such business as may appear to them necessary to lay before the general assembly. They shall sit as judges, to hear and determine on impeachments, taking to their assistance for advice only, the justices of the supreme court. And shall have power to grant pardons and remit fines, in all cases whatsoever, except in cases of impeachment; and in cases of treason and murder, shall have power to grant reprieves, but not to pardon, until the end of the next sessions of assembly; but there shall be no remission or mitigation of punishments on impeachments, except by act of the legislature; they are also to take care that the laws be faithfully executed; they are to expedite the execution of such measures as may be resolved upon by the general assembly; and they may draw upon the treasury for such sums as shall be appropriated by the house: They may also lay embargoes, or prohibit the exportation of any commodity, for any time, not exceeding thirty days, in the recess of the house only: They may grant such licences, as shall be directed by law, and shall have power to call together the general assembly when necessary, before the day to which they shall stand adjourned. The president shall be commander in chief of the forces of the state, but shall not command in person, except advised thereto by the council, and then only so long as they shall approve thereof. The president and council shall have a secretary, and keep fair books of their proceedings, wherein any counsellor may enter his dissent, with his reasons in support of it.

SECT. 21. All commissions shall be in the name, and by the authority of the freemen of the commonwealth of Pennsylvania, sealed with the state seal, signed by the president or vice-president, and attested by the secretary; which seal shall be kept by the council.

SECT. 22. Every officer of state, whether judicial or executive, shall be liable to be impeached by the general assembly, either when in office, or after his resignation or removal for mal-administration: All impeachments shall be before the president or vice-president and council, who shall hear and determine the same.

SECT. 23. The judges of the supreme court of judicature shall have fixed salaries, be commissioned for seven years only, though capable of re-appointment at the end of that term, but removable for misbehaviour at any time by the general assembly; they shall not be allowed to sit as members in the continental congress, executive council, or general assembly, nor to hold any other office civil or military, nor to take or receive fees or perquisites of any kind.

SECT. 24. The supreme court, and the several courts of common pleas of this commonwealth, shall, besides the powers usually exercised by such courts, have the powers of a court of chancery, so far as relates to the perpetuating testimony, obtaining evidence from places not within this state, and the care of the persons and estates of those who are non compotes mentis, and such other powers as may be found necessary by future general assemblies, not inconsistent with this constitution.

SECT. 25. Trials shall be by jury as heretofore: And it is recommended to the legislature of this state, to provide by law against every corruption or partiality in the choice, return, or appointment of juries.

SECT. 26. Courts of sessions, common pleas, and orphans courts shall be held quarterly in each city and county; and the legislature shall have power to establish all such other courts as they may judge for the good of the inhabitants of the state. All courts shall be open, and justice shall be impartially administered without corruption or unnecessary delay: All their officers shall be paid an adequate but moderate compensation for their services: And if any officer shall take greater or other fees than the law allows him, either directly or indirectly, it shall ever after disqualify him from holding any office in this state.

SECT. 27. All prosecutions shall commence in the name and by the authority of the freemen of the commonwealth of Pennsylvania; and all indictments shall conclude with these words, "Against the peace and dignity of the same." The style of all process hereafter in this state shall be, The commonwealth of Pennsylvania.

SECT. 28. The person of a debtor, where there is not a strong presumption of fraud, shall not be continued in prison, after delivering Up, bona fide, all his estate real and personal, for the use of his creditors, in such manner as shall be hereafter regulated by law. All prisoners shall be bailable by sufficient sureties, unless for capital offences, when the proof is evident, or presumption great.

SECT. 29. Excessive bail shall not be exacted for bailable offences: And all fines shall be moderate.

SECT. 30. Justices of the peace shall be elected by the freeholders of each city and county respectively, that is to say, two or more persons may be chosen for each ward, township, or district, as the law shall hereafter direct: And their names shall be returned to the president in council, who shall commissionate one or more of them for each ward, township, or district so returning, for seven years, removable for misconduct by the general assembly. But if any city or county, ward, township, or district in this commonwealth, shall hereafter incline to change the manner of appointing their justices of the peace as settled in this article, the general assembly may make laws to regulate the same, agreeable to the desire of a majority of the freeholders of the city or county, ward, township, or district so applying. No justice of the peace shall sit in the general assembly unless he first resigns his commission; nor shall he be allowed to take any fees, nor any salary or allowance, except such as the future legislature may grant.

SECT. 31. Sheriffs and coroners shall be elected annually in each city and county, by the freemen; that is to say, two persons for each office, one of whom for each, is to be commissioned by the President in council. No person shall continue in the office of sheriff more than three successive years, or be capable of being again elected during four years afterwards. The election shall be held at the same time and place appointed for the election of representatives: And the commissioners and assessors, and other officers chosen by the people, shall also be then and there elected, as has been usual heretofore, until altered or otherwise regulated by the future legislature of this state.

SECT. 32. All elections, whether by the people or in general assembly, shall be by ballot, free and voluntary: And any elector, who shall receive any gift or reward for his vote, in meat, drink, monies, or otherwise, shall forfeit his right to elect for that time, and suffer such other penalties as future laws shall direct. And any person who shall directly or indirectly give, promise, or bestow any such rewards to be elected, shall be thereby rendered incapable to serve for the ensuing year.

SECT. 33. All fees, licence money, fines and forfeitures heretofore granted, or paid to the governor, or his deputies for the support of government, shall hereafter be paid into the public treasury, unless altered or abolished by the future legislature.



SECT. 34. A register's office for the probate of wills and granting letters of administration, and an office for the recording of deeds, shall be kept in each city and county: The officers to be appointed by the general assembly, removable at their pleasure, and to be commissioned by the president in council.

SECT. 35. The printing presses shall be free to every person who undertakes to examine the proceedings of the legislature, or any part of government.

SECT. 36. As every freeman to preserve his independence, (if without a sufficient estate) ought to have some profession, calling, trade or farm, whereby he may honestly subsist, there can be no necessity for, nor use in establishing offices of profit, the usual effects of which are dependence and servility unbecoming freemen, in the possessors and expectants; faction, contention, corruption, and disorder among the people. But if any man is called into public service; to the prejudice of his-private affairs, he has a right to a reasonable compensation: And whenever an office, through increase of fees or otherwise, becomes so profitable as to occasion many to apply for it, the profits ought to be lessened by the legislature.

SECT. 37. The future legislature of this state, shall regulate intails in such a manner as to prevent perpetuities.

SECT. 38. The penal laws as heretofore used shall be reformed by the legislature of this state, as soon as may be, and punishments made in some cases less sanguinary, and in general more proportionate to the crimes.

SECT. 39. To deter more effectually from the commission of crimes by continued visible punishments of long duration, and to make sanguinary punishments less necessary; houses ought to be provided for punishing by hard labour, those who shall be convicted of crimes not capital; wherein the criminals shall be employed for the benefit of the public, or for reparation of injuries done to private persons: And all persons at proper times shall be admitted to see the prisoners at their labour.

SECT. 40. Every officer, whether judicial, executive or military, in authority under this commonwealth, shall take the following oath or affirmation of allegiance, and general oath of office before he enters on the execution of his office.

#### THE OATH OR AFFIRMATION OF ALLEGIANCE

I do swear (or affirm) that I will be true and faithful to the commonwealth of Pennsylvania: And that I will not directly or indirectly do any act or thing prejudicial or injurious to the constitution or government thereof, as established by the-convention. -

#### THE OATH OR AFFIRMATION OF OFFICE

I-do swear (or affirm) that I will faithfully execute the office of for the of-and will do equal right and justice to all men, to the best of my judgment and abilities, according to law.

SECT. 41. NO public tax, custom or contribution shall be imposed upon, or paid by the people of this state, except by a law for that purpose: And before any law be made for raising it, the purpose for which any tax is to be raised ought to appear clearly to the legislature to be of more service to the community than the money would be, if not collected; which being well observed, taxes can never be burthens.

SECT. 42. Every foreigner of good character who comes to settle in this state, having first taken an oath or affirmation of allegiance to the same, may purchase, or by other just means acquire, hold, and transfer land or other real estate; and after one year's residence, shall be deemed a free denizen thereof, and entitled to all the rights of a natural born subject of this state, except that he shall not be capable of being elected a representative until after two years residence.

SECT. 43. The inhabitants of this state shall have liberty to fowl and hunt in seasonable times on the lands they hold, and on all other lands therein not inclosed; and in like manner to fish in all boatable waters, and others not private property

SECT. 44. A school or schools shall be established in each county by the legislature, for the convenient instruction of youth, with such salaries to the masters paid by the public, as may enable them to instruct youth at low prices: And all useful learning shall be duly encouraged and promoted In one or more universities.

SECT. 45. Laws for the encouragement of virtue, and prevention of vice and immorality, shall be made and constantly kept in force, and provision shall be made for their due execution: And all religious societies or bodies of men heretofore united or incorporated for the advancement of religion or learning, or for other pious and charitable purposes, shall be encouraged and protected in the enjoyment of the privileges, immunities and estates which they were accustomed to enjoy, or could of right have enjoyed, under the laws and former constitution of this state.

SECT. 46. The declaration of rights is hereby declared to be a part of the constitution of this commonwealth, and ought never to be violated on any presence whatever.

SECT. 47. In order that the freedom of the commonwealth may be preserved inviolate forever, there shall be chosen by ballot by the freemen in each city and county respectively, on the second Tuesday in October, in the Year one thousand seven hundred and eighty-three, and on the second Tuesday in October, in every seventh year thereafter, two persons

in each city and county of this state, to be called the COUNCIL OF CENSORS; who shall meet together on the second Monday of November next ensuing their election; the majority of whom shall be a quorum in every case, except as to calling a convention, in which two-thirds of the whole number elected shall agree: And whose duty it shall be to enquire whether the constitution has been preserved inviolate in every part; and whether the legislative and executive branches of government have performed their duty as guardians of the people, or assumed to themselves, or exercised other or greater powers than they are intitled to by the constitution: They are also to enquire whether the public taxes have been justly laid and collected in all parts of this commonwealth, in what manner the public monies have been disposed of, and whether the laws have been duly executed. For these purposes they shall have power to send for persons, papers, and records; they shall have authority to pass public censures, to order impeachments, and to recommend to the legislature the repealing such laws as appear to them to have been enacted contrary to the principles of the constitution. These powers they shall continue to have, for and during the space of one year from the day of their election and no longer: The said council of censors shall also have power to call a convention, to meet within two years after their sitting, if there appear to them an absolute necessity of amending any article of the constitution which may be defective, explaining such as may be thought not clearly expressed, and of adding such as are necessary for the preservation of the rights and happiness of the people: But the articles to be amended, and the amendments proposed, and such articles as are proposed to be added or abolished, shall be promulgated at least six months before the day appointed for the election of such convention, for the previous consideration of the people, that they may have an opportunity of instructing their delegates on the subject.

Passed in Convention the 28th day of September, 1776, and signed by their order.

BENJ. FRANKLIN, Prest.

## Appendix 2- Selected Provisions of the 1776 Constitution Compared with Proposals of the Convention of 1789/90

subject	Constitution of 1776	1 <sup>st</sup> draft (Dec. 21, 1789)	2 <sup>nd</sup> draft (Feb.5, 1790)	adopted version (Sept. 1790)	defeated motions
electors assembly	(white) <sup>1</sup> freeman tax payers age 21 sons of freeholders age 21 one year (yr.) residence (res.)	freeman taxpayers age 21 sons of freeholders age 21 two yr. res.	freeman taxpayers age 21  two yr. res.	freeman tax payers age 21 sons of above between age21-22 two yr. res.	or £3 freehold income or £50 estate; £ 100 freehold, 3 yr. res. (withdrawn); all natives or 10 yr. res. age 21; 1 yr. res. (14:48) <sup>2</sup>
electors senate	-	as for assembly; elect electors only	as for assembly	as for assembly	
candidates assembly	as electors, except 2 yr. res.	3 yrs. res. state, last in electoral district	age 21 3 yrs. res. state, last in el. dist.	age 21 3 yrs. res. state, last in el. dist.	
candidates senate	-	age 30 4 yrs. res. state, last in el. district no electors	age 25 4 yrs. res. state, last in el. district	age 25 4 yrs. res. state, last in el. district	age 21; age 24
candidates executive	as electors	age 30 7 yr. residence	age 30 7 yr. residence	age 30 7 yr. residence	
elections/terms assembly	annual eligibility 4 yrs. in 7	annual; enforced attendance	annual	annual	
elections/terms senate	-	4 yrs. (25% elected per yr.) electoral college	4 yrs. (25% elected per yr.) popular	4 yrs. (25% elected per yr.) popular	
elections/terms executive	executive council (12 councilors) president elected by assembly & council 3 yrs.(1/3 elected per year) max. 3yrs, 4 yrs. pause	governor  3 yrs. max. 3 consecutive terms	governor  3 yrs. eligible 9 in 12 yrs.	governor  3 yrs. eligible 9 in 12 yrs.	max. 4 consecutive terms
mode of representation	taxable inhabitants assessed septennials	taxable inhabitants assessed decennially	taxable inhabitants assessed septennials	taxable inhabitants assessed septennials	senate: taxable inhab. & tax quota
assembly size			60-100		
senate size	-	16-32	never less than ¼ nor more than 1/3 of assembly	no less than ¼, no more than 1/3 of assemblymen	
executive veto	no	yes, 3/5 of both houses to override	yes, 2/3 of both houses to override	yes, 2/3 of both houses to override	
sheriffs & coroners	annually by freemen commissioned by president 3 consecutive terms, 4yr. pause	3 yrs. by citizens commissioned by governor 1 consecutive term	3 yrs. by citizens commissioned by governor not twice in six yrs.	3 yrs. by citizens commissioned by governor not twice in six yrs.	annually (27:34)
justices of the peace	elected by freeholders commissioned by President 7 yr. term	double quantity elected by citizens, selection by governor x yrs. (not specified)	appointed by governor  during good behavior	appointed by governor  during good behavior	
Supreme Court	appointment by executive 7 yr. term fixed salary by assembly	appointment by executive during good behavior independent salary	appointment by executive during good behavior independent salary	appointment by executive during good behavior independent salary	

<sup>1</sup> The Constitution was silent on race, but laws passed indicated the exclusion of blacks from the franchise (see chapter 2.6). In the Convention of 1789/90 Gallatin's successful motion to strike out the word "white" in front of "freemen" in an early draft implied a racially inclusive reading.

<sup>2</sup> Result of the vote

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## **Erklärung**

Hiermit erkläre ich, dass ich die vorliegende Dissertation "Virtuous Democrats: Political Discourse and the Pennsylvania Constitution, 1776-1790" selbständig verfasst und alle in Anspruch genommenen Hilfsmittel in der Dissertation angegeben habe.

Friedberg, den 18.6. 2001

Thomas Clark

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